

CHAPTER 333

GOVERNMENT - STATE

SENATE BILL 06-049

BY SENATOR(S) Bacon, Evans, Tapia, Fitz-Gerald, Isgar, Shaffer, Takis, Tochtrop, Veiga, and Windels;
also REPRESENTATIVE(S) Lindstrom, Borodkin, Massey, Butcher, Gallegos, Jahn, Kerr A., McGihon, Merrifield, and Todd.

AN ACT

**CONCERNING THE TRANSFER OF THE STATE COUNCIL ON THE ARTS FROM THE DEPARTMENT OF
HIGHER EDUCATION TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

ARTICLE 48.8
State Council on the Arts

24-48.8-101. [Formerly 23-9-101] Short title. This article shall be known and may be cited as the "Colorado Arts and Humanities Act of 1967".

24-48.8-102. [Formerly 23-9-102] Legislative declaration. (1) The general assembly finds and declares:

(a) That encouragement and support of the arts and humanities, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the state government;

(b) That many of our citizens lack the opportunity to view, enjoy, or participate in living theatrical performances, musical concerts, operas, dance and ballet recitals, art exhibits, examples of fine architecture, and the performing and visual arts generally;

(c) That, with increasing leisure time, the practice and enjoyment of the arts and humanities are of increasing importance;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) That many of our citizens possess talents of an artistic and creative nature which cannot be utilized to their fullest extent under existing conditions;

(e) That the general welfare of the people of the state will be promoted by giving further recognition to the arts and humanities as a vital part of our culture and heritage and as an important means of expanding the scope of our community life;

(f) That it is desirable to establish a state council on the arts and to provide such recognition and assistance as will encourage and promote the state's artistic and cultural progress;

(g) That it is the policy of the state to cooperate with private patrons, private and public institutions, and professional and nonprofessional organizations concerned with the arts and humanities to insure that the role of the arts and humanities in the life of our communities will continue to grow and to play an evermore significant part in the welfare and educational experience of our citizens and to establish the paramount position of this state in the nation and in the world as a cultural center;

(h) That all activities undertaken by the state in carrying out the policy set out in this section shall be directed toward encouraging and assisting, rather than in any way limiting, the freedom of artistic expression which is essential for the well-being of the arts and humanities.

24-48.8-103. [Formerly 23-9-103] Establishment of council - members - term of office - chairman - compensation - transfer of functions. (1) (a) There is hereby established within the department of higher education a state council on the arts, referred to in this article as the "council". THE COUNCIL SHALL REMAIN WITHIN THE DEPARTMENT OF HIGHER EDUCATION THROUGH JUNE 30, 2006. The council shall consist of eleven members, including the chairman, to be appointed by the governor. The members of the council shall be broadly representative of the major fields of the arts and humanities and shall be appointed from among private citizens who are widely known for their competence and experience in connection with the arts and humanities, as well as their knowledge of community and state interests. In making these appointments, the governor shall seek and consider those recommended for membership by persons or organizations involved in civic, educational, business, labor, professional, cultural, ethnic, and performing and creative arts fields, as well as those with knowledge of community and state interests. At least one such person from each area designated shall be a member of the council, the membership to include both men and women.

(b) (I) ON AND AFTER JULY 1, 2006, THE COUNCIL AND THE POWERS, DUTIES, AND FUNCTIONS OF THE COUNCIL ARE TRANSFERRED FROM THE DEPARTMENT OF HIGHER EDUCATION TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT.

(II) ON AND AFTER JULY 1, 2006, EMPLOYEES OF THE COUNCIL WHOSE EMPLOYMENT IS DEEMED NECESSARY BY THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL BECOME EMPLOYEES OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT. ANY EMPLOYEES TRANSFERRED TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT WHO ARE CLASSIFIED EMPLOYEES IN THE STATE PERSONNEL SYSTEM SHALL RETAIN ALL RIGHTS TO THE PERSONNEL SYSTEM AND

RETIREMENT BENEFITS PURSUANT TO THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL SYSTEM LAWS AND REGULATIONS.

(III) ON AND AFTER JULY 1, 2006, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF THE COUNCIL, ARE TRANSFERRED TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND BECOME PROPERTY THEREOF.

(2) On and after July 1, 1990, members appointed to the council, except the ~~chairman~~ CHAIRPERSON, shall hold office for terms of three years, commencing on July 1 of the year of appointment. Members of the council, except the ~~chairman~~ CHAIRPERSON, shall not be eligible to serve for more than two consecutive terms nor be eligible for reappointment to the council during the three-year period following the expiration of the second of two consecutive terms. Members of the council shall hold office until the expiration of the appointed terms or until successors are duly appointed. Any vacancy occurring on the council other than by expiration of term shall be filled by the governor by the appointment of a qualified person for the unexpired term.

(3) The governor shall appoint a ~~chairman~~ CHAIRPERSON of the council who is a person widely recognized for his OR HER knowledge, experience, and interest in the arts and humanities, as well as his OR HER knowledge of community and state interests. He OR SHE shall serve at the pleasure of the appointing governor, but not longer than six consecutive years, and shall not be eligible for reappointment during the three-year period following the expiration of such six-year period. He OR SHE shall advise the governor with respect to the development in the arts and humanities in the state of Colorado. If any vacancy occurs in the office of ~~chairman~~ CHAIRPERSON, the governor shall fill within sixty days the vacancy by the appointment of a qualified person in the same manner in which the original appointment was made.

