

CHAPTER 433

GOVERNMENT - STATE

SENATE BILL 09-101

BY SENATOR(S) White, Foster, Hudak, Kester, Newell, Tapia;
also REPRESENTATIVE(S) Levy, Fischer, Rice, Ryden, Schafer S., Todd, Vigil, Kerr J., Peniston.

AN ACT

CONCERNING THE REQUIREMENT FOR THE CREATION OF AN INDEPENDENT HISTORIC PRESERVATION COMMISSION BY ANY CITY RECEIVING MONEYS FROM THE STATE HISTORICAL FUND FOR HISTORIC PRESERVATION PURPOSES WHEN THE CITY IS NOT A CERTIFIED LOCAL GOVERNMENT, AND, IN CONNECTION THEREWITH, ESTABLISHING THE COMPOSITION AND OPERATION OF SUCH A COMMISSION.

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

SECTION 1. 12-47.1-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47.1-103. Definitions. As used in this article, unless the context otherwise requires:

(4.5) "CERTIFIED LOCAL GOVERNMENT" MEANS ANY LOCAL GOVERNMENT CERTIFIED BY THE STATE HISTORIC PRESERVATION OFFICER PURSUANT TO THE PROVISIONS OF 16 U.S.C. SEC. 470a (c) (1).

SECTION 2. 12-47.1-1202 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-47.1-1202. Expenditures from the state historical fund - legislative declaration. (3) The governing bodies of the cities of Central, Black Hawk, and Cripple Creek shall not expend moneys from their twenty percent portion of the state historical fund unless they have adopted standards for distribution of grants from that portion of the fund. At a minimum, such standards shall include the following:

(a.5) A REQUIREMENT THAT THE CITY IS A CERTIFIED LOCAL GOVERNMENT, AS

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

DEFINED IN SECTION 12-47.1-103 (4.5), AND THAT THE CITY'S HISTORIC PRESERVATION COMMISSION REVIEW AND RECOMMEND GRANT AWARDS TO THE GOVERNING BODY;

SECTION 3. 12-47.1-1202, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47.1-1202. Expenditures from the state historical fund - legislative declaration. (5) THE GOVERNING BODY OF A CITY THAT IS NOT A CERTIFIED LOCAL GOVERNMENT PURSUANT TO PARAGRAPH (a.5) OF SUBSECTION (3) OF THIS SECTION AND THAT RECEIVES MONEYS FROM THE STATE HISTORICAL FUND FOR HISTORIC PRESERVATION PURPOSES SHALL NOT EXPEND SUCH MONEYS BUT INSTEAD SHALL CREATE AN INDEPENDENT RESTORATION AND PRESERVATION COMMISSION FOR THE PURPOSE OF EXPENDING THE MONEYS IN ACCORDANCE WITH PART 17 OF THIS ARTICLE.

SECTION 4. Article 47.1 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 17
INDEPENDENT RESTORATION AND
PRESERVATION COMMISSION

12-47.1-1701. Definitions. AS USED IN THIS PART 17, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CITY" MEANS A CITY THAT IS NOT A CERTIFIED LOCAL GOVERNMENT AS DEFINED IN SECTION 12-47.1-103 (4.5) AND THAT RECEIVES MONEYS FROM THE STATE HISTORICAL FUND FOR HISTORIC PRESERVATION PURPOSES.

(2) "COMMISSION" MEANS AN INDEPENDENT RESTORATION AND PRESERVATION COMMISSION CREATED PURSUANT TO SECTION 12-47.1-1202 (5).

12-47.1-1702. Independent restoration and preservation commission - appointments - qualifications - new appointments - appointments without nominations. (1) PURSUANT TO SECTION 12-47.1-1202 (5), THE GOVERNING BODY OF A CITY SHALL CREATE AN INDEPENDENT RESTORATION AND PRESERVATION COMMISSION. THE GOVERNING BODY SHALL APPOINT SEVEN MEMBERS TO THE COMMISSION AS FOLLOWS:

(a) TWO PERSONS WHO ARE ARCHITECTS SHALL BE APPOINTED FROM NOMINEES SUBMITTED BY THE COLORADO CHAPTER OF THE AMERICAN INSTITUTE OF ARCHITECTS OR ANY SUCCESSOR ORGANIZATION.

(b) TWO PERSONS WHO ARE EXPERTS IN HISTORIC PRESERVATION SHALL BE APPOINTED FROM NOMINEES SUBMITTED BY THE COLORADO HISTORICAL SOCIETY.

(c) TWO PERSONS WHO SHALL EACH HAVE A DEGREE IN EITHER URBAN PLANNING OR LANDSCAPE ARCHITECTURE SHALL BE APPOINTED FROM NOMINEES SUBMITTED BY THE COLORADO CHAPTER OF THE AMERICAN PLANNING ASSOCIATION OR ANY SUCCESSOR ORGANIZATION.

(d) ONE PERSON WHO IS A MEMBER OF THE COMMUNITY SHALL BE APPOINTED DIRECTLY BY THE GOVERNING BODY OF THE CITY.

(2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE GOVERNING BODY OF THE CITY SHALL GIVE DUE CONSIDERATION TO MAINTAINING A BALANCE OF INTERESTS AND SKILLS IN THE COMPOSITION OF THE COMMISSION AND TO THE INDIVIDUAL QUALIFICATIONS OF THE CANDIDATES, INCLUDING THEIR TRAINING, EXPERIENCE, AND KNOWLEDGE IN THE AREAS OF ARCHITECTURE, LANDSCAPE ARCHITECTURE, THE HISTORY OF THE COMMUNITY, REAL ESTATE, LAW, AND URBAN PLANNING.

