

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 12-026

BY SENATOR(S) Cadman, Aguilar, Brophy, Grantham, Jahn, King K., King S., Lambert, Lundberg, Mitchell, Neville, Renfroe, Roberts, Scheffel, Spence, White;  
also REPRESENTATIVE(S) Vaad, Barker, Beezley, Bradford, Brown, Coram, Gerou, Kerr J., Labuda, Miklosi, Pabon, Pace, Scott, Summers, Tyler.

CONCERNING A STATE AGENCY RULE THAT CREATES A STATE MANDATE ON A LOCAL GOVERNMENT.

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

**SECTION 1.** In Colorado Revised Statutes, 24-4-103, **amend** (6) (a), (8.1) (b) (VIII), and (8.1) (b) (IX); and **add** (2.7), (8.1) (b) (X), and (8.1) (d) as follows:

**24-4-103. Rule-making - procedure - definitions - repeal.**  
(2.7) (a) AS USED IN THIS SUBSECTION (2.7):

(I) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF STATE PLANNING AND BUDGETING.

(II) "STATE MANDATE" HAS THE SAME MEANING AS SET FORTH IN

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

SECTION 29-1-304.5 (3) (d), C.R.S.

(b) NO AGENCY SHALL PROMULGATE A RULE CREATING A STATE MANDATE ON A LOCAL GOVERNMENT UNLESS THE AGENCY COMPLIES WITH THE REQUIREMENTS OF SECTION 29-1-304.5, C.R.S.

(c) (I) BEGINNING JANUARY 1, 2014, FOR EACH PROPOSED RULE THAT INCLUDES A STATE MANDATE, AN AGENCY SHALL PROVIDE TO THE DIRECTOR A DESCRIPTION OF:

(A) THE PROPOSED RULE;

(B) THE NATURE AND EXTENT OF ANY CONSULTATIONS THAT THE AGENCY HAD WITH ELECTED OFFICIALS OR OTHER REPRESENTATIVES OF THE LOCAL GOVERNMENTS THAT WOULD BE AFFECTED BY THE PROPOSED STATE MANDATE;

(C) THE NATURE OF ANY CONCERNS OF THE ELECTED OFFICIALS OR OTHER REPRESENTATIVES OF THE LOCAL GOVERNMENTS;

(D) ANY WRITTEN COMMUNICATIONS OR COMMENTS SUBMITTED TO THE AGENCY BY AN ELECTED OFFICIAL OR OTHER REPRESENTATIVE OF A LOCAL GOVERNMENT; AND

(E) THE AGENCY'S REASONING SUPPORTING THE NEED TO PROMULGATE THE RULE CONTAINING THE STATE MANDATE.

(II) THE DIRECTOR SHALL REVIEW THE INFORMATION PROVIDED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) AND, IF IT COMPLIES WITH THE REQUIREMENTS OF THIS PARAGRAPH (c), THE DIRECTOR SHALL SEND A WRITTEN NOTICE OF COMPLIANCE TO THE AGENCY. AN AGENCY SHALL NOT CONDUCT A PUBLIC RULE-MAKING PROCEEDING UNLESS THE AGENCY HAS RECEIVED THE WRITTEN NOTICE OF COMPLIANCE FROM THE DIRECTOR.

(d) EACH AGENCY SHALL DEVELOP A PROCESS TO ACTIVELY SOLICIT THE MEANINGFUL AND TIMELY INPUT OF ELECTED OFFICIALS AND OTHER REPRESENTATIVES OF LOCAL GOVERNMENTS INTO THE DEVELOPMENT OF PROPOSED RULES WITH STATE MANDATES AFFECTING LOCAL GOVERNMENTS. EACH AGENCY SHALL IMPLEMENT ITS PROCESS NO LATER THAN JANUARY 1,

2014, AND POST THE PROCESS ON THE AGENCY'S WEB SITE.

(e) THE EXECUTIVE DIRECTOR OF EACH DEPARTMENT SHALL BE RESPONSIBLE FOR ENSURING IMPLEMENTATION OF AND COMPLIANCE WITH THIS SUBSECTION (2.7).

(f) THE GENERAL ASSEMBLY SHALL APPROPRIATE ANY MONEYS NECESSARY FOR THE IMPLEMENTATION OF THIS SUBSECTION (2.7) TO THE OFFICE OF STATE PLANNING AND BUDGETING IN THE ANNUAL GENERAL APPROPRIATION ACT FOR THE FISCAL YEAR 2013-14.

(6) (a) A temporary or emergency rule may be adopted without compliance with the procedures prescribed in subsection (4) of this section and with less than the twenty days' notice prescribed in subsection (3) of this section, or where circumstances imperatively require, without notice, only if the agency finds that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section would be contrary to the public interest and makes such a finding on the record. Such findings and a statement of the reasons for the action shall be published with the rule. A temporary or emergency rule may be adopted without compliance with ~~subsection (2.5)~~ SUBSECTIONS (2.5) AND (2.7) of this section, but shall not become permanent without compliance with such ~~subsection (2.5)~~ SUBSECTIONS (2.5) AND (2.7). A temporary or emergency rule shall become effective on adoption or on such later date as is stated in the rule, shall be published promptly, and shall have effect for not more than one hundred twenty days after its adoption or for such shorter period as may be specifically provided by the statute governing such agency, unless made permanent by compliance with subsections (3) and (4) of this section.

(8.1) (b) The agency rule-making record shall contain:

(VIII) A copy of any objection to the rule presented to the committee on legal services of the general assembly by its staff pursuant to paragraph (d) of subsection (8) of this section and the agency's response;  
and

(IX) A copy of any filed executive order with respect to the rule;  
AND

(X) A COPY OF ANY INFORMATION PROVIDED TO THE DIRECTOR PURSUANT TO PARAGRAPH (c) OF SUBSECTION (2.7) OF THIS SECTION AND THE WRITTEN NOTICE OF COMPLIANCE FROM THE DIRECTOR.

(d) IF AN AGENCY INCLUDES INFORMATION REQUIRED BY SUBPARAGRAPH (X) OF PARAGRAPH (b) OF THIS SUBSECTION (8.1) IN THE RULE-MAKING RECORD, THE AGENCY SHALL PROVIDE A COPY OF THE PORTION OF THE RECORD THAT INCLUDES SUCH INFORMATION WITH THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-1-136 (9).

**SECTION 2. Act subject to petition - effective date.** This act takes 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 8, 2012, if adjournment sine die is on May 9, 2012); 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 will not take effect unless

approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO