

CHAPTER 61

HEALTH AND ENVIRONMENT

HOUSE BILL 00-1172

BY REPRESENTATIVES Gordon, George, Mace, Paschall, and Stengel;
also SENATORS Blickensderfer and Powers.

AN ACT

CONCERNING THE LEGISLATIVE COUNCIL PROCESS FOR REVIEW OF AIR QUALITY STATE IMPLEMENTATION PLANS.

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

SECTION 1. 25-7-133 (1), (2), (4) (b) (I), (4) (b) (III), (4) (b) (IV), (4) (b) (V), (4) (c), and (6), Colorado Revised Statutes, are amended to read:

25-7-133. Legislative review and approval of state implementation plans and rules - repeal. (1) Notwithstanding any other provision of law, ~~the general assembly shall review and approve state implementation plans (SIP) and revisions and any rules pertaining thereto pursuant to the procedures set forth in section 24-4-103 (8) (c) and (8) (d), C.R.S., and this section~~ BY JANUARY 15 OF EACH YEAR THE COMMISSION SHALL CERTIFY IN A REPORT TO THE CHAIRPERSON OF THE LEGISLATIVE COUNCIL IN SUMMARY FORM ANY ADDITIONS OR CHANGES TO ELEMENTS OF THE STATE IMPLEMENTATION PLAN ADOPTED DURING THE PRIOR YEAR THAT ARE TO BE SUBMITTED TO THE ADMINISTRATOR FOR PURPOSES OF FEDERAL ENFORCEABILITY. SUCH REPORT SHALL BE WRITTEN IN PLAIN, NONTECHNICAL LANGUAGE USING WORDS WITH COMMON AND EVERYDAY MEANING THAT ARE UNDERSTANDABLE TO THE AVERAGE READER. COPIES OF SUCH REPORT SHALL BE AVAILABLE TO THE PUBLIC AND SHALL BE MADE AVAILABLE TO EACH MEMBER OF THE GENERAL ASSEMBLY. ~~The provisions of this section shall not apply to control measures and strategies which~~ **THE** provisions of this section shall not apply to control measures and strategies **which** THAT have been adopted by and implemented by the enacting jurisdiction of a local unit of government if such measures and strategies do not result in mandatory direct costs upon any entity other than the enacting jurisdiction.

(2) (a) **BY** THE FEBRUARY 15 FOLLOWING SUBMISSION OF THE CERTIFIED REPORT UNDER SUBSECTION (1) OF THIS SECTION, ANY MEMBER OF THE GENERAL ASSEMBLY MAY MAKE A REQUEST IN WRITING TO THE CHAIRPERSON OF THE LEGISLATIVE

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

COUNCIL THAT THE LEGISLATIVE COUNCIL HOLD A HEARING OR HEARINGS TO REVIEW ANY ADDITION OR CHANGE TO ELEMENTS OF THE SIP CONTAINED IN THE REPORT SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION. UPON RECEIPT OF SUCH REQUEST, THE CHAIRPERSON OF THE LEGISLATIVE COUNCIL SHALL FORTHWITH SCHEDULE A HEARING TO CONDUCT SUCH REVIEW. ANY REVIEW BY THE LEGISLATIVE COUNCIL SHALL DETERMINE WHETHER THE ADDITION OR CHANGE TO THE SIP ELEMENT ACCOMPLISHES THE RESULTS INTENDED BY ENACTMENT OF THE STATUTORY PROVISIONS UNDER WHICH THE ADDITION OR CHANGE TO THE SIP ELEMENT WAS ADOPTED. THE LEGISLATIVE COUNCIL, AFTER ALLOWING A PUBLIC HEARING PRECEDED BY ADEQUATE NOTICE TO THE PUBLIC AND THE COMMISSION, MAY RECOMMEND THE INTRODUCTION OF A BILL OR BILLS BASED ON THE RESULTS OF SUCH REVIEW. IF THE LEGISLATIVE COUNCIL DOES NOT RECOMMEND INTRODUCTION OF A BILL UNDER THIS SUBSECTION (2), THE ADDITION OR CHANGE TO THE SIP ELEMENT MAY BE SUBMITTED UNDER PARAGRAPH (b) OF THIS SUBSECTION (2). ANY BILL RECOMMENDED FOR CONSIDERATION UNDER THIS SUBSECTION (2) SHALL NOT BE COUNTED AGAINST THE NUMBER OF BILLS TO WHICH MEMBERS OF THE GENERAL ASSEMBLY ARE LIMITED BY LAW OR JOINT RULE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. IF THE LEGISLATIVE COUNCIL DOES NOT RECOMMEND THE INTRODUCTION OF A BILL UNDER THIS PARAGRAPH (a), AND THE MEMBER OR MEMBERS OF THE GENERAL ASSEMBLY THAT REQUESTED SUCH REVIEW WILL BE INTRODUCING A BILL UNDER THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (2), ANY SUCH MEMBER SHALL PROVIDE WRITTEN NOTICE TO THE CHAIRPERSON OF THE LEGISLATIVE COUNCIL WITHIN THREE DAYS AFTER THE ACTION BY THE LEGISLATIVE COUNCIL NOT TO RECOMMEND INTRODUCTION OF A BILL. IF SUCH MEMBER OR MEMBERS PROVIDE SUCH WRITTEN NOTICE, THE ADDITION OR CHANGE TO THE SIP OR ANY ELEMENT THEREOF THAT IS THE SUBJECT OF ANY SUCH BILL MAY NOT BE SUBMITTED TO THE ADMINISTRATOR OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY UNTIL THE EXPIRATION OF THE ADDITION OR CHANGE TO THE SIP HAS BEEN POSTPONED BY THE GENERAL ASSEMBLY ACTING BY BILL OR THE MEMBER OR MEMBERS PROVIDE WRITTEN NOTICE TO THE CHAIRPERSON OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL THAT NO BILL WILL BE INTRODUCED.

