

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0912.01 Bob Lackner

**HOUSE BILL 10-1404**

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**HOUSE SPONSORSHIP**

**McCann,**

**SENATE SPONSORSHIP**

**Steadman,**

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**House Committees**  
Judiciary

**Senate Committees**  
Judiciary  
Appropriations

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**A BILL FOR AN ACT**

101 **CONCERNING THE ADMINISTRATION OF THE INDEPENDENT ETHICS**  
102 **COMMISSION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill moves the independent ethics commission (commission) from the office of administrative courts in the department of personnel to the judicial department.

The bill eliminates an existing statutory requirement that the member of the commission appointed by the house of representatives be

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
April 29, 2010

HOUSE  
Amended 2nd Reading  
April 28, 2010

affiliated with a different political party than the person appointed by the senate.

In the case of a request for an advisory opinion from the commission, the bill requires the commission to prepare a response to such request as soon as practicable after the request is made, rather than within 20 business days as under current law.

The bill provides that any state employee on the staff of the commission as of the effective date of the bill shall be transferred to the judicial department and shall become an employee of the department. The bill specifies that any such employees shall retain all accrued rights to the state personnel system and retirement and other benefits under the laws of the state, and their services shall be deemed to have been continuous. In the case of a reduction in the number of staff employees serving the commission, the bill provides any seniority or retention rights accruing to any such employee subject to such reduction shall be limited to the exercise of such rights solely against other such staff employees. Any person who commences employment with the staff of the commission on or after the effective date of the bill shall not be subject to the state personnel system laws.

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

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

5 **24-18.5-101. Independent ethics commission - establishment**  
6 **- membership - subpoena power - definitions.** (2) (a) The independent  
7 ethics commission, ~~is hereby~~ ORIGINALLY established in the office of  
8 administrative courts in the department of personnel created in section  
9 24-30-1001, IS HEREBY TRANSFERRED TO AND ESTABLISHED IN THE  
10 JUDICIAL DEPARTMENT AS AN INDEPENDENT AGENCY, EFFECTIVE ON THE  
11 EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED. The commission  
12 shall consist of five members. The appointing authorities for the  
13 commission members, the order of appointment of such members, and  
14 other requirements pertaining to commission membership shall be as

1 specified in ~~section 5 (2) (a)~~ SECTION 5 (2) of article XXIX. Subject to  
2 the requirements of paragraph (b) of this subsection (2), the member  
3 appointed by the senate pursuant to section 5 (2) (a) (I) of article XXIX  
4 shall be appointed by the president of the senate with the approval of  
5 two-thirds of the members elected to the senate. Subject to the  
6 requirements of paragraph (b) of this subsection (2), the member  
7 appointed by the house of representatives pursuant to section 5 (2) (a) (II)  
8 of article XXIX shall be appointed by the speaker of the house of  
9 representatives with the approval of two-thirds of the members elected to  
10 the house of representatives. ~~The member appointed by the house of~~  
11 ~~representatives pursuant to this paragraph (a) shall not be affiliated with~~  
12 ~~the same political party as the person appointed by the senate.~~

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

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

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

25 **24-18-111. Powers of the secretary of state.** ~~(1) The secretary~~  
26 ~~of state may:~~

27 ~~(a) Issue advisory opinions to persons subject to the provisions of~~

1 ~~this article concerning issues relating to the requesting person's conduct~~  
2 ~~and the provisions of this article with such deletions as are necessary to~~  
3 ~~protect the identity of the requesting party or the party about whom the~~  
4 ~~opinion is written;~~

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

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

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

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

19 2-7-202. Definitions. As used in this part 2, unless the context  
20 otherwise requires:

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

27 (2.5) "INDEPENDENT ETHICS COMMISSION" MEANS THE

1 INDEPENDENT ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101  
2 (2) (a), C.R.S.

3 **SECTION 4. 2-7-204 (1) (b), (3) (a) (I), and (3) (a) (II), Colorado**  
4 **Revised Statutes, as enacted by House Bill 10-1119, are amended to read:**

