

CHAPTER 214

GOVERNMENT - STATE

HOUSE BILL 11-1211

BY REPRESENTATIVE(S) Pace, Acree, Barker, Beezley, Bradford, Brown, Casso, Conti, Coram, Court, DelGrosso, Duran, Ferrandino, Fields, Fischer, Gardner B., Gardner D., Hamner, Holbert, Hullinghorst, Jones, Joshi, Kefalas, Kerr A., Kerr J., Labuda, Lee, Liston, Massey, McCann, McKinley, Miklosi, Murray, Nikkel, Pabon, Peniston, Priola, Ramirez, Riesberg, Ryden, Scott, Solano, Soper, Stephens, Swalm, Swerdfeger, Szabo, Todd, Tyler, Vaad, Vigil, Waller, Williams A., Wilson, McNulty, Kagan;
also SENATOR(S) Tochtrop, Carroll, Aguilar, Giron.

AN ACT

**CONCERNING RESTRICTIONS ON TRAVEL-RELATED EXPENDITURES BY STATE-CHARTERED ENTITIES
ON BEHALF OF PERSONS AFFILIATED WITH SUCH ENTITIES.**

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

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 19.9
Restrictions on Travel-related Expenditures
by Public Entities

24-19.9-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COVERED PERSON" MEANS A MEMBER OF THE BOARD OF DIRECTORS OR COMPARABLE GOVERNING BODY, OFFICER, OR EMPLOYEE OF A PUBLIC ENTITY.

(2) "INSTITUTION OF HIGHER EDUCATION" MEANS A STATE UNIVERSITY OR COLLEGE, COMMUNITY COLLEGE, JUNIOR COLLEGE, LOCAL DISTRICT COLLEGE, OR AREA VOCATIONAL SCHOOL DESCRIBED IN TITLE 23, C.R.S.

(3) "PUBLIC ENTITY" MEANS ANY INSTRUMENTALITY OF THE STATE THAT IS NOT AN AGENCY OF THE STATE AND THAT IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BUREAU, OR AGENCY OF THE STATE AND

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

INCLUDES ANY SERVICE AUTHORITY, LAW ENFORCEMENT AUTHORITY, SPECIAL PURPOSE AUTHORITY, OR INSTITUTION OF HIGHER EDUCATION. "PUBLIC ENTITY" SHALL NOT INCLUDE ANY COUNTY, MUNICIPALITY, SCHOOL DISTRICT, OR ANY SPECIAL DISTRICT FORMED PURSUANT TO TITLE 32, C.R.S.

(4) "SPECIAL PURPOSE AUTHORITY" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-77-102 (15).

(5) "TRAVEL-RELATED EXPENDITURES" MEANS EXPENDITURES MADE BY A PUBLIC ENTITY TO COVER EXPENSES INCURRED BY A COVERED PERSON FOR LODGING, MEALS, AND INCIDENTAL EXPENSES IN CONNECTION WITH TRAVEL UNDERTAKEN BY THE COVERED PERSON FOR BUSINESS-RELATED PURPOSES.

24-19.9-102. Restrictions on travel-related expenditures - covered persons - mandatory reimbursement of excess - exemptions. (1) (a) IN THE ABSENCE OF EXTENUATING CIRCUMSTANCES, NO PUBLIC ENTITY MAY MAKE TRAVEL-RELATED EXPENDITURES ON BEHALF OF ANY COVERED PERSON IN AN AMOUNT THAT WOULD EXCEED, ON A DAILY BASIS, TWO TIMES THE MAXIMUM ALLOWABLE FEDERAL PER DIEM RATE THAT GOVERNS THE LOCATION IN WHICH THE PERSON IS TRAVELING, ROUNDED UP TO THE NEAREST WHOLE DOLLAR, AS DETERMINED BY THE UNITED STATES GENERAL SERVICES ADMINISTRATION, AS OF OCTOBER 1 OF THE CALENDAR YEAR IMMEDIATELY PRECEDING THE FISCAL YEAR IN WHICH THE PER DIEM RATE IS TO BE USED.

(b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE PUBLIC ENTITY MAY MAKE:

(I) LODGING EXPENDITURES THAT ARE ABOVE TWO TIMES THE FEDERAL PER DIEM RATE FOR TRAVEL-RELATED EXPENDITURES IN CONNECTION WITH AN EDUCATIONAL CONFERENCE WHERE AN ENTITY OTHER THAN THE PUBLIC ENTITY IS HOSTING THE CONFERENCE AND THE PERSON OR ENTITY ORGANIZING THE CONFERENCE SELECTED THE CONFERENCE HOTEL OR HOTELS; OR

(II) TRAVEL EXPENDITURES THAT ARE DIRECTLY RELATED TO A PROGRAM OR A BUSINESS PURPOSE OF A STATE INSTITUTION OF HIGHER EDUCATION OR A STATE HOSPITAL AUTHORITY.

(c) IN THE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1), THE PUBLIC ENTITY SHALL MAKE AVAILABLE FOR REVIEW BY ITS GOVERNING BODY OR FOR PUBLIC INSPECTION, UPON THE PROVISION OF REASONABLE NOTICE, ITEMIZATION OF ANY EXPENDITURES SATISFYING SUCH EXCEPTIONS TO THE REQUIREMENTS OF THIS SECTION.

