

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0697.01 Michael Dohr x4347

SENATE BILL 26-137

SENATE SPONSORSHIP

Coleman and Simpson,

HOUSE SPONSORSHIP

McCluskie and Caldwell,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO REDUCE ADMINISTRATIVE BURDENS, AND,**
102 **IN CONNECTION THEREWITH, MAKING CHANGES TO THE**
103 **MANDATORY REVIEW OF DEPARTMENT RULES BY EACH**
104 **PRINCIPAL DEPARTMENT AND CLARIFYING THE ATTORNEY**
105 **GENERAL'S SCOPE OF AUTHORITY RELATED TO LITIGATION**
106 **DISCOVERY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires each principal department (department) to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

establish a schedule to review all of its rules. The bill requires the review to occur at least every 5 years. Current law directs each department to make certain determinations when conducting the review of the rules. The bill requires the following additional determinations:

- Whether the department has rules with the same or similar purpose, intent, or goal and, if so, how those are coordinated and whether redundant rules can be eliminated;
- Whether the rule is outdated or obsolete;
- Whether funding levels to support the program or function subject to the rule are appropriate;
- Whether there are opportunities to improve the effectiveness of the rule in meeting its purpose, intent, or goal; and
- Whether the rule creates administrative burdens on the agency, consumers, or businesses without a corresponding public benefit.

Current law requires each department to present a report at its "SMART Act" hearing regarding its mandatory review of all rules. The bill permits the committee of reference presiding over the "SMART Act" hearing to determine whether a program or function subject to the rules should be subject to a sunset review and to provide to the legislative audit committee its departmental regulatory agenda for the audit committee to determine whether a program or function subject to the rule should be subject to a performance or financial audit.

The bill clarifies the attorney general's responsibility regarding litigation discovery on behalf of the state of Colorado or on behalf of the people of the state of Colorado.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-4-103.3, **amend**
3 (1) introductory portion, (1)(e), (1)(g), and (4); **repeal (3)**; and **add**
4 (1)(i), (1)(j), (1)(k), and (1)(l) as follows:

5 **24-4-103.3. Mandatory review of rules by agencies - report on**
6 **results of review in departmental regulatory agendas - definitions.**

7 (1) ~~The department of regulatory agencies~~ EACH PRINCIPAL
8 DEPARTMENT shall establish a schedule ~~in consultation with each~~
9 ~~principal department~~, for the PERIODIC review of all of the DEPARTMENT'S
10 rules ~~for each principal department~~ TO OCCUR AT LEAST EVERY FIVE

1 YEARS. Each principal department shall conduct a review of all of its rules
2 to assess the continuing need for and the appropriateness and
3 cost-effectiveness of its rules to determine if they should be continued in
4 their current form, modified, or repealed. The applicable rule-making
5 agency or official in the principal department shall consider the
6 following:

7 (e) Whether the rule can be amended to give more flexibility,
8 reduce regulatory burdens, or reduce unnecessary paperwork or steps
9 while ~~maintaining~~ MEETING its INTENDED GOALS AND benefits;

10 (g) Whether a cost-benefit analysis was performed by the
11 applicable rule-making agency or official in the principal department
12 pursuant to section 24-4-103 (2.5) ~~and~~ OR AN EQUIVALENT ANALYSIS ==
13 PURSUANT TO SECTION 25-7-110.5;

14 (i) WHETHER THERE ARE OTHER RULES ADOPTED BY THE
15 RULE-MAKING AGENCY OR OFFICIAL THAT HAVE THE SAME OR SIMILAR
16 PURPOSE, INTENT, OR GOAL; HOW THOSE ARE COORDINATED; AND
17 WHETHER REDUNDANCIES CAN BE ELIMINATED;

18 (j) WHETHER THE RULE IS OUTDATED OR OBSOLETE;

19 (k) WHETHER FUNDING LEVELS TO SUPPORT THE PROGRAM OR
20 FUNCTION SUBJECT TO THE RULE ARE APPROPRIATE. AS USED IN THIS
21 SUBSECTION (1)(k), "APPROPRIATE" MEANS SUFFICIENT TO ADMINISTER
22 AND ENFORCE THE PROGRAM OR RULE IN COMPLIANCE WITH STATE AND
23 FEDERAL LAW, WITHIN EXISTING APPROPRIATIONS AND AUTHORIZED FEE
24 STRUCTURES.

