

CHAPTER 261

STATUTES

HOUSE BILL 93-1092

BY REPRESENTATIVES Owen, Adkins, Anderson, R. Hernandez, Lyle, and Williams;
also SENATORS Wells, Mares, Wham, Mendez, and Wattenberg.

AN ACT

**CONCERNING THE REVISION OF STATUTES IN THE COLORADO REVISED STATUTES, AS AMENDED,
AMENDING OR REPEALING OBSOLETE, INCONSISTENT, AND CONFLICTING PROVISIONS OF LAW
AND CLARIFYING THE LANGUAGE TO REFLECT THE LEGISLATIVE INTENT OF THE LAWS.**

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

SECTION 1. 8-44-112 (1) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

8-44-112. Surcharge on workers' compensation insurance premiums - funds.

(1) (b) (I) FOR THE PURPOSE OF ESTABLISHING THE COST CONTAINMENT FUND, THERE SHALL BE ADDED TO THE SURCHARGE IMPOSED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) AN INCREMENT NOT TO EXCEED THREE-HUNDREDTHS OF ONE PERCENT UPON THE PREMIUMS RECEIVED, SAID SURCHARGE TO BE REVIEWED AND ADJUSTED ANNUALLY AND PAID OVER TO THE DIVISION IN THE SAME MANNER AS SPECIFIED IN THIS SECTION FOR THE SURCHARGE.

(II) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, NO EMPLOYER ACTING AS A SELF-INSURER UNDER THE PROVISIONS OF THE "WORKERS' COMPENSATION ACT OF COLORADO" SHALL BE SUBJECT TO THE SURCHARGE FOR THE COST CONTAINMENT FUND PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b).

(III) ALL MONEYS COLLECTED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE COST CONTAINMENT FUND CREATED IN SECTION 8-14.5-108.

SECTION 2. 10-1-103 (6) (b), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

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

10-1-103. Division of insurance - subject to termination - repeal of article.

(6) (b) This article is repealed, effective ~~July 1, 1992~~ JULY 1, 1997. Prior to such repeal, the division of insurance shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 3. 12-29.5-116, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-29.5-116. Repeal of article - termination of functions. (1) This article is repealed, effective ~~July 1, 1992~~ JULY 1, 2002.

(2) The registration functions of the director of the division of registrations as set forth in this article are terminated on ~~July 1, 1992~~ JULY 1, 2002. Prior to such termination, the registration functions shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 4. 18-1-409 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

18-1-409. Appellate review of sentence for a felony. (2) No appellate court shall review any sentence which is imposed unless, within ~~thirty days after sentence is imposed~~ FORTY-FIVE DAYS FROM THE DATE OF THE IMPOSITION OF SENTENCE, a written notice is filed in the trial court to the effect that review of the sentence will be sought; said notice must state the grounds upon which it is based.

SECTION 5. 22-31-131 (1.5) (c) (I) (D) and (1.5) (c) (I) (E), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

22-31-131. Election procedures in districts composed of a city and county.

(1.5) (c) (I) In order to implement the director district plan of representation, the district shall be divided into five director districts as follows:

(D) Director district 4 shall include the territory within the following established boundaries: Beginning at the intersection of the county line and Colorado boulevard, then proceeding south on Colorado boulevard to the intersection of Colorado boulevard and Interstate 70, then proceeding west along Interstate 70 to the intersection of Interstate 70 and Steele street, then proceeding south on Steele street to the intersection of Steele street and Fortieth avenue, then proceeding west on Fortieth avenue to the intersection of Fortieth avenue and the boundary of precinct number 803, then proceeding north and west on the boundary of precinct number 803 to the intersection of the boundary of precinct number 803 and the Union Pacific railroad, then proceeding south along the Union Pacific railroad to the intersection of the Union Pacific Railroad and Thirty-eighth street, then proceeding east on Thirty-eighth street to the intersection of Thirty-eighth street and Blake street, then proceeding south on Blake street to the intersection of Blake street and Broadway, then proceeding south on Broadway to the intersection of Broadway and Twentieth avenue, then proceeding east on Twentieth avenue to the intersection of Twentieth avenue and Logan street, then proceeding south on Logan street to the intersection of

Logan street and Colfax avenue, then proceeding west on Colfax avenue to the intersection of Colfax avenue and Broadway, then proceeding south on Broadway to the intersection of Broadway and Thirteenth avenue, then proceeding east on Thirteenth avenue to the intersection of Thirteenth avenue and Adams street, then proceeding north on Adams street to the intersection of Adams street and Colfax avenue, then proceeding east on Colfax avenue to the intersection of Colfax avenue and Quebec street, then proceeding south on Quebec street to the intersection of Quebec street and Eleventh avenue, then proceeding east on Eleventh avenue to the intersection of Eleventh avenue and the county line, and then proceeding north and west following the county line to the intersection of the county line and Colorado boulevard.

