

CHAPTER 343

GENERAL ASSEMBLY

HOUSE BILL 93-1246

BY REPRESENTATIVES Berry, Agler, Grampas, R. Hernandez, Lawrence, Martin, and Williams;
also SENATOR Norton.

AN ACT**CONCERNING THE LEGISLATIVE COUNCIL.**

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

SECTION 1. 2-3-301, Colorado Revised Statutes, 1980 Repl. Vol., is amended to read:

2-3-301. Legislative council created - executive committee created. (1) There is hereby created a legislative council, REFERRED TO IN THIS PART 3 AS THE "COUNCIL", which shall consist of AN EXECUTIVE COMMITTEE, six senators to be appointed by the president of the senate with the approval of a majority vote of the members elected to the senate, and six representatives to be appointed by the speaker of the house of representatives with the approval of a majority vote of the members elected to the house of representatives. THE EXECUTIVE COMMITTEE SHALL BE COMPRISED OF THE PRESIDENT OF THE SENATE, THE MAJORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES, AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, ALL OF WHOM SHALL BE EX OFFICIO MEMBERS OF THE COUNCIL. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE SHALL ALTERNATELY SERVE AS THE CHAIRMAN AND VICE-CHAIRMAN OF THE EXECUTIVE COMMITTEE AND SHALL SERVE FOR TWO-YEAR TERMS. ~~The majority leader of the senate and the speaker of the house shall be~~ ALL ex officio members ~~with~~ OF THE COUNCIL SHALL HAVE AND EXERCISE all the powers, privileges, and duties of other members.

(2) Appointments or reappointments of all members of the council shall be made ~~not less than twenty days prior to the close of the regular session of the general assembly held in odd-numbered years~~ NO LATER THAN TEN DAYS AFTER THE

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

CONVENING OF THE FIRST REGULAR SESSION OF EACH GENERAL ASSEMBLY. Membership on the council shall terminate with the appointment of a member's successor or upon the termination of a member's term of office in the general assembly, whichever first occurs. A member may be appointed to succeed himself OR HERSELF.

(3) The party representation on the council shall be in proportion generally to the relative number of members of the two major political parties in each house of the general assembly, but in no event shall a minority party be represented by less than one council member from the senate and two council members from the house of representatives.

(4) Vacancies in the membership of the council shall be filled in the same manner as original appointments are made.

SECTION 2. 2-3-302, Colorado Revised Statutes, 1980 Repl. Vol., is amended to read:

2-3-302. Organization - meetings. (1) The council shall select a chairman and vice-chairman from among its membership; and it shall prescribe its own rules of procedure, and may appoint subcommittees from the membership of the general assembly and other persons to assist in carrying out its functions.

(2) The council shall meet as often as may be necessary to perform its functions, but it shall not meet less frequently than once in each quarter of the calendar year.

(3) ~~Seven~~ NINE members shall constitute a quorum, and a majority thereof, or of the number of members present if more than a quorum, shall have authority to act on any matter within the jurisdiction of the council.

SECTION 3. 2-3-303, Colorado Revised Statutes, 1980 Repl. Vol., is amended to read:

2-3-303. Functions. ~~It is the function of~~ (1) IN ADDITION TO ANY OTHER POWERS AND DUTIES SET FORTH IN LAW, the council SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(a) To collect information concerning the government and general welfare of the state;

(b) To examine the effects of constitutional provisions and statutes and recommend desirable alterations;

(c) To consider important issues of public policy and questions of statewide interest; ~~and~~

(d) To prepare for presentation to the members and various sessions of the general assembly such reports, bills, or otherwise, as the welfare of the state may require; ~~and~~

(e) To expend moneys or authorize the expenditure of moneys to accomplish the functions contained in this section out of moneys appropriated to the council by the

general assembly;

(f) TO APPROVE BILLS RECOMMENDED BY INTERIM LEGISLATIVE COUNCIL COMMITTEES OR OTHER COMMITTEES CREATED BY STATUTE OR RESOLUTION WHICH OPERATE DURING THE INTERIM;

(g) TO APPROVE THE BALLOT ANALYSIS OF INITIATED MEASURES AND REFERRED MEASURES PREPARED BY THE STAFF OF THE LEGISLATIVE COUNCIL.

