

CHAPTER 182

GOVERNMENT - STATE

HOUSE BILL 12-1008

BY REPRESENTATIVE(S) Acree, Barker, Brown, Kerr J., Liston, Conti, Summers;
also SENATOR(S) Jahn, Aguilar, Brophy, Cadman, Grantham, King K., King S., Lambert, Lundberg, Neville, Scheffel, White,
Williams S.

AN ACT

CONCERNING ADDITIONAL METHODS FOR PROVIDING INPUT TO EXECUTIVE BRANCH AGENCIES ABOUT PROPOSED RULES, AND, IN CONNECTION THEREWITH, DIRECTING AGENCIES TO ESTABLISH REPRESENTATIVE GROUPS TO EVALUATE AND COMMENT ON PROPOSED RULES, REQUIRING AGENCIES TO NOTIFY THE GENERAL ASSEMBLY OF ANY RULE-MAKING THAT RESULTS IN INCREASES IN FEES OR FINES, AND REQUIRING AGENCIES TO SUBMIT DEPARTMENTAL REGULATORY AGENDAS TO THE GENERAL ASSEMBLY.

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

SECTION 1. In Colorado Revised Statutes, 24-4-102, **add** (14.5) as follows:

24-4-102. Definitions. As used in this article, unless the context otherwise requires:

(14.5) "REPRESENTATIVE GROUP" MEANS A DIVERSE GROUP CONVENED BY AN AGENCY PRIOR TO RULE-MAKING OR INVITED TO PARTICIPATE IN THE RULE-MAKING HEARING TO GIVE INPUT AND TO COMMENT ON THE EFFECT OF THE PROPOSED RULES. THE GROUP SHOULD REPRESENT DIFFERENT POINTS OF VIEW AND MAY INCLUDE REPRESENTATIVES OF PERSONS, BUSINESSES, ADVOCACY GROUPS, TRADE ASSOCIATIONS, LABOR ORGANIZATIONS, ENVIRONMENTAL ADVOCACY GROUPS, CONSUMER ADVOCATES, OR THE REGULATED INDUSTRY OR PROFESSION AFFECTED NEGATIVELY OR POSITIVELY BY PROPOSED RULES.

SECTION 2. In Colorado Revised Statutes, 24-4-103, **amend** (2) and (3) as follows:

24-4-103. Rule-making - procedure - repeal. (2) When rule-making is contemplated, public announcement thereof may be made at such time and in such

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

manner as the agency determines. ~~and opportunity may be afforded interested persons~~ THE AGENCY SHALL ESTABLISH A REPRESENTATIVE GROUP OF PARTICIPANTS WITH AN INTEREST IN THE SUBJECT OF THE RULE-MAKING to submit views or otherwise participate informally in conferences on the proposals under consideration OR TO PARTICIPATE IN THE PUBLIC RULE-MAKING PROCEEDINGS ON THE PROPOSED RULES. IN ESTABLISHING THE REPRESENTATIVE GROUP, THE AGENCY SHALL MAKE DILIGENT ATTEMPTS TO SOLICIT INPUT FROM REPRESENTATIVES OF EACH OF THE VARIOUS STAKEHOLDER INTERESTS THAT MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE PROPOSED RULES. IF THE AGENCY CONVENES A REPRESENTATIVE GROUP PRIOR TO ISSUING A NOTICE OF PROPOSED RULE-MAKING AS PROVIDED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THE AGENCY SHALL ADD THOSE PERSONS WHO PARTICIPATED IN THE REPRESENTATIVE GROUP TO THE LIST OF PERSONS WHO RECEIVE NOTIFICATION OF PROPOSED RULE-MAKING AS PROVIDED IN PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION.

(3) (a) Notice of proposed rule-making shall be published as provided in subsection (11) of this section and shall state the time, place, and nature of public rule-making proceedings that shall not be held less than twenty days after such publication, the authority under which the rule is proposed, and either the terms or the substance of the proposed rule or a description of the subjects and issues involved.

(a.5) IF THE AGENCY PROPOSES A RULE TO INCREASE FEES OR FINES, AT THE TIME OF GIVING NOTICE OF PROPOSED RULE-MAKING OR WITHIN TEN DAYS FOLLOWING THE ADOPTION OF AN EMERGENCY OR TEMPORARY RULE THAT INCREASES FEES OR FINES, THE AGENCY SHALL SEND A WRITTEN OR ELECTRONIC NOTIFICATION TO EACH MEMBER OF THE GENERAL ASSEMBLY NOTIFYING THE MEMBERS OF THE GENERAL ASSEMBLY OF THE PROPOSED RULE OR THE ADOPTION OF AN EMERGENCY RULE AND SPECIFYING THE AMOUNT OF THE INCREASE IN THE FEES OR FINES.