(d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, "TRAVEL-RELATED EXPENDITURES" SHALL NOT INCLUDE THE ACTUAL COSTS OF TRAVEL UNDERTAKEN BY THE COVERED PERSON FOR BUSINESS-RELATED PURPOSES INCLUDING, WITHOUT LIMITATION, AIRLINE FARES, TAXICAB FARES, AUTOMOBILE RENTALS, OR REIMBURSEMENT FOR AUTOMOBILE MILEAGE EXPENSES.

(2) IF THE PUBLIC ENTITY MAKES TRAVEL-RELATED EXPENDITURES ON BEHALF OF A COVERED PERSON IN EXCESS OF THE AMOUNT AUTHORIZED BY SUBSECTION (1) OF

THIS SECTION, THE COVERED PERSON SHALL REIMBURSE THE FUND OF THE PUBLIC ENTITY FROM WHICH SUCH MONEYS WERE DIVERTED FOR THE ENTIRE SUM IN EXCESS OF SUCH AUTHORIZED AMOUNT.

(3) A PUBLIC ENTITY SHALL MAKE NO TRAVEL-RELATED EXPENDITURES ON BEHALF OF THE SPOUSE OR A MEMBER OF THE IMMEDIATE FAMILY OF A COVERED PERSON. IN THE EVENT A PUBLIC ENTITY MAKES TRAVEL-RELATED EXPENDITURES ON BEHALF OF THE SPOUSE OR A MEMBER OF THE IMMEDIATE FAMILY OF A COVERED PERSON, THE COVERED PERSON SHALL REIMBURSE THE FUND OF THE PUBLIC ENTITY FROM WHICH SUCH MONEYS WERE DIVERTED FOR THE ENTIRE SUM SPENT BY THE ENTITY ON SUCH EXPENDITURES.

24-19.9-103. Enforcement - complaint procedure - sanctions. (1) ANY PERSON WHO BELIEVES THAT A VIOLATION OF SECTION 24-19.9-102 HAS OCCURRED MAY FILE A WRITTEN COMPLAINT WITH THE SECRETARY OF STATE WITHIN ONE HUNDRED EIGHTY DAYS OF THE DATE OF THE ALLEGED VIOLATION. THE SECRETARY OF STATE SHALL REFER THE COMPLAINT TO AN ADMINISTRATIVE LAW JUDGE WITHIN THREE DAYS OF THE FILING OF THE COMPLAINT. THE ADMINISTRATIVE LAW JUDGE SHALL HOLD A HEARING WITHIN FIFTEEN DAYS OF THE REFERRAL OF THE COMPLAINT AND SHALL RENDER A DECISION WITHIN FIFTEEN DAYS OF THE HEARING. THE DEFENDANT SHALL BE GRANTED AN EXTENSION OF UP TO THIRTY DAYS UPON THE DEFENDANT'S MOTION OR LONGER UPON A SHOWING OF GOOD CAUSE. IF THE ADMINISTRATIVE LAW JUDGE DETERMINES THAT SUCH VIOLATION HAS OCCURRED, SUCH DECISION SHALL INCLUDE ANY APPROPRIATE ORDER, SANCTION, OR RELIEF, INCLUDING:

(a) AN ORDER DIRECTING THE COVERED PERSON, OR THE SPOUSE OR A MEMBER OF THE IMMEDIATE FAMILY OF A COVERED PERSON, AS APPLICABLE, ON WHOSE BEHALF TRAVEL-RELATED EXPENDITURES WERE MADE BY THE PUBLIC ENTITY IN VIOLATION OF SECTION 24-19.9-102, TO REIMBURSE THE FUND OF THE PUBLIC ENTITY FROM WHICH SUCH MONEYS WERE DIVERTED FOR SOME OR ALL OF THE EXPENDITURES IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 24-19.9-102;

(b) INJUNCTIVE RELIEF; OR

(c) A RESTRAINING ORDER TO ENJOIN THE CONTINUANCE OF THE VIOLATION.

(2) THE DECISION OF THE ADMINISTRATIVE LAW JUDGE SHALL BE FINAL AND SUBJECT TO REVIEW BY THE COURT OF APPEALS, PURSUANT TO SECTION 24-4-106 (11). THE SECRETARY OF STATE AND THE ADMINISTRATIVE LAW JUDGE ARE NOT NECESSARY PARTIES TO THE REVIEW. THE DECISION MAY BE ENFORCED BY THE SECRETARY OF STATE OR, IF THE SECRETARY OF STATE DOES NOT FILE AN ENFORCEMENT ACTION WITHIN THIRTY DAYS OF THE DECISION, IN A PRIVATE CAUSE OF ACTION BY THE PERSON FILING THE COMPLAINT. ANY PRIVATE ACTION BROUGHT UNDER THIS SECTION SHALL BE BROUGHT WITHIN ONE YEAR OF THE DATE OF THE VIOLATION IN STATE DISTRICT COURT. THE PREVAILING PARTY IN A PRIVATE ENFORCEMENT ACTION SHALL BE ENTITLED TO REASONABLE ATTORNEY FEES AND COSTS.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2011, and shall apply to travel-related expenditures made on or after said date.

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: May 27, 2011