

CHAPTER 184

GOVERNMENT - STATE

SENATE BILL 10-099

BY SENATOR(S) Cadman, Morse, Penry;
also REPRESENTATIVE(S) Weissmann, Kerr J., Labuda, Lambert, Todd.

AN ACT

CONCERNING THE ACCEPTANCE BY MEMBERS OF THE GENERAL ASSEMBLY FROM A JOINT GOVERNMENTAL AGENCY OF THIS STATE OF THE PAYMENT OF OR REIMBURSEMENT FOR CERTAIN EXPENSES RELATED TO THE MEMBER'S ATTENDANCE AT A MEETING OF THE JOINT GOVERNMENTAL AGENCY.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Section 3 (2) of article XXIX of the Colorado constitution prohibits a public officer, member of the general assembly, local government official, or government employee from accepting gifts or other things of value from certain persons without those persons receiving lawful consideration of equal or greater value in return from the officer, member, official, or employee;

(b) Section 3 (3) (f) of article XXIX of the Colorado constitution contains an exception to this gift ban for the reasonable expenses paid by certain nonprofit organizations or state or local government for attendance at meetings if the officer, member, official, or employee is scheduled to give a speech, make a presentation, participate on a panel, or represent the state or local government;

(c) Section 2-3-311 (2), Colorado Revised Statutes, declares that the council of state governments, the national conference of state legislatures, the energy council, and the American legislative exchange council are each a joint governmental agency to which the general assembly or its members may subscribe and for which membership fees or certain meeting expenses may be paid from legislative appropriations;

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

(d) Section 24-6-203 (4) (d), Colorado Revised Statutes, specifies that an official's gift and honoraria report need not include payment of or reimbursement for certain travel and lodging expenses related to attending a meeting in which the official is scheduled to participate if the payment is made from the funds of a joint governmental agency;

(e) Members of the general assembly have historically been invited to and have participated in meetings of each joint governmental agency as representatives of the state of Colorado, which attendance and participation is in furtherance of the member's legislative responsibilities and beneficial to Colorado's citizens;

(f) Pursuant to section 5 (5) of article XXIX of the Colorado constitution, the independent ethics commission has issued position statements and advisory opinions concluding that the acceptance by public officials from certain organizations of the payment or reimbursement of certain expenses related to meetings of those organizations is permissible under section 3 (2) of article XXIX of the Colorado constitution so long as certain conditions are met;

(g) Consistent with article XXIX of the Colorado constitution and the interpretation of its provisions by the independent ethics commission and with state law authorizing membership in and utilization of state funds for participation in the activities of each recognized joint governmental agency, the provisions of Senate Bill 10-099, enacted in 2010, clarify that it is permissible for members of the general assembly to accept the payment of or reimbursement for actual and necessary expenses for travel, board, and lodging from a joint governmental agency if the expenses are related to the member's attendance at a convention or other meeting of the joint governmental agency at which the member is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state of Colorado;

(h) Section 5 (1) of article XXIX of the Colorado constitution authorizes the independent ethics commission to hear complaints, issue findings, assess penalties, and issue advisory opinions. Because the role of the independent ethics commission is to provide advisory opinions and rule on complaints, covered individuals are encouraged to consult with the commission for the most recent guidance on compliance with the provisions of Senate Bill 10-099 or other standards of conduct.

SECTION 2. 2-3-311 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-311. Interstate cooperation. (2)(d) MEMBERS OF THE GENERAL ASSEMBLY ARE AUTHORIZED TO ACCEPT THE PAYMENT OF OR REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES FOR TRAVEL, BOARD, AND LODGING FROM ANY ORGANIZATION DECLARED TO BE A JOINT GOVERNMENTAL AGENCY OF THIS STATE UNDER THIS SUBSECTION (2) IF:

(I) (A) THE EXPENSES ARE RELATED TO THE MEMBER'S ATTENDANCE AT A CONVENTION OR MEETING OF THE JOINT GOVERNMENTAL AGENCY AT WHICH THE MEMBER IS SCHEDULED TO DELIVER A SPEECH, MAKE A PRESENTATION, PARTICIPATE ON A PANEL, OR REPRESENT THE STATE OF COLORADO OR FOR SOME OTHER LEGITIMATE STATE PURPOSE;

(B) THE TRAVEL, BOARD, AND LODGING ARRANGEMENTS ARE APPROPRIATE FOR PURPOSES OF THE MEMBER'S ATTENDANCE AT THE CONVENTION OR MEETING;

(C) THE DURATION OF THE MEMBER'S STAY IS NO LONGER THAN IS REASONABLY NECESSARY FOR THE MEMBER TO ACCOMPLISH THE PURPOSE OF HIS OR HER ATTENDANCE AT THE CONVENTION OR MEETING; EXCEPT THAT NOTHING IN THIS SUB-SUBPARAGRAPH (C) SHALL PROHIBIT A MEMBER FROM EXTENDING THE DURATION OF HIS OR HER STAY LONGER THAN IS REASONABLY NECESSARY AT THE MEMBER'S OWN EXPENSE;

(D) THE MEMBER IS NOT CURRENTLY AND WILL NOT SUBSEQUENT TO THE CONVENTION OR MEETING BE IN A POSITION TO TAKE ANY OFFICIAL ACTION THAT WILL BENEFIT THE JOINT GOVERNMENTAL AGENCY; AND