25 (l) WHETHER THERE ARE OPPORTUNITIES TO IMPROVE THE
26 EFFECTIVENESS OF THE RULE IN MEETING ITS PURPOSE, INTENT, OR GOAL.
27 AS USED IN THIS SUBSECTION (1)(l), "OPPORTUNITIES" MEANS

1 REASONABLE AND LEGALLY PERMISSIBLE ADJUSTMENTS WITHIN THE
2 AGENCY'S EXISTING STATUTORY AUTHORITY THAT WOULD IMPROVE
3 IMPLEMENTATION OR ADMINISTRATION OF THE RULE.

4 (3) The department of regulatory agencies shall not schedule
5 mandatory review under this section during the year of and during the
6 year following any scheduled sunset review conducted by the department
7 of regulatory agencies pursuant to section 24-34-104.

8 (4) (a) Each principal department shall include a report on the
9 results of its mandatory review of rules as part of its departmental
10 regulatory agenda that it submits to the staff of the legislative council for
11 distribution to the applicable committee of reference of the general
12 assembly as outlined in section 2-7-203. ~~C.R.S.~~ THE COMMITTEE OF
13 REFERENCE SHALL REVIEW THE DEPARTMENTAL REPORT DURING THE
14 COMMITTEE'S "SMART ACT" HEARING.

15 (b) IN ACCORDANCE WITH THE PROCESS SET FORTH IN SECTION
16 24-34-104 (6)(a) AND (6)(c), THE COMMITTEE OF REFERENCE MAY MAKE
17 A RECOMMENDATION WHETHER A PROGRAM OR FUNCTION SUBJECT TO THE
18 RULES SHOULD BE SUBJECT TO A SUNSET REVIEW PURSUANT TO SECTION
19 24-34-104 (5) OR MAY MAKE A RECOMMENDATION TO THE LEGISLATIVE
20 AUDIT COMMITTEE FOR AN AUDIT BY THE OFFICE OF THE STATE AUDITOR
21 PURSUANT TO SECTION 2-3-108. == ==

22 **SECTION 2.** In Colorado Revised Statutes, 24-31-101, **add** (6)
23 as follows:

24 **24-31-101. Powers and duties of attorney general.**

25 (6) IN ANY ACTION BROUGHT BY THE ATTORNEY GENERAL IN THE
26 ATTORNEY GENERAL'S OFFICIAL CAPACITY, OR ON THE RELATION OF THE
27 STATE OF COLORADO OR THE PEOPLE OF THE STATE OF COLORADO, TO

1 ENFORCE THE LAW AS AUTHORIZED BY STATUTE OR COMMON LAW, THE
2 ATTORNEY GENERAL SHALL NOT BE DEEMED TO PURSUE AN ACTION ON
3 BEHALF OF ANY OTHER STATE OFFICER OR ANY STATE AGENCY,
4 DEPARTMENT, OFFICE, BOARD, COMMISSION, OR ENTERPRISE AND SHALL
5 NOT BE DEEMED IN POSSESSION, CUSTODY, OR CONTROL OF ANY RECORD
6 THAT IS MADE, KEPT, OR MAINTAINED BY ANY OTHER STATE OFFICER OR
7 ANY STATE AGENCY, DEPARTMENT, OFFICE, BOARD, COMMISSION, OR
8 ENTERPRISE FOR THE PURPOSE OF ANY DISCOVERY REQUEST DIRECTED AT
9 THE ATTORNEY GENERAL IN THE ATTORNEY GENERAL'S OFFICIAL
10 CAPACITY, OR ON THE RELATION OF THE STATE OF COLORADO OR THE
11 PEOPLE OF THE STATE OF COLORADO, AS A PARTY TO SUCH ACTION.

12 **SECTION 3. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2026 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.