(2) IN ADDITION TO ANY OTHER POWERS AND DUTIES SET FORTH IN LAW, THE EXECUTIVE COMMITTEE SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(a) TO CONSIDER, RECOMMEND, AND ESTABLISH POLICIES RELATING TO LEGISLATIVE MANAGEMENT AND LEGISLATIVE PROCEDURES, INCLUDING BUT NOT LIMITED TO DEADLINES FOR THE LEGISLATIVE SESSION, GUIDELINES ON THE FORMAT OF BILLS, ALLOCATION OF SPACE IN THE CAPITOL FOR LEGISLATIVE PURPOSES, AND LOBBYING PRACTICES;

(b) TO CONSIDER AND APPROVE THE BUDGET REQUESTS FROM THE LEGISLATIVE SERVICE AGENCY DIRECTORS FOR THE LEGISLATIVE SERVICE AGENCIES;

(c) TO PREPARE AND INTRODUCE THE LEGISLATIVE APPROPRIATION BILL EACH YEAR;

(d) TO ESTABLISH POLICIES ABOUT THE RETENTION OF RECORDS BY THE LEGISLATIVE SERVICE AGENCIES OF THE GENERAL ASSEMBLY, INCLUDING THE RETENTION OF RECORDS RELATING TO LEGISLATIVE REVIEW OF RULES AND REGULATIONS PROMULGATED BY EXECUTIVE BRANCH AGENCIES PURSUANT TO SECTION 24-4-103, C.R.S.

(3) (a) IN ADDITION TO THE POWERS AND DUTIES SPECIFIED IN SUBSECTION (2) OF THIS SECTION, THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL SHALL ANNUALLY APPROVE A SALARY PAY RANGE TO BE USED IN SETTING THE SALARIES OF THE LEGISLATIVE SERVICE AGENCY DIRECTORS.

(b) THE LEGISLATIVE AUDIT COMMITTEE, THE JOINT BUDGET COMMITTEE, THE LEGISLATIVE COUNCIL, AND THE COMMITTEE ON LEGAL SERVICES SHALL EACH SUBMIT AN ANNUAL REPORT TO THE EXECUTIVE COMMITTEE EVALUATING THE PERFORMANCE OF THE LEGISLATIVE SERVICE AGENCY DIRECTOR UNDER SUCH COMMITTEE'S SUPERVISION.

(c) UPON REVIEW OF THE REPORTS RECEIVED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), THE EXECUTIVE COMMITTEE SHALL EVALUATE THE PERFORMANCE OF LEGISLATIVE SERVICE AGENCY DIRECTORS AND DETERMINE THE SALARIES TO BE PAID THERETO.

(d) THE EXECUTIVE COMMITTEE SHALL APPOINT LEGISLATIVE SERVICE AGENCY DIRECTORS, OTHER THAN THE STATE AUDITOR, AFTER RECEIVING RECOMMENDATIONS THEREON FROM THE RESPECTIVE COMMITTEES.

(e) THE EXECUTIVE COMMITTEE SHALL CONSULT WITH THE LEGISLATIVE AUDIT

COMMITTEE CONCERNING THE APPOINTMENT OF A STATE AUDITOR BEFORE THE LEGISLATIVE AUDIT COMMITTEE PLACES THE NAMES OF CANDIDATES BEFORE THE GENERAL ASSEMBLY IN ACCORDANCE WITH SECTION 2-3-101 (3) (a).

(f) THE EXECUTIVE COMMITTEE SHALL ANNUALLY APPROVE SALARY PAY RANGES TO BE USED IN DETERMINING THE SALARIES OF THE STAFFS OF LEGISLATIVE SERVICE AGENCIES. LEGISLATIVE SERVICE AGENCY DIRECTORS SHALL DETERMINE THE SALARIES TO BE PAID TO THEIR RESPECTIVE STAFFS IN ACCORDANCE WITH SUCH PAY RANGES; EXCEPT THAT EMPLOYEES OF THE OFFICE OF THE STATE AUDITOR WHO ARE WITHIN THE STATE PERSONNEL SYSTEM SHALL BE PAID IN ACCORDANCE WITH ARTICLE 50 OF TITLE 24, C.R.S. EACH LEGISLATIVE SERVICE AGENCY DIRECTOR SHALL FILE A REPORT ANNUALLY WITH THE EXECUTIVE COMMITTEE SETTING FORTH THE SALARIES PAID TO THEIR RESPECTIVE STAFFS.