(E) THE ATTENDANCE AT CONVENTIONS OR MEETINGS OF THE JOINT GOVERNMENTAL AGENCY HAS BEEN APPROVED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL OR BY THE LEADERSHIP OF THE HOUSE OF THE GENERAL ASSEMBLY TO WHICH THE MEMBER BELONGS; OR

(II) THE GENERAL ASSEMBLY PAYS REGULAR MONTHLY, ANNUAL, OR OTHER PERIODIC DUES TO THE JOINT GOVERNMENTAL AGENCY THAT ARE INVOICED EXPRESSLY TO COVER TRAVEL, BOARD, AND LODGING EXPENSES FOR THE ATTENDANCE OF MEMBERS AT CONVENTIONS OR MEETINGS OF THE JOINT GOVERNMENTAL AGENCY.

SECTION 3. 24-6-203 (3) (f) and (4) (d), Colorado Revised Statutes are amended, and the said 24-6-203 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-6-203. Reporting by incumbents and elected candidates - gifts, honoraria, and other benefits - prohibition on monetary gifts - penalty - definitions. (3) The reports required by subsection (2) of this section shall include the following:

(f) Payment of or reimbursement for actual and necessary expenditures for travel and lodging for attendance at a convention or other meeting at which the incumbent or elected candidate is scheduled to participate, unless the payment of or reimbursement for such expenditures is made from public funds ~~from the funds of an organization declared to be a joint governmental agency by section 2-3-311, C.R.S.,~~ or from the funds of any association of public officials or public entities whose membership includes the incumbent's or elected candidate's office or the governmental entity in which such office is held;

(h) PAYMENT OF OR REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES FOR TRAVEL, BOARD, AND LODGING FROM AN ORGANIZATION DECLARED TO BE A JOINT GOVERNMENTAL AGENCY BY SECTION 2-3-311, C.R.S.

(4) The reports required by subsection (2) of this section need not include the following:

(d) Payment of or reimbursement for actual and necessary expenditures for travel

and lodging for attendance at a convention or other meeting at which the incumbent or elected candidate is scheduled to participate, if the payment of or reimbursement for such expenditures is made from public funds ~~from the funds of an organization declared to be a joint governmental agency by section 2-3-311, C.R.S.,~~ or from the funds of any association of public officials or public entities whose membership includes the incumbent's or elected candidate's office or the governmental entity in which such office is held;

SECTION 4. 24-18-106 (2), Colorado Revised Statutes, is amended to read:

24-18-106. Rules of conduct for members of the general assembly. (2) It shall not be a breach of fiduciary duty and the public trust for a member of the general assembly to:

(a) Use state facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; ~~or~~

(b) Accept or receive a benefit as an indirect consequence of transacting state business; OR

(c) ACCEPT THE PAYMENT OF OR REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES FOR TRAVEL, BOARD, AND LODGING FROM ANY ORGANIZATION DECLARED TO BE A JOINT GOVERNMENTAL AGENCY OF THIS STATE UNDER SECTION 2-3-211 (2), C.R.S., IF:

(I) (A) THE EXPENSES ARE RELATED TO THE MEMBER'S ATTENDANCE AT A CONVENTION OR MEETING OF THE JOINT GOVERNMENTAL AGENCY AT WHICH THE MEMBER IS SCHEDULED TO DELIVER A SPEECH, MAKE A PRESENTATION, PARTICIPATE ON A PANEL, OR REPRESENT THE STATE OF COLORADO OR FOR SOME OTHER LEGITIMATE STATE PURPOSE;

(B) THE TRAVEL, BOARD, AND LODGING ARRANGEMENTS ARE APPROPRIATE FOR PURPOSES OF THE MEMBER'S ATTENDANCE AT THE CONVENTION OR MEETING;

(C) THE DURATION OF THE MEMBER'S STAY IS NO LONGER THAN IS REASONABLY NECESSARY FOR THE MEMBER TO ACCOMPLISH THE PURPOSE OF HIS OR HER ATTENDANCE AT THE CONVENTION OR MEETING;

(D) THE MEMBER IS NOT CURRENTLY AND WILL NOT SUBSEQUENT TO THE CONVENTION OR MEETING BE IN A POSITION TO TAKE ANY OFFICIAL ACTION THAT WILL BENEFIT THE JOINT GOVERNMENTAL AGENCY; AND

(E) THE ATTENDANCE AT CONVENTIONS OR MEETINGS OF THE JOINT GOVERNMENTAL AGENCY HAS BEEN APPROVED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL OR BY THE LEADERSHIP OF THE HOUSE OF THE GENERAL ASSEMBLY TO WHICH THE MEMBER BELONGS; OR

(II) THE GENERAL ASSEMBLY PAYS REGULAR MONTHLY, ANNUAL, OR OTHER PERIODIC DUES TO THE JOINT GOVERNMENTAL AGENCY THAT ARE INVOICED EXPRESSLY TO COVER TRAVEL, BOARD, AND LODGING EXPENSES FOR THE ATTENDANCE OF MEMBERS AT CONVENTIONS OR MEETINGS OF THE JOINT

GOVERNMENTAL AGENCY.

SECTION 5. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 29, 2010