(E) Director district 5 shall include the territory within the following established boundaries: Beginning at the intersection of ~~the county line~~ FORTY-EIGHTH AVENUE and Sheridan boulevard and proceeding south ~~on Sheridan boulevard~~ ALONG THE COUNTY LINE to the intersection of Sheridan boulevard and Bayaud street, then proceeding east on Bayaud street to the intersection of Bayaud street and the precinct boundary between Raleigh street and Utica street, then proceeding north on the precinct boundary between Raleigh street and Utica street to the intersection of the precinct boundary between Raleigh street and Utica street and Ellsworth avenue, then proceeding west on Ellsworth avenue to the intersection of Ellsworth avenue and Stuart street, then proceeding north on Stuart street to the intersection of Stuart street and Third avenue, then proceeding west on Third avenue to the intersection of Third avenue and Tennyson street, then proceeding north on Tennyson street to the intersection of Tennyson street and Fourth avenue, then proceeding east on Fourth avenue to the intersection of Fourth avenue and Meade street, then proceeding south on Meade street to the intersection of Meade street and First avenue, then proceeding east on First avenue to the intersection of First avenue and Federal boulevard, then proceeding north on Federal boulevard to the intersection of Federal boulevard and Sixth avenue, then proceeding east on Sixth avenue to the intersection of Sixth avenue and Broadway, then proceeding north on Broadway to the intersection of Broadway and Colfax avenue, then proceeding east on Colfax avenue to the intersection of Colfax avenue and Logan street, then proceeding north on Logan street to the intersection of Logan street and Twentieth avenue, then proceeding west on Twentieth avenue to the intersection of Twentieth avenue and Broadway, then proceeding north on Broadway to the intersection of Broadway and Blake street, then proceeding north on Blake street to the intersection of Blake street ~~and Thirty-eighth street, then proceeding west on Thirty-eighth street to the intersection of Thirty-eighth street and the Union Pacific railroad, then proceeding north along the Union Pacific railroad to the intersection of the Union Pacific railroad and the boundary of precinct number 803, then proceeding south and east on the boundary of precinct number 803 to the intersection of the boundary of precinct number 803 and Fortieth avenue, then proceeding east on Fortieth avenue to the intersection of Fortieth avenue and Steele street, then proceeding north on Steele street to the intersection of Steele street and Interstate 70, then proceeding east along Interstate 70 to the intersection of Interstate 70 and Colorado boulevard, then proceeding north on Colorado boulevard to the intersection of Colorado boulevard and the county line, and then proceeding ~~west and south following~~ ALONG the county line to the intersection of ~~the county line~~ FORTY-EIGHTH AVENUE and Sheridan boulevard.~~

SECTION 6. 24-34-104 (22.5), Colorado Revised Statutes, 1988 Repl. Vol., as

amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (22.5) ~~The following division in the department of revenue shall terminate on July 1, 1993: The division of gaming, created by part 2 of article 47.1 of title 12, C.R.S.~~

SECTION 7. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.6) THE FOLLOWING DIVISION IN THE DEPARTMENT OF REVENUE SHALL TERMINATE ON JULY 1, 1996: THE DIVISION OF GAMING, CREATED BY PART 2 OF ARTICLE 47.1 OF TITLE 12, C.R.S.

SECTION 8. 24-90-107 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-90-107. Method of establishment. (1) A municipal or county library may be established for a governmental unit either by the legislative body of said governmental unit on its own initiative, by adoption of a resolution or ordinance to that effect, or upon petition of one hundred registered electors residing in the proposed library service area. ~~A library district or a joint library may be established by the legislative bodies of two or more governmental units AND A LIBRARY DISTRICT BY THE LEGISLATIVE BODIES OF ONE OR MORE GOVERNMENTAL UNITS,~~ each proceeding to adopt a resolution or an ordinance to that effect or, in the case of a library district, by petition of one hundred registered electors residing within the proposed library district addressed to the boards of county commissioners in each county in the proposed library district.