(g) ANY SENATOR OR REPRESENTATIVE OR ANY LEGISLATIVE COMMITTEE MAY PROVIDE THE EXECUTIVE COMMITTEE OR ANY LEGISLATIVE SERVICE AGENCY DIRECTOR WITH INFORMATION OR RECOMMENDATIONS CONCERNING PAY RANGES OR PERFORMANCE EVALUATIONS FOR LEGISLATIVE SERVICE AGENCY DIRECTORS OR THE STAFFS OF LEGISLATIVE SERVICE AGENCIES.

(h) AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "LEGISLATIVE SERVICE AGENCIES" MEANS THE OFFICE OF THE STATE AUDITOR, THE JOINT BUDGET COMMITTEE STAFF, THE LEGISLATIVE COUNCIL STAFF, AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES.

(II) "LEGISLATIVE SERVICE AGENCY DIRECTOR" MEANS THE STATE AUDITOR, THE STAFF DIRECTOR OF THE JOINT BUDGET COMMITTEE, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES.

(4) THE EXECUTIVE COMMITTEE HAS THE POWER AND RESPONSIBILITY TO PERFORM LEGISLATIVE MANAGEMENT FUNCTIONS WHEN THE GENERAL ASSEMBLY IS NOT IN SESSION.

SECTION 4. Part 3 of article 3 of title 2, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

2-3-303.3. Interim studies. THE LEGISLATIVE COUNCIL SHALL MEET DURING THE REGULAR SESSION EACH YEAR FOR THE PURPOSE OF MAKING RECOMMENDATIONS, IN THE FORM OF A JOINT RESOLUTION, OF ANY STUDIES TO BE CONDUCTED DURING THE INTERIM. IF THE STUDY RESOLUTION IS NOT ADOPTED BY THE END OF THE REGULAR SESSION, THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL SHALL DETERMINE THE INTERIM STUDIES AND SHALL PROVIDE FOR THE CONDUCT OF SUCH INTERIM STUDIES BY RESOLUTION ADOPTED BY THE EXECUTIVE COMMITTEE NO LATER THAN THE FIRST MONDAY IN JUNE.

SECTION 5. Part 6 of article 2 of title 2, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is repealed as follows:

PART 6

LEGISLATIVE COMMISSION

~~2-2-601. Legislative commission - creation. (1) There is hereby created the legislative commission, referred to in this part 6 as the "commission", which shall consist of the speaker of the house of representatives, the president of the senate, the majority and minority leaders of the house of representatives, and the majority and minority leaders of the senate. The members of the commission shall receive the compensation provided by section 2-2-307 (9) (c) for their service on the commission.~~

~~(2) As used in this part 6, unless the context otherwise requires:~~

~~(a) "Legislative service agencies" means the office of the state auditor, the joint budget committee staff, the legislative council staff, and the office of legislative legal services.~~

~~(b) "Legislative service agency director" means the state auditor, the staff director of the joint budget committee, the director of research of the legislative council, and the director of the office of legislative legal services.~~

~~2-2-602. Powers and duties. (1) The commission shall annually approve a salary pay range to be used in setting the salaries of legislative service agency directors.~~

~~(2) The legislative audit committee, the joint budget committee, the legislative council, and the committee on legal services shall each submit an annual report to the legislative commission evaluating the performance of the legislative service agency director under such committee's supervision.~~

~~(3) Upon review of the reports received pursuant to subsection (2) of this section, the commission shall evaluate the performance of legislative service agency directors and determine the salaries to be paid thereto.~~

~~(4) The commission shall appoint legislative service agency directors, other than the state auditor, after receiving recommendations thereon from the respective committees.~~

~~(5) The commission shall consult with the legislative audit committee concerning the appointment of a state auditor before the committee places the names of candidates before the general assembly in accordance with section 2-3-101 (3) (a).~~