5 **2-7-204. Performance-based budgeting - program description.**

6 (1) (b) Each department's strategic plan shall be posted on the official  
7 web sites of the department and the office of state planning and  
8 budgeting. The state treasurer, the attorney general, the secretary of state,  
9 the state court administrator for the judicial department, the office of state  
10 public defender, the office of alternate defense counsel, THE  
11 INDEPENDENT ETHICS COMMISSION, and the office of the child's  
12 representative shall ensure the office of state planning and budgeting  
13 receives the information required to be posted on the office of state  
14 planning and budgeting's web site pursuant to this paragraph (b). The  
15 office of state planning and budgeting shall not have access to edit any  
16 information provided by the state treasurer, the attorney general, the  
17 secretary of state, the state court administrator for the judicial department,  
18 the office of state public defender, the office of alternate defense counsel,  
19 THE INDEPENDENT ETHICS COMMISSION, or the office of the child's  
20 representative.

21 (3) (a) (I) For each department except the department of state, the  
22 department of the treasury, the department of law, the judicial department,  
23 the office of state public defender, the office of alternate defense counsel,  
24 THE INDEPENDENT ETHICS COMMISSION, and the office of the child's  
25 representative, within thirty days after the presentation specified in  
26 section 2-7-203 (2) (a) (II) (B), each committee of reference shall provide  
27 to the department any written recommendations regarding the strategic

1 plan, performance-based goals, and performance measures presented by  
2 the department and shall provide a copy of the written recommendations  
3 to the office of state planning and budgeting.

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

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

18 **2-7-205. Annual performance report.** (1) (a) On December 1,  
19 2012, and each December 1 thereafter, the office of state planning and  
20 budgeting shall publish an annual performance report for each department  
21 except the department of state, the department of the treasury, the  
22 department of law, the judicial department, the office of state public  
23 defender, the office of alternate defense counsel, THE INDEPENDENT  
24 ETHICS COMMISSION, and the office of the child's representative. The  
25 annual performance report shall include a summary of each department's  
26 strategic plan. The annual performance report shall be clearly written and  
27 easily understood and shall be limited to a maximum of four pages per

1 department.

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

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

12 **24-37-302. Responsibilities of the office of state planning and**  
13 **budgeting.** (3) (b) The department of state, the department of the  
14 treasury, the department of law, the judicial department, the office of state  
15 public defender, the office of alternate defense counsel, THE  
16 INDEPENDENT ETHICS COMMISSION, and the office of the child's  
17 representative shall use the state agency budget submissions described in  
18 paragraph (a) of this subsection (3) as a guideline for the submission of  
19 their budgets to the joint budget committee.

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

23 **24-37.5-105. Office - responsibilities - rules.** (10) (b) The  
24 electronic budgeting system should, at minimum:

25 (I) Allow access by the principal departments of the executive  
26 branch of state government, as specified in section 24-1-110, the  
27 legislative branch agencies, the judicial department, the office of state

1 public defender created in section 21-1-101, C.R.S., the office of alternate  
2 defense counsel created in section 21-2-101, C.R.S., THE INDEPENDENT  
3 ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101 (2)(a), and the  
4 office of the child's representative created in section 13-91-104, C.R.S.,  
5 the office of state planning and budgeting, and the joint budget committee  
6 staff;

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

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

22 (VI) Allow the joint budget committee staff to view the final  
23 version of the governor's annual budget requests and the budget requests  
24 of the legislative branch agencies, the judicial department, the office of  
25 state public defender created in section 21-1-101, C.R.S., the office of  
26 alternate defense counsel created in section 21-2-101, C.R.S., THE  
27 INDEPENDENT ETHICS COMMISSION ESTABLISHED IN SECTION 24-18.5-101



1 (2) (a), and the office of the child's representative created in section  
2 13-91-104, C.R.S.:

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

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

14 **SECTION 8. Specified effective date.** This act shall take effect  
15 upon passage; except that sections 3, 4, 5, 6, and 7 of this act shall take  
16 effect only if House Bill 10-1119 is enacted and becomes law.

17 **SECTION 9. Safety clause.** The general assembly hereby finds,  
18 determines, and declares that this act is necessary for the immediate  
19 preservation of the public peace, health, and safety.