

CHAPTER 405

GOVERNMENT - STATE

HOUSE BILL 10-1404

BY REPRESENTATIVE(S) McCann, Court, Labuda, Ryden, Solano, Vigil;
also SENATOR(S) Steadman.

AN ACT

CONCERNING THE ADMINISTRATION OF THE INDEPENDENT ETHICS COMMISSION, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 24-18.5-101 (2) (a) and (4) (b) (II), Colorado Revised Statutes, are amended, and the said 24-18.5-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-18.5-101. Independent ethics commission - establishment - membership - subpoena power - definitions. (2) (a) The independent ethics commission, ~~is hereby~~ **ORIGINALLY** established in the office of administrative courts in the department of personnel created in section 24-30-1001, IS HEREBY TRANSFERRED TO AND ESTABLISHED IN THE JUDICIAL DEPARTMENT AS AN INDEPENDENT AGENCY, EFFECTIVE ON THE EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED. The commission shall consist of five members. The appointing authorities for the commission members, the order of appointment of such members, and other requirements pertaining to commission membership shall be as specified in ~~section 5 (2) (a)~~ **SECTION 5 (2)** of article XXIX. Subject to the requirements of paragraph (b) of this subsection (2), the member appointed by the senate pursuant to section 5 (2) (a) (I) of article XXIX shall be appointed by the president of the senate with the approval of two-thirds of the members elected to the senate. Subject to the requirements of paragraph (b) of this subsection (2), the member appointed by the house of representatives pursuant to section 5 (2) (a) (II) of article XXIX shall be appointed by the speaker of the house of representatives with the approval of two-thirds of the members elected to the house of representatives. ~~The member appointed by the house of representatives pursuant to this paragraph (a) shall not be affiliated with the same political party as the person appointed by the senate.~~

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

(4) (b) (II) The commission shall prepare a response to a request for an advisory opinion from a public officer, member of the general assembly, local government official, or government employee as to whether particular action by such officer, member, official, or employee satisfies the requirements of article XXIX ~~not more than twenty business days~~ AS SOON AS PRACTICABLE after the request is made to the commission.

(10) ANY STATE EMPLOYEE ON THE STAFF OF THE COMMISSION AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (10) SHALL BE TRANSFERRED WITH THE AGENCY AND SHALL BECOME AN EMPLOYEE OF THE AGENCY.

SECTION 2. Repeal. 24-18-111, Colorado Revised Statutes, is repealed as follows:

24-18-111. Powers of the secretary of state. ~~(1) The secretary of state may:~~

~~(a) Issue advisory opinions to persons subject to the provisions of this article concerning issues relating to the requesting person's conduct and the provisions of this article with such deletions as are necessary to protect the identity of the requesting party or the party about whom the opinion is written;~~

~~(b) Keep and permit reasonable public access to voluntary disclosure statements;~~

~~(c) Make rules for the conduct of his affairs under this part 1.~~

~~(2) Any advisory opinion issued by the secretary of state shall take priority over any comment issued by the board of ethics for the executive branch pursuant to section 24-18-112 or any opinion issued by the board of ethics for the general assembly pursuant to section 24-18-113 if the comment or the opinion covers the same circumstances and the same issues as covered by the opinion of the secretary of state and if the comment or the opinion reached a separate conclusion from that reached by the opinion of the secretary of state.~~

SECTION 3. 2-7-202 (2), Colorado Revised Statutes, as enacted by House Bill 10-1119, is amended, and the said 2-7-202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

2-7-202. Definitions. As used in this part 2, unless the context otherwise requires:

(2) "Department" means the judicial department, the office of state public defender, the office of alternate defense counsel, the office of the child's representative, THE INDEPENDENT ETHICS COMMISSION, and the principal departments of the executive branch of state government as specified in section 24-1-110, C.R.S., including any division, office, agency, or other unit created within a principal department.

(2.5) "INDEPENDENT ETHICS COMMISSION" MEANS THE INDEPENDENT ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101 (2) (a), C.R.S.

SECTION 4. 2-7-204 (1) (b), (3) (a) (I), and (3) (a) (II), Colorado Revised

Statutes, as enacted by House Bill 10-1119, are amended to read:

2-7-204. Performance-based budgeting - program description. (1) (b) Each department's strategic plan shall be posted on the official web sites of the department and the office of state planning and budgeting. The state treasurer, the attorney general, the secretary of state, the state court administrator for the judicial department, the office of state public defender, the office of alternate defense counsel, THE INDEPENDENT ETHICS COMMISSION, and the office of the child's representative shall ensure the office of state planning and budgeting receives the information required to be posted on the office of state planning and budgeting's web site pursuant to this paragraph (b). The office of state planning and budgeting shall not have access to edit any information provided by the state treasurer, the attorney general, the secretary of state, the state court administrator for the judicial department, the office of state public defender, the office of alternate defense counsel, THE INDEPENDENT ETHICS COMMISSION, or the office of the child's representative.

(3) (a) (I) For each department except the department of state, the department of the treasury, the department of law, the judicial department, the office of state public defender, the office of alternate defense counsel, THE INDEPENDENT ETHICS COMMISSION, and the office of the child's representative, within thirty days after the presentation specified in section 2-7-203 (2) (a) (II) (B), each committee of reference shall provide to the department any written recommendations regarding the strategic plan, performance-based goals, and performance measures presented by the department and shall provide a copy of the written recommendations to the office of state planning and budgeting.