(3) AT ANY TIME THAT THE TERM OF OFFICE OF A MEMBER OF THE COMMISSION IS DUE TO EXPIRE OR WHEN A MEMBER RESIGNS, THE GOVERNING BODY OF THE CITY SHALL REQUEST AT LEAST TWO NOMINEES FOR EACH SUCH OPENING FROM THE APPROPRIATE ENTITY LISTED IN SUBSECTION (1) OF THIS SECTION; EXCEPT THAT NO SUCH REQUIREMENT SHALL APPLY TO THE MEMBER OF THE COMMUNITY APPOINTED DIRECTLY BY THE GOVERNING BODY. THE GOVERNING BODY SHALL MAKE THE APPOINTMENTS FROM THE APPROPRIATE LIST OF NOMINATIONS.

(4) IF THE NOMINATIONS REQUIRED TO MAKE APPOINTMENTS OR TO FILL VACANCIES HAVE NOT BEEN RECEIVED BY THE GOVERNING BODY OF THE CITY WITHIN FORTY-FIVE DAYS AFTER A WRITTEN REQUEST FOR THE REQUIRED LIST HAS BEEN SENT TO THE NOMINATING ENTITY, THE GOVERNING BODY MAY APPOINT MEMBERS OF THE COMMISSION WITHOUT NOMINATIONS. HOWEVER, THE GOVERNING BODY SHALL GIVE CONSIDERATION TO THE QUALIFICATIONS OF THE APPOINTEE AS IF SUCH APPOINTEE WERE NOMINATED BY THE DESIGNATED NOMINATING ENTITY.

(5) MEMBERS OF THE COMMISSION SHALL BE APPOINTED BY AND SHALL SERVE AT THE PLEASURE OF THE GOVERNING BODY OF THE CITY. EACH MEMBER SHALL CONTINUE TO SERVE UNTIL THE MEMBER'S SUCCESSOR HAS BEEN DULY APPOINTED PURSUANT TO SUBSECTION (1) OF THIS SECTION AND IS ACTING, BUT NO SUCH PERIOD SHALL EXTEND MORE THAN NINETY DAYS PAST THE EXPIRATION OF THE FIRST MEMBER'S TERM. THE GOVERNING BODY SHALL DETERMINE THE LENGTH OF TERMS AND WHETHER THE TERMS ARE STAGGERED.

12-47.1-1703. Funding - compensation. (1) COSTS ASSOCIATED WITH THE OPERATION OF THE COMMISSION SHALL BE PAID FROM THE CITY'S SHARE OF PRESERVATION AND RESTORATION MONEYS FROM THE STATE HISTORICAL FUND.

(2) MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COMPENSATION. TO THE EXTENT AUTHORIZED BY THE GOVERNING BODY OF THE CITY, MEMBERS OF THE COMMISSION MAY BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE DISCHARGE OF THEIR OFFICIAL DUTIES, INCLUDING AN ALLOWANCE FOR MILEAGE.

12-47.1-1704. Officers - bylaws - rules. (1) THE COMMISSION SHALL ELECT A CHAIRPERSON AND SUCH OFFICERS AS IT MAY REQUIRE.

(2) THE COMMISSION SHALL MAKE AND ADOPT BYLAWS GOVERNING ITS WORK.

(3) THE COMMISSION MAY ADOPT RULES AND REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF PART 12 OF THIS ARTICLE AND THIS PART

17.

12-47.1-1705. Meetings. THE COMMISSION SHALL ACT ONLY AT REGULARLY SCHEDULED SEMI-MONTHLY MEETINGS, WHICH SHALL BE HELD AT A TIME DETERMINED BY THE GOVERNING BODY OF THE CITY, OR AT MEETINGS OF WHICH NOT LESS THAN FIVE DAYS' NOTICE HAS BEEN GIVEN. ABSENT THE OBJECTION OF ANY MEMBER, THE CHAIRPERSON MAY CANCEL OR POSTPONE A REGULARLY SCHEDULED MEETING OF THE COMMISSION.

12-47.1-1706. Quorum - action. NO OFFICIAL BUSINESS OF THE COMMISSION SHALL BE CONDUCTED UNLESS A QUORUM OF NOT LESS THAN FOUR MEMBERS IS PRESENT. THE CONCURRING VOTE OF AT LEAST FOUR MEMBERS OF THE COMMISSION IS NECESSARY TO CONSTITUTE AN OFFICIAL ACT OF THE COMMISSION.

12-47.1-1707. Final agency action - judicial review. ANY OFFICIAL DECISION OF THE COMMISSION SHALL BE CONSIDERED FINAL AGENCY ACTION AND SUBJECT TO JUDICIAL REVIEW IN A COURT OF COMPETENT JURISDICTION. NO OFFICIAL DECISION OF THE COMMISSION SHALL BE APPEALABLE TO OR REVIEWABLE BY THE GOVERNING BODY OF THE CITY.

SECTION 5. Effective date - applicability. This act shall take effect August 1, 2009, and shall apply to disbursements from the state historical fund received on or after said date.

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 4, 2009