SECTION 9. 29-4-205, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

29-4-205. **Appointment of commissioners.** (1) The authority shall consist of commissioners selected by the council in the manner provided in either subsection (2) or (3) of this section.

(2) The council may provide that all members of the governing body of the city shall ex officio be appointed the commissioners of the authority. The terms of office of such commissioners shall be coterminous with their terms of office on the governing body. For the purposes of this subsection (2), the term "governing body" means the mayor and council, board of trustees, board of commissioners, legislative body, or other body charged with governing the city. The mayor or, if the city has no mayor, the president of the council or such other presiding officer of the council shall ex officio be chairman of the commissioners. The commissioners shall select from among their members a vice-chairman.

(3) (a) The council may provide that an authority shall consist of five commissioners appointed by the mayor; except that the council of a city and county

having a population of more than three hundred thousand may provide that such authority shall consist of nine commissioners appointed by the mayor. The council may also provide that the mayor shall designate the first chairman. Not more than one of such commissioners may be a city official. In the event that a city official is appointed as a commissioner of an authority, acceptance or retention of such appointment shall not be deemed a forfeiture of his office, or incompatible therewith, or affect his tenure or compensation in any way. The term of office of a commissioner of an authority who is a city official shall not be affected or curtailed by the expiration of the term of his city office.

(b) The commissioners who are first appointed under the provisions of this subsection (3) shall be designated by the mayor to serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment; except that if there are nine commissioners, two such commissioners shall be designated by the mayor to serve for terms of one, two, three, and four years each and the remaining commissioner shall be designated to serve a term of five years from the date of such commissioner's appointment. Thereafter, the term of office shall be five years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies other than by reason of expiration of terms shall be filled for the unexpired term. Three commissioners shall constitute a quorum; except that five commissioners shall constitute a quorum if the authority consists of nine commissioners. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. The authority shall select from its members a vice-chairman and a chairman when the office of the first chairman becomes vacant.

(c) UNTIL SUCH TIME AS THE COUNCIL TAKES ACTION PURSUANT TO SUBSECTION (6) OF THIS SECTION, ALL APPOINTMENTS OF THE NINE COMMISSIONERS APPOINTED BY THE MAYOR PURSUANT TO THIS SUBSECTION (3) SHALL BE CONDITIONED UPON CONFIRMATION BY THE COUNCIL AS REQUIRED BY SECTION 29-4-204 (4). THIS PARAGRAPH (c) SHALL APPLY TO ORIGINAL AND SUCCESSOR APPOINTMENTS AND TO APPOINTMENTS TO FILL VACANCIES.

(4) A commissioner shall receive no compensation for his services but shall be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(5) An authority may employ a secretary who shall be executive director, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. An authority may call upon the corporation counsel or chief law officer of the city for such legal services as it may require, or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it deems proper.

(6) (a) Any council may, by resolution, change the method of appointment of commissioners after a proper notice and hearing and set a date for the changed method to become effective.

(b) Subsequent to the appointment of nine commissioners by the mayor and their

confirmation by the council pursuant to section 29-4-204 (4), any council of a city and county having a population of more than three hundred thousand may, by resolution, change the number of commissioners after a proper notice and hearing and set a date for the changed number to become effective.

(7) The terms of office of present commissioners of authorities created under this section shall expire July 1, 1973. Prior to such date, the council shall appoint new commissioners, as provided in either subsection (2) or (3) of this section, such appointments to be effective July 1, 1973.

SECTION 10. 38-33.3-306 (3), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-33.3-306. Bylaws. (3) (a) If an association with thirty or more units delegates powers of the executive board or officers relating to collection, deposit, transfer, or disbursement of association funds to other persons or to a managing agent, the bylaws of the association shall require the following:

~~(a)~~ (I) That the other persons or managing agent maintain fidelity insurance coverage or a bond in an amount not less than fifty thousand dollars or such higher amount as the executive board may require;

~~(b)~~ (II) That the other persons or managing agent maintain all funds and accounts of the association separate from the funds and accounts of other associations managed by the other persons or managing agent and maintain all reserve accounts of each association so managed separate from operational accounts of the association;

~~(c)~~ (III) That an annual accounting for association funds and a financial statement be prepared and presented to the association by the managing agent, a public accountant, or a certified public accountant.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 1996.