~~(6) The commission shall annually approve salary pay ranges to be used in determining the salaries of the staffs of legislative service agencies. Legislative service agency directors shall determine the salaries to be paid to their respective staffs in accordance with such pay ranges, except that employees of the office of the state auditor who are within the state personnel system shall be paid in accordance with article 50 of title 24, C.R.S. Each legislative service agency director shall file a report annually with the commission setting forth the salaries paid to their respective staffs.~~

~~(7) Any senator or representative or any legislative committee may provide the commission or any legislative service agency director with information or~~

~~recommendations concerning pay ranges or performance evaluation for legislative service agency directors or the staffs of legislative service agencies.~~

SECTION 6. 2-3-101 (3) (a), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

2-3-101. Legislative audit committee - membership - meetings - powers and duties. (3) It is the function of the committee:

(a) To examine persons applying for the position of state auditor as to qualifications and ability but without regard to political affiliation and, after consultation with the ~~legislative commission~~ EXECUTIVE COMMITTEE, to place the names of the most qualified candidates in nomination before the general assembly for the position of state auditor;

SECTION 7. 2-3-104, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

2-3-104. Salary and staff of state auditor. The state auditor shall be paid a salary to be determined by the ~~legislative commission~~ EXECUTIVE COMMITTEE, as provided in ~~section 2-2-602~~ SECTION 2-3-303 (2). The state auditor, with the approval of the committee, may appoint such additional professional, technical, clerical, or other employees or contract for such services necessary to perform the functions assigned to the state auditor. No more than three members of the staff of the state auditor shall be exempt from the state personnel system.

SECTION 8. 2-3-204, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

2-3-204. Staff director, assistants, and consultants. The committee shall interview persons applying for the position of staff director as to qualifications and ability and shall make recommendations thereon to the ~~legislative commission~~ EXECUTIVE COMMITTEE, which shall appoint the staff director as provided in ~~section 2-2-602 (4)~~ SECTION 2-3-303 (2). The staff director shall be responsible to the committee for the collection and assembling of all data and the preparation of reports and recommendations. The staff director shall also be responsible for preparing for consideration by the committee analyses of all requests for funds. With the approval of the committee, ~~he~~ THE STAFF DIRECTOR may appoint such additional professional, technical, clerical, or other employees necessary to perform the functions assigned to the committee. The staff director and such additional personnel shall be appointed without reference to party affiliation and solely on the basis of ability to perform the duties of the position. They shall be employees of the general assembly and shall not be subject to the state personnel system laws. The committee shall establish appropriate qualifications and compensation for all positions. With the consent of the committee, the chairman may contract for professional services by private consultants as needed.

SECTION 9. 2-3-304, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

2-3-304. Director of research - assistants. The council shall interview persons

applying for the position of director of research as to qualifications and ability and shall make recommendations thereon to the ~~legislative commission~~ EXECUTIVE COMMITTEE, which shall appoint the director of research as provided in ~~section 2-2-602(4)~~ SECTION 2-3-303 (2). The director of research shall be responsible to the council for the collection and assembling of all data and for the preparation of reports, recommendations, and bills. ~~He~~ THE DIRECTOR shall, subject to the general policies of the council, have administrative direction over the activities of the council. ~~He~~ THE DIRECTOR shall be paid a salary determined by the ~~legislative commission~~ EXECUTIVE COMMITTEE in accordance with ~~section 2-2-602~~ SECTION 2-3-303 (2). ~~He~~ THE DIRECTOR shall be an employee of the general assembly and shall not be subject to the state personnel system laws. ~~He~~ THE DIRECTOR shall be appointed without reference to party affiliation and solely on the basis of ~~his~~ SUCH DIRECTOR'S ability to perform the duties of the position. The director of research, with approval of the council, may appoint such additional professional, technical, clerical, or other employees necessary to perform the functions assigned to the director of research by the council. Effective January 1, 1983, the director of research shall contract, pursuant to section 39-1-104 (16), C.R.S., for the property tax study to be conducted as required in said subsection (16).

