

CHAPTER 104

GOVERNMENT - STATE

SENATE BILL 10-123

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also REPRESENTATIVE(S) Labuda, Gardner B., Kagan, Levy, Roberts, Apuan, Kerr J., Lambert, Schafer S., Todd.

AN ACT

CONCERNING ON-LINE PUBLICATIONS OF THE SECRETARY OF STATE PUBLISHED PURSUANT TO THE
"STATE ADMINISTRATIVE PROCEDURE ACT".

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

SECTION 1. 24-4-103 (11) and (12), Colorado Revised Statutes, are amended to read:

24-4-103. Rule-making - procedure - repeal. (11) (a) There is hereby established the code of Colorado regulations for the publication of rules ~~and regulations~~ of agencies of the executive branch and the Colorado register for the publication of notices of rule-making, proposed rules, attorney general's opinions relating to such rules, ~~and regulations~~, and adopted rules. The code ~~of Colorado regulations~~ and the Colorado register shall be the sole official publications for such rules, ~~and regulations~~, notices of rule-making, proposed rules, and attorney general's opinions. The code ~~of Colorado regulations~~ and the Colorado register shall contain, where applicable, references to court opinions and recommendations of the legal services committee of the general assembly ~~which~~ THAT relate to or affect such rules ~~and regulations~~ and references to any action of the general assembly relating to the extension, expiration, deletion, or rescission of such rules ~~and regulations~~ and may contain other items ~~which~~ THAT, in the opinion of the editor, are relevant to such rules. ~~and regulations~~ THE REGISTER MAY ALSO INCLUDE OTHER PUBLIC NOTICES; HOWEVER, EXCEPT AS SPECIFICALLY PERMITTED BY LAW, THE INCLUSION OF SUCH NOTICES IN THE REGISTER SHALL BE IN ADDITION TO AND NOT IN SUBSTITUTION FOR EXISTING PUBLIC NOTICE REQUIREMENTS.

(b) The secretary of state shall cause to be published in electronic form, and may cause to be published in printed form, at the least cost possible to the state, the code of Colorado regulations and the Colorado register no less often than once each

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

~~calendar month, and shall make all diligent effort to enter into a publication agreement to such effect for a period not to exceed five years, but such agreement may include a renewal provision for additional periods not to exceed five years each. The executive director of the department or his or her designee may work with the secretary of state to make the code of Colorado regulations and the Colorado register available to the public in an electronic format that is accessible and user-friendly.~~ In the event of any discrepancy between the electronic and printed form of the code or the register, the ~~printed~~ ELECTRONIC form shall prevail unless it is conclusively shown, by reference to the rule-making filings made with the secretary of state pursuant to this section, that the ~~printed~~ ELECTRONIC form contains an error in publication.

~~(c) The secretary of state shall enter into any publication agreement provided for in this section with the person offering to publish and make available to the public the code and register at the lowest price, taking into consideration the qualities of the publications to be supplied, their conformity with the specifications, the purposes for which they are required, and the date of delivery. Each person offering to publish the code and register shall be entered on a record, and, after the person is chosen to publish the code and register, the record of each person offering to publish shall be open to public inspection. A bond furnished by a surety company authorized to do business in this state for the proper performance of each publication agreement may be required in the discretion of the secretary of state.~~

~~(d) (I) Each agency subject to the provisions of this section shall, on or before a date during the fiscal year beginning on July 1, 2003, specified by the secretary of state, file or verify that there is on file with the secretary of state a copy of each currently effective rule specified in subsection (1) of this section in print and in electronic form as specified by the secretary of state. Any rule in effect prior to such date that is not on file with the secretary of state on such date, shall not continue in effect on or after such date.~~

(II) Each rule adopted, together with the attorney general's opinion rendered in connection therewith, shall be filed pursuant to subsection (12) of this section within twenty days ~~thereafter~~ AFTER ADOPTION with the secretary of state for publication in the Colorado register. Upon written request of an agency, the secretary of state shall correct typographical and other nonsubstantive errors appearing in the rules as filed by such agency that occur after final adoption of the rules by the agency during the preparation of such rules for publication in order to conform the published rules with the adopted rules. Notices of rule-making proceedings pursuant to subsection (3) of this section shall also be filed with the secretary of state in sufficient time for publication pursuant to subsection (5) of this section in the ~~Colorado~~ register. Rules revised to conform with action taken by the general assembly shall be filed with the secretary of state for publication in the register and in the code OF COLORADO REGULATIONS. The legal services committee of the general assembly shall notify the secretary of state whenever a rule published in the code is rescinded or a portion thereof is deleted by the general assembly and whenever a rule or a portion thereof is allowed to expire in accordance with section 24-4-108 or with subparagraph (I) of paragraph (c) of subsection (8) of this section, and the secretary of state shall direct the removal from the code of material so deleted, rescinded, or allowed to expire.