SECTION 11. Section 2 of chapter 292, Session Laws of Colorado 1992, is amended to read:

Section 2. Effective date. Section 1 of this act shall take effect ~~July 1, 1996~~ JULY 1, 1993. The remainder of this act shall take effect upon passage.

SECTION 12. 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 6, 1993

APPENDIX

HB 93-1092

C.R.S. Section No.	Section in Bill	Change	Reason
8-44-112 (1)(b)	1	Recreated & Reenacted	Recreates the authority of the Division of Workers' Compensation to collect a surcharge on worker's compensation insurance premiums. The recreation is for the purpose of carrying out the intent of the general assembly in H.B. 92-1050 (L. 92, p. 1810) to continue the cost containment fund. Both provisions were scheduled for a July 1, 1992, repeal date. In H.B. 92-1050, the fund was continued but the authority to collect the surcharge was overlooked.
10-1-103 (6)(b)	2	Amended	Extends the date for the repeal of provisions relating to the division of insurance to conform with the intent of the general assembly in S.B. 92-90 (L. 92, p. 1508). S.B. 92-90 gave continuing effect to the division by extending the termination date in section 24-34-104. However, the corresponding repeal date was overlooked.
12-29.5-116	3	Amended	Extends the date for the repeal of provisions relating to the licensing of acupuncturists to conform with the intent of the general assembly in S.B. 92-6 (L. 92, p. 1992). S.B. 92-6 gave continuing effect to such licensing by extending the termination date in section 24-34-104. However, the corresponding repeal date was overlooked.

18-1-409 (2)	4	Amended	Conforms the time period allowed for filing a notice of appeal on the propriety of a felony sentence to the forty-five day period provided for filing such notices in Rule 4 (c)(1)(II)(A) of the Colorado Appellate Rules. The statute is conformed to the rule in this instance because the Colorado Court of Appeals held that the rule controlled over the statute in a decision that was upheld by the Colorado Supreme Court. See <u>People v. Arevalo</u> , 835 P.2d 552 (Colo. App. 1992).
22-31-131 (1.5)(c)(I)(D) and (1.5)(c)(I)(E)	5	Amended	Corrects an error in a boundary description in a provision added by S.B. 92-175 (L. 92, p. 479) which sets out the boundaries for purposes of implementing the director district plan of representation in the city and county of Denver to conform with the intent of S.B. 92-175.
24-34-104 (22.5)	6	Repealed	In the section which lists the termination date for various agencies, changes the repeal date of the division of gaming to correspond with the repeal date set out in the article where the division is created. The discrepancy in dates occurred in S.B. 91-149 (L. 91, p. 1521). The bill as introduced contained a July 1, 1993, repeal date for the division of gaming in both of the statutes. In the statute where the division is created, the date was changed to July 1, 1996, by a conference committee report but the other statute was overlooked.
24-34-104 (25.6)	7	Added	Same as 24-34-104 (22.5).

24-90-107 (1)	8	Amended	Makes it clear that a library district may be formed by <u>one</u> or more governmental units rather than by two or more units. The change is made to conform to the definition of library district in section 24-90-103 (6) as changed by S.B. 90-54 (L. 90, p. 1292).
29-4-205	9	Amended	Clarifies the appointment procedures for housing authorities. Because appointment provisions were contained in separate sections, a question was raised as to whether the requirement for confirmation of mayoral appointments by the city council that was added by the General Assembly to section 29-4-204 (4) in H.B. 91-1101 applied to successor appointments which were provided for in section 29-4-205. The language added by H.B. 91-1101 appears to contemplate confirmation for all appointments. This intention has been confirmed by the sponsor of H.B. 91-1101.
38-33.3-306 (3)	10	Amended	In order to correct an error made in the House Business Affairs and Labor Committee amendment to a provision added by S.B. 92-100 (L. 92, p. 2096), in which the effective date was inadvertently changed from July 1, 1992, to July 1, 1996, when the intent was to add a July 1, 1996, repeal provision, a repeal date of July 1, 1996, is added to the statute and the act in the 1992 Session Laws is amended to make the provision take effect July 1, 1993.
Section 2 of S.B. 92-100, Chapter 292, L. 92	11	Amended	Same as 38-33.3-306.