(4) Members of the council shall serve without compensation, but each member shall be reimbursed for his OR HER necessary traveling and other expenses incurred in the performance of his OR HER official duties.

24-48.8-104. [Formerly 23-9-104] Meetings of council - quorum. The council shall meet at the call of the ~~chairman~~ CHAIRPERSON, but not less than twice during each calendar year. Five members of the council shall constitute a quorum. All meetings of the council shall be open and public, and all persons shall be permitted to attend any meeting of the council. The ~~chairman~~ CHAIRPERSON shall vote only in case of a tie on any question voted on by the council.

24-48.8-105. [Formerly 23-9-104.5] Funding recommendations. The ~~chairman~~ CHAIRPERSON of the council shall make funding recommendations to the governor and the general assembly for the operation of the council. The general assembly shall make annual appropriations, in such form as the general assembly shall determine appropriate, for the operation of the council.

24-48.8-106. [Formerly 23-9-105] Powers of the council. (1) The council has the powers necessary to carry out the duties imposed upon it by this article, including, but not limited to, the power:

(a) To employ such administrative, technical, and other personnel, subject to the constitution and state personnel system laws of this state, as may be necessary for the performance of its powers and duties;

(b) To hold hearings, make and sign any agreements, and perform any acts which may be necessary, desirable, or proper to carry out the purposes of this article;

(c) To request from any department, division, board, bureau, commission, or other agency of the state such reasonable assistance and data as will enable it properly to carry out its powers and duties under this article;

(d) To appoint such advisory committees as it deems advisable and necessary to the carrying out of its powers and duties under this article;

(e) To accept, on behalf of the state of Colorado, and expend any federal funds granted by act of congress or by executive order for all or any of the purposes of this article; except that the council may expend such funds only upon appropriation by the general assembly if the federal funds require matching state contributions or capital outlay or create a commitment for future state funding;

(f) To accept any gifts, donations, or bequests for all or any of the purposes of this article;

(g) To propose methods to encourage private initiative in the arts and humanities;

(h) To advise and consult with national foundations and other local, state, and federal departments and agencies on methods by which to coordinate and assist existing resources and facilities, with the purpose of fostering artistic and cultural endeavors toward the use of the arts and humanities both nationally and internationally, in the best interest of Colorado.

24-48.8-107. [Formerly 23-9-106] Duties of the council. (1) The duties of the council shall be:

(a) To stimulate and encourage throughout the state the study and development of the arts and humanities, as well as public interest and participation therein;

(b) To take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and to expand the state's cultural resources;

(c) To encourage and assist freedom of artistic expression essential for the well-being of the arts and humanities;

(d) To assist the communities and organizations within the state in originating and creating their own cultural and artistic programs;

(e) To make such surveys as may be deemed advisable of public and private institutions engaged within the state in artistic and cultural activities, including, but not limited to, humanities, music, theater, dance, painting, sculpture, photography, architecture, and allied arts and crafts, and to make recommendations concerning the appropriate methods to encourage participation in and appreciation of the arts and humanities in order to meet the legitimate needs and aspirations of persons in all parts of the state;

(f) To submit a report to the governor not later than ninety days after the end of each fiscal year and at such other times as the governor requests or the council deems appropriate.

24-48.8-108. [Formerly 23-9-107] Interference by council prohibited. In carrying out its duties and powers under this article, the council shall never by action, directly or indirectly, interfere with the freedom of artistic expression of the established or contemplated cultural programs in any local community or institution, nor shall it make any recommendations that might be interpreted to be a form of censorship.

SECTION 2. 24-1-114 (3) (a), Colorado Revised Statutes, is amended to read:

24-1-114. Department of higher education - creation - repeal. (3) The department of higher education shall include the following divisions:

(a) (I) State council on the arts, created by article 9 of title 23, C.R.S. Its powers, duties, and functions are transferred by a **type 2** transfer to the department of higher education as a division thereof.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2006.

SECTION 3. 24-1-137, Colorado Revised Statutes, is amended to read:

24-1-137. Effect of decrease in the length of terms of office for certain state boards, commissions, authorities, and agencies. Persons who are holding office on June 15, 1987, and who were appointed to terms of office pursuant to sections 11-2-102, 12-4-103, 12-22-104, 12-32-103, 12-33-103, 12-36-103, 12-40-106, 12-60-102, 22-80-104, 23-9-103, 23-15-104, 23-40-104, 23-41-102, 24-32-706, 24-42-102, 25-25-104, 29-1-503, 29-4-704, 34-60-104, 35-41-101, 35-65-401, 35-75-104, 39-2-123, and 40-2-101, C.R.S., as said sections existed prior to June 15, 1987, shall continue to serve in such office, but such service shall be at the pleasure of the governor who may appoint a replacement to serve for the unexpired term of any member. However, if the governor has not appointed any such replacement on or before November 15, 1987, then the person who is holding such office on June 15, 1987, shall no longer be subject to replacement pursuant to this section but shall be subject to whatever removal provisions may otherwise apply for such office. Any such member for whom a replacement has been appointed shall continue to serve until his or her successor is duly qualified. Appointments to new terms of office made after June 15, 1987, shall be made for terms of four years as prescribed by law; except that such provision shall not apply to terms of office of persons appointed pursuant to section 23-9-103, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2006, OR TO SECTION 24-48.8-103, WHICH IS THE FORMER SECTION 23-9-103,

C.R.S.

SECTION 4. Repeal of provisions being relocated in this act. Article 9 of title 23, Colorado Revised Statutes, is repealed.

SECTION 5. Effective date. This act shall take effect July 1, 2006.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2006