(b) Each rule-making agency shall maintain a list of all persons who request notification of proposed rule-making, including temporary or emergency rule-making. Any person on such list who requests a copy of the proposed rules shall submit to the agency a fee that shall be set by such agency based upon the agency's actual cost of copying and mailing the proposed rules to such person. All fees collected by the agency are hereby appropriated to the agency solely for the purpose of defraying such cost. On or before the date of the publication of notice of proposed rule-making in the Colorado register, the agency shall mail the notice of proposed rule-making to all persons on such list. If a person requests to be notified by electronic mail, notice is sufficient by such means if a copy of the proposed rules is attached or included in the electronic mail or if the electronic mail provides the location where the proposed rules may be viewed on the internet. No fees shall be charged for notification by electronic mail. A person may only request notification on his or her own behalf, and a request for notification by one person on behalf of another person need not be honored.

SECTION 3. In Colorado Revised Statutes, 2-7-202, **amend** (2); and **add** (2.3) as follows:

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; EXCEPT THAT, FOR PURPOSES OF THE REQUIREMENTS OF SECTION 2-7-203 (2) (a) (IV), "DEPARTMENT" MEANS 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.

(2.3) "DEPARTMENTAL REGULATORY AGENDA" MEANS A DOCUMENT PREPARED BY EACH PRINCIPAL DEPARTMENT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT AND SUBMITTED TO THE GENERAL ASSEMBLY AND MADE AVAILABLE TO THE PUBLIC AS DESCRIBED IN SECTION 2-7-203 (2) (a) (IV). THE "DEPARTMENTAL REGULATORY AGENDA" CONTAINS THE FOLLOWING INFORMATION:

(a) A LIST OF NEW RULES OR REVISIONS TO EXISTING RULES THAT THE DEPARTMENT EXPECTS TO PROPOSE IN THE NEXT CALENDAR YEAR;

(b) THE STATUTORY OR OTHER BASIS FOR ADOPTION OF THE PROPOSED RULES;

(c) THE PURPOSE OF THE PROPOSED RULES;

(d) THE CONTEMPLATED SCHEDULE FOR ADOPTION OF THE RULES;

(e) AN IDENTIFICATION AND LISTING OF PERSONS OR PARTIES THAT MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE RULES; AND

(f) COMMENCING WITH REGULATORY AGENDAS SUBMITTED ON AND AFTER NOVEMBER 1, 2013, A LIST AND BRIEF SUMMARY OF ALL PERMANENT AND TEMPORARY RULES ACTUALLY ADOPTED SINCE THE PREVIOUS DEPARTMENTAL REGULATORY AGENDA WAS FILED.

SECTION 4. In Colorado Revised Statutes, 2-7-203, **add** (2) (a) (IV) as follows:

2-7-203. Departmental presentations to legislative committees of reference - departmental regulatory agendas. (2) (a) (IV) ON NOVEMBER 1, 2012, AND EACH NOVEMBER 1 THEREAFTER, EACH DEPARTMENT SHALL FILE A DEPARTMENTAL REGULATORY AGENDA WITH THE STAFF OF THE LEGISLATIVE COUNCIL, WHO SHALL DISTRIBUTE THE DEPARTMENTAL REGULATORY AGENDA TO THE APPLICABLE COMMITTEE OF REFERENCE PRIOR TO THE DEPARTMENTAL PRESENTATIONS TO THE COMMITTEE OF REFERENCE. ON NOVEMBER 1, 2012, AND EACH NOVEMBER 1 THEREAFTER, EACH DEPARTMENT SHALL ALSO POST ITS DEPARTMENTAL REGULATORY AGENDA ON THE DEPARTMENT'S WEB SITE AND SHALL SUBMIT ITS DEPARTMENTAL REGULATORY AGENDA TO THE SECRETARY OF STATE FOR PUBLICATION IN THE COLORADO REGISTER. COMMENCING WITH THE FIRST REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY AND DURING EACH REGULAR SESSION THEREAFTER, DURING THE HEARING AND DEPARTMENTAL PRESENTATION DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (a) FOR THAT AGENCY, THE AGENCY SHALL ALSO PRESENT ITS DEPARTMENTAL

REGULATORY AGENDA.

SECTION 5. In Colorado Revised Statutes, 24-4-103, **amend** (11) (a) as follows:

24-4-103. Rule-making - procedure - repeal. (11) (a) There is hereby established the code of Colorado regulations for the publication of rules 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 adopted rules. The code and the register shall be the sole official publications for such rules, notices of rule-making, proposed rules, and attorney general's opinions. The code and the register shall contain, where applicable, references to court opinions and recommendations of the legal services committee of the general assembly that relate to or affect such rules and references to any action of the general assembly relating to the extension, expiration, deletion, or rescission of such rules and may contain other items that, in the opinion of the editor, are relevant to such rules. The register may also include other public notices, INCLUDING ANNUAL DEPARTMENTAL REGULATORY AGENDAS SUBMITTED BY PRINCIPAL DEPARTMENTS TO THE SECRETARY OF STATE PURSUANT TO SECTION 2-7-203, C.R.S.; 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.

SECTION 6. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 7. 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 17, 2012