(b) UNLESS A WRITTEN REQUEST FOR LEGISLATIVE COUNCIL REVIEW OF AN ADDITION OR CHANGE TO A SIP ELEMENT IS SUBMITTED BY THE FEBRUARY 15 FOLLOWING SUBMISSION OF THE REPORT UNDER SUBSECTION (1) OF THIS SECTION, OR A NOTICE IS PROVIDED BY A MEMBER OR MEMBERS THAT THEY ARE INTRODUCING A BILL UNDER PARAGRAPH (c) OF THIS SUBSECTION (2) WITHIN THREE DAYS AFTER LEGISLATIVE COUNCIL ACTION NOT TO INTRODUCE A BILL UNDER PARAGRAPH (a) OF THIS SUBSECTION (2), ALL OTHER ADDITIONS OR CHANGES TO A SIP ELEMENT DESCRIBED IN SUCH REPORT SHALL BE SUBMITTED TO THE ADMINISTRATOR FOR FINAL APPROVAL AND INCORPORATION INTO THE SIP.

(c) UNTIL SUCH FEBRUARY 15 AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), the commission may only submit a AN ADDITION OR CHANGE TO THE SIP OR ANY ELEMENT THEREOF, as defined in section 110 of the federal act, any rule which is a part thereof, or any revision thereto as specified in subsection (1) of this section to the administrator for conditional approval or temporary approval. IF LEGISLATIVE COUNCIL REVIEW IS REQUESTED AS TO ANY ADDITION OR CHANGE TO A SIP ELEMENT UNDER PARAGRAPH (a) OF THIS SUBSECTION (2), THEN no such SIP, revision, rule required by the SIP or revision, or rule related to the implementation of