(II) For the departments of state, treasury, and law, and for the judicial department, the office of state public defender, the office of alternate defense counsel, THE INDEPENDENT ETHICS COMMISSION, and the office of the child's representative, within thirty days after the presentation specified in section 2-7-203 (2) (a) (II) (B), each committee of reference shall provide to the secretary of state, state treasurer, attorney general, the state court administrator, the office of state public defender, the office of alternate defense counsel, THE INDEPENDENT ETHICS COMMISSION, and the office of the child's representative, respectively, any written recommendations regarding the strategic plan, performance-based goals, and performance measures presented by such department or branch.

SECTION 5. 2-7-205 (1), Colorado Revised Statutes, as enacted by House Bill 10-1119, is amended to read:

2-7-205. Annual performance report. (1) (a) On December 1, 2012, and each December 1 thereafter, the office of state planning and budgeting shall publish an annual performance report for each department except the department of state, the department of the treasury, the department of law, the judicial department, the office of state public defender, the office of alternate defense counsel, THE INDEPENDENT ETHICS COMMISSION, and the office of the child's representative. The annual performance report shall include a summary of each department's strategic plan. The annual performance report shall be clearly written and easily understood and shall be limited to a maximum of four pages per department.

(b) On December 1, 2012, and each December 1 thereafter, the department of state, the department of the treasury, the department of law, the judicial department, the office of state public defender, the office of alternate defense counsel, THE INDEPENDENT ETHICS COMMISSION, and the office of the child's representative shall each publish an annual performance report including a summary of its strategic plan. The annual performance reports shall be clearly written and easily understood and shall each be limited to a maximum of four pages.

SECTION 6. 24-37-302 (3) (b), Colorado Revised Statutes, as enacted by House Bill 10-1119, is amended to read:

24-37-302. Responsibilities of the office of state planning and budgeting.

(3) (b) The department of state, the department of the treasury, the department of law, the judicial department, the office of state public defender, the office of alternate defense counsel, THE INDEPENDENT ETHICS COMMISSION, and the office of the child's representative shall use the state agency budget submissions described in paragraph (a) of this subsection (3) as a guideline for the submission of their budgets to the joint budget committee.

SECTION 7. 24-37.5-105 (11) (b) (I), (11) (b) (II), (11) (b) (IV), (11) (b) (VI), and (11) (c) (II), Colorado Revised Statutes, as enacted by House Bill 10-1119, are amended to read:

24-37.5-105. Office - responsibilities - rules. (11) (b) The electronic budgeting system should, at minimum:

(I) Allow access by the principal departments of the executive branch of state government, as specified in section 24-1-110, the legislative branch agencies, the judicial department, the office of state public defender created in section 21-1-101, C.R.S., the office of alternate defense counsel created in section 21-2-101, C.R.S., THE INDEPENDENT ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101 (2) (a), and the office of the child's representative created in section 13-91-104, C.R.S., the office of state planning and budgeting, and the joint budget committee staff;

(II) Allow for the confidential development of the governor's annual budget request and the annual budget requests of the legislative branch agencies, the judicial department, the office of state public defender created in section 21-1-101, C.R.S., the office of alternate defense counsel created in section 21-2-101, C.R.S., THE INDEPENDENT ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101 (2) (a), and the office of the child's representative created in section 13-91-104, C.R.S.;

(IV) Allow for the electronic communication of the governor's annual budget request and the annual budget requests of the legislative branch agencies, the judicial department, the office of state public defender created in section 21-1-101, C.R.S., the office of alternate defense counsel created in section 21-2-101, C.R.S., THE INDEPENDENT ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101 (2) (a), and the office of the child's representative created in section 13-91-104, C.R.S., to the joint budget committee staff;

(VI) Allow the joint budget committee staff to view the final version of the governor's annual budget requests and the budget requests of the legislative branch

agencies, the judicial department, the office of state public defender created in section 21-1-101, C.R.S., the office of alternate defense counsel created in section 21-2-101, C.R.S., THE INDEPENDENT ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101 (2) (a), and the office of the child's representative created in section 13-91-104, C.R.S.;

(c) The feasibility and requirements study should also assess the cost and feasibility to implement the following potential system components:

(II) A web-based interface that will allow the legislative branch agencies, the judicial department, the office of state public defender created in section 21-1-101, C.R.S., the office of alternate defense counsel created in section 21-2-101, C.R.S., THE INDEPENDENT ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101 (2) (a), and the office of the child's representative created in section 13-91-104, C.R.S., to upload and submit budget documents and requests to the joint budget committee staff;

SECTION 8. Appropriation - adjustments to the 2010 long bill. (1) For the implementation of this act, general fund appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2010, to the department of personnel and administration, for the independent ethics commission, shall be decreased by two hundred seventy thousand eight hundred twenty-two dollars (\$270,822) and 2.0 FTE.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department, for the independent ethics commission, for the fiscal year beginning July 1, 2010, the sum of two hundred seventy thousand eight hundred twenty-two dollars (\$270,822) and 2.0 FTE, for the implementation of this act.

SECTION 9. Specified effective date. This act shall take effect upon passage; except that sections 3, 4, 5, 6, and 7 of this act shall take effect only if House Bill 10-1119 is enacted and becomes law.

SECTION 10. 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 10, 2010