SECTION 10. 2-3-502 (1), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

2-3-502. Committee on legal services - membership - duties. (1) Except as provided in ~~part 6~~ PART 3 of article 2 of this title, the committee shall supervise and direct the operations of the office of legislative legal services.

SECTION 11. 2-3-503 (1), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

2-3-503. Director - staff - revisor. (1) The committee shall interview persons applying for the position of staff director as to qualifications and ability and shall make recommendations thereon to the ~~legislative commission~~ EXECUTIVE COMMITTEE, which shall appoint the director as provided in ~~section 2-2-602(4)~~ SECTION 2-3-303 (2). The director of the office of legislative legal services shall be an attorney-at-law. The director shall be responsible to the committee for the provision of staff assistance in the performance of the committee's duties and functions. The director, with the approval of the committee, may appoint such attorneys-at-law and technical and clerical personnel as may be necessary for the efficient operation of the office. The director and all employees of the office shall be appointed without regard to party affiliation and solely on the basis of their ability to perform their duties. They shall be employees of the general assembly and shall not be subject to the state personnel system laws. The director shall be paid a salary determined by the ~~legislative commission~~ EXECUTIVE COMMITTEE in accordance with ~~section 2-2-602~~ SECTION 2-3-303 (2).

SECTION 12. 24-4-103 (8) (d), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-4-103. Rule-making - procedure. (8) (d) All rules adopted or amended on or after July 1, 1976, including temporary or emergency rules, shall be submitted by the adopting agency to the office of legislative legal services in the form and manner

prescribed by the committee on legal services. Said rules and amendments to existing rules shall be filed by and in such office and shall be first reviewed by the staff of said committee to determine whether said rules and amendments are within the agency's rule-making authority and for later review by the committee on legal services for its opinion as to whether the rules conform with paragraph (a) of this subsection (8). The official certificate of the director of the office of legislative legal services as to the fact of submission or the date of submission of a rule as shown by the records of his office, as well as to the fact of nonsubmission as shown by the nonexistence of such records, shall be received and held in all civil cases as competent evidence of the facts contained therein. RECORDS REGARDING THE REVIEW OF RULES PURSUANT TO THIS SECTION SHALL BE RETAINED BY THE OFFICE OF LEGISLATIVE LEGAL SERVICES IN ACCORDANCE WITH POLICIES ESTABLISHED PURSUANT TO SECTION 2-3-303 (2), C.R.S. Any such rule or amendment to an existing rule issued by any agency without being so submitted within twenty days after the date of the attorney general's opinion rendered thereon to the office of legislative legal services for review by the committee on legal services shall be void. The staff's findings shall be presented to said committee at a public meeting held after timely notice to the public and affected agencies. The committee on legal services shall, on affirmative vote, submit such rules, comments, and proposed legislation at the next regular session of the general assembly. The committee on legal services shall be the committee of reference for any bill introduced pursuant to this paragraph (d). Any member of the general assembly may introduce a bill which rescinds or deletes portions of the rule. Rejection of such a bill does not constitute legislative approval of the rule. Only that portion of any rule specifically disapproved by bill shall no longer be effective, and that portion of the rule which remains after deletion of a portion thereof shall retain its character as an administrative rule. Each agency shall revise its rules to conform with the action taken by the general assembly. A rule which has been allowed to expire by action of the general assembly pursuant to the provisions of paragraph (c) of this subsection (8) because such rule, in the opinion of the general assembly, is not authorized by the state constitution or statute shall not be repromulgated by an agency unless the authority to promulgate such rule has been granted to such agency by a statutory amendment or by the state constitution or by a judicial determination that statutory or constitutional authority exists. Any rule so repromulgated shall be void. Such revision shall be transmitted to the secretary of state for publication pursuant to subsection (11) of this section. Passage of a bill repealing a rule does not result in revival of a predecessor rule. This paragraph (d) and subsection (4.5) of this section do not apply to rules of agency organization or general statements of policy which are not meant to be binding as rules. For the purpose of performing the functions assigned it by this paragraph (d), the committee on legal services, with the approval of the speaker of the house of representatives and the president of the senate, may appoint subcommittees from the membership of the general assembly.

SECTION 13. 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 9, 1993