the SIP or revision so submitted to the administrator may take effect for purposes of federal enforceability, or enforcement of any kind at the state level against any person or entity based only on the commission's general authority to adopt a SIP under section 25-7-105 (1), unless expiration of the SIP, rule required for the SIP, or ~~revision~~ ADDITION OR CHANGE TO A SIP ELEMENT has been postponed by the general assembly acting by bill in the same manner as provided in section 24-4-103 (8) (c) and (8) (d), C.R.S. ~~In addition to the requirements set forth in section 24-4-103 (8) (c) and (8) (d), C.R.S., the legislative council shall conduct a review of the SIP, rule, or revision thereto to determine whether it accomplishes the results intended by enactment of the statutory provisions under which the SIP, rule, or revision was adopted. The legislative council may, after allowing a public hearing preceded by adequate notice to the public and the commission, make such recommendations as it deems appropriate based on the results of such review. The provisions of this subsection (2) shall apply to actions of the commission taken after January 1, 1995.~~ Any member of the general assembly may introduce a bill to modify or delete all or a portion of the SIP or any rule or ~~revision~~ ADDITIONS OR CHANGES TO SIP ELEMENTS which ~~is~~ ARE a component thereof. ANY BILL INTRODUCED UNDER THIS PARAGRAPH (c) SHALL NOT BE COUNTED AGAINST THE NUMBER OF BILLS TO WHICH MEMBERS OF THE GENERAL ASSEMBLY ARE LIMITED BY LAW OR JOINT RULE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. ANY COMMITTEE OF REFERENCE OF THE SENATE OR THE HOUSE OF REPRESENTATIVES TO WHICH A BILL INTRODUCED UNDER THIS PARAGRAPH (c) IS REFERRED SHALL CONDUCT AS PART OF CONSIDERATION OF ANY SUCH BILL ON THE MERITS THE REVIEW PROVIDED FOR UNDER PARAGRAPH (a) OF THIS SUBSECTION (2). IF ANY BILL IS INTRODUCED UNDER PARAGRAPH (a) OF THIS SUBSECTION (2) OR UNDER THIS PARAGRAPH (c) TO POSTPONE THE EXPIRATION OF ANY ADDITION OR CHANGE TO A SIP ELEMENT DESCRIBED IN A REPORT SUBMITTED UNDER SUBSECTION (1) OF THIS SECTION OR PARAGRAPH (d) OF THIS SUBSECTION (2), AND ANY SUCH BILL DOES NOT BECOME LAW, THE ADDITION OR CHANGE TO A SIP ELEMENT ADDRESSED IN SUCH BILL MAY BE SUBMITTED TO THE ADMINISTRATOR OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY FOR FINAL APPROVAL AND INCORPORATION INTO THE SIP UNDER PARAGRAPH (b) OF THIS SUBSECTION (2).

(d) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE COMMISSION SHALL SUBMIT THE CERTIFIED REPORT REQUIRED UNDER SUBSECTION (1) OF THIS SECTION TO THE CHAIRPERSON OF THE LEGISLATIVE COUNCIL NO LATER THAN MARCH 31, 2000. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ANY WRITTEN NOTICE REQUESTING LEGISLATIVE COUNCIL REVIEW OF AN ADDITION OR CHANGE TO A SIP ELEMENT DESCRIBED IN SUCH CERTIFIED REPORT SHALL BE FILED UNDER PARAGRAPH (a) OF THIS SUBSECTION (2) NO LATER THAN APRIL 10, 2000, AND, AFTER APRIL 10, 2000, PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL APPLY TO ANY ADDITION OR CHANGE TO A SIP ELEMENT DESCRIBED IN SUCH CERTIFIED REPORT FILED BY MARCH 31, 2000.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2001.

(4) (b) On or before November 15 of each year, the commission, in coordination with designated organizations for air quality planning in local areas, shall provide the legislative council:

(I) A comprehensive listing of ~~SIPs or revisions thereto~~ ADDITIONS OR CHANGES TO ELEMENTS OF THE SIP that the commission and local areas will consider during the

following calendar year;

~~(III) The projected schedule for submittal by the commission to legislative council for the SIP or any revisions thereto;~~

~~(IV) The statutory deadline, if any, for submittal to the administrator of the CHANGE OR ADDITION TO ELEMENTS OF THE SIP or revision, and the corresponding federal sanctions or consequences for failure to submit the CHANGE OR ADDITION TO ELEMENTS OF THE SIP or revisions thereto by the deadline under the federal act; and~~

~~(V) A brief description of the principal technical and policy issues and available options presented for decision in each ADDITION OR CHANGE TO ELEMENTS OF THE SIP. or revision thereto.~~

~~(c) The commission, in coordination with designated organizations for air quality planning in local areas, shall communicate regularly with the legislative council regarding each of the SIPs SIP ELEMENTS or revisions thereto scheduled for adoption and submission to the administrator of the United States environmental protection agency. The commission shall provide immediate notice in writing when the projected schedules required in subparagraphs (I) and (II) of paragraph (b) of this subsection (4) will be delayed, including an alternative projected schedule considering the delay.~~

~~(6) This section is repealed, effective July 1, 2000. THIS SECTION IS EXEMPT FROM THE PROVISIONS OF SECTION 24-1-136 (11), C.R.S., AND THE PERIODIC REPORTING REQUIREMENT OF THIS SECTION SHALL REMAIN IN EFFECT UNTIL CHANGED BY THE GENERAL ASSEMBLY ACTING BY BILL.~~

SECTION 2. 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: March 22, 2000