(e) The secretary of state shall establish and maintain an accurate docket system for recording the time and date of the filing of each document, the agency filing the same, and the title or description of such document required to be filed for publication under the provisions of this section, which docket system shall be cross-indexed as to such time, date, agency, and title or description.

~~(f) Publication of the code of Colorado regulations shall be effected by making the same available for purchase by any person, public or private, at a reasonable price approved by the secretary of state.~~

~~(g) Publication of notices and other required information related to proposed and adopted rules shall be by electronic publication. or by mailing the Colorado register to persons on the subscriber list maintained pursuant to paragraph (h) of this subsection (11). The date of publication of the Colorado register shall be the date that the last regular mailing and the electronic publication are completed. The Colorado register shall likewise be available for purchase by any person, public or private, at a reasonable price approved by the secretary of state.~~

~~(h) In order to facilitate the publication of the code of Colorado regulations and the Colorado register, the publishing agent shall maintain a current subscriber list for the code and register of all persons requesting to be placed thereon and having paid the approved purchase price, including those persons on any agency's mailing list who pay such purchase price. The subscriber list shall show for each subscriber whether the subscriber has purchased a print subscription, an electronic subscription, or both.~~

~~(i) (I) The code of Colorado regulations shall contain only those rules effective on the date of publication, subject to the provisions of paragraph (d) of this subsection (11) concerning rules filed with the secretary of state.~~

~~(II) The Colorado register shall contain only such notices, proposed rules, adopted rules, opinions, and other relevant information and materials as are filed pursuant to law with the secretary of state.~~

~~(III) If, for any reason, the code of Colorado regulations or the Colorado register is not published for three consecutive months or during a total of four calendar months during any twelve-month period, said agreement shall be void and all right, title, and interest to the information, copyright, mailing lists, other materials, and work product of the publishing agent shall vest, without compensation, in the state of Colorado. In such event, the secretary of state shall notify each agency of the termination of such agreement and shall publish or cause to be published the code of Colorado regulations and the Colorado register. Until the secretary of state has the facilities and funds and is fully prepared to publish each notice of rule-making and each rule as finally adopted and so notifies the agencies, each agency shall publish its own notices of rule-making and rules as finally adopted. Publication shall be by mailing a copy to each person on the agency's mailing list, which shall include the attorney general and every person who has requested to be placed thereon and who has paid any fee set by the agency for such purpose, such fee to approximate the cost of the mailing to such person, and by placing and keeping a copy on permanent file in the agency's office for inspection by any person during regular office hours.~~

(j) Repealed.

~~(k) Each agency promulgating or administering rules shall obtain the appropriate portion or portions of the code of Colorado regulations and the portion or portions of the Colorado register pertaining thereto and shall maintain the same in its office for its use and that of the public as a public record.~~

(12) All rules of any agency that have been submitted to the attorney general under the provisions of subsection (8) of this section and the opinion of the attorney general, when issued, shall be filed in the office of the secretary of state. The secretary of state shall require that ~~such~~ ALL RULES OF ANY AGENCY THAT HAVE BEEN SUBMITTED TO THE ATTORNEY GENERAL UNDER THE PROVISIONS OF SUBSECTION (8) OF THIS SECTION AND THE OPINION OF THE ATTORNEY GENERAL, WHEN ISSUED, be filed in an electronic format that complies with any requirements established pursuant to ~~section~~ SECTIONS 24-37.5-106 AND 24-71.3-118.

SECTION 2. Applicability. (1) This act shall apply to:

(a) Rules adopted or amended on or after the effective date of this act; and

(b) The publication of notices in the Colorado register and the publication of the Colorado register and the Colorado code of regulations on or after the effective date of this act.

SECTION 3. 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: April 15, 2010