

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0503.01 Esther van Mourik

SENATE BILL 11-167

SENATE SPONSORSHIP

Kopp,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF EFFICIENCIES IN THE STATE**
102 **REGULATORY SYSTEM.**

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 requires the committee on legal services to appoint a task force (COLS task force) to review the state's regulatory system and make recommendations related to whether:

- ! The current system creates a regulatory advantage to one segment of an industry at the expense of another;

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.

- ! The existing availability of cost benefit analysis needs strengthening in order to produce meaningful measures of adverse impacts on consumers and private industry;
- ! The enforcement practices of the current system, if any, create perverse incentives for unreasonably punitive fines and penalties on private parties;
- ! Economic conditions merit a downsizing of the regulatory body with resulting reduction of financial compliance costs;
- ! A particular regulated industry is regulated in an outmoded form of regulation that is no longer advisable;
- ! Currently regulated industries are regulated by other means;
- ! Continued regulation of the regulated industry is justified;
- ! The current system regulates fewer businesses than it did in a previous state fiscal year; and
- ! Compliance costs could be reduced or eliminated at no risk to the public welfare or environment and at no risk of creating or protecting a monopoly.

The COLS task force must report to the committee on legal services by August 6, 2012, and the committee on legal services must then recommend to the general assembly such legislation regarding the findings and recommendations of the COLS task force as may be necessary. The bill also addresses the circumstances under which staff assistance will be available for the COLS task force.

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

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

4 **ARTICLE 2.5**

5 **Efficiency in State Regulatory System**

6 **24-2.5-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
 7 CONTEXT OTHERWISE REQUIRES:

8 (1) "COMMITTEE ON LEGAL SERVICES" MEANS THE COMMITTEE ON
 9 LEGAL SERVICES CREATED IN SECTION 2-3-501, C.R.S.

10 (2) "EXECUTIVE BRANCH DEPARTMENTS" MEANS ALL PRINCIPAL
 11 DEPARTMENTS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT AS

1 SPECIFIED IN SECTION 24-1-110, INCLUDING ANY DIVISION, OFFICE,
2 AGENCY, OR OTHER UNIT CREATED WITHIN A PRINCIPAL DEPARTMENT.

3 (3) "INDUSTRY LEADER" MEANS AN EXECUTIVE-LEVEL EMPLOYEE
4 OR RETIREE OF A LARGE SUCCESSFUL INDUSTRY.

5 (4) "REGULATORY SYSTEM" MEANS THE STATUTORY SYSTEM FOR
6 RULE-MAKING BY EXECUTIVE BRANCH DEPARTMENTS AS SPECIFIED IN
7 ARTICLE 4 OF THIS TITLE, INCLUDING ALL RULES CURRENTLY
8 PROMULGATED AND PUBLISHED IN THE CODE OF COLORADO REGULATIONS.

9 (5) "SMALL OR MEDIUM BUSINESS LEADER" MEANS A SUCCESSFUL
10 BUSINESS OWNER GENERALLY RECOGNIZED IN THE BUSINESS COMMUNITY
11 WITH UP TO FIVE HUNDRED EMPLOYEES.

12 (6) "TASK FORCE" MEANS THE COMMITTEE ON LEGAL SERVICES
13 TASK FORCE CREATED IN SECTION 24-2.5-102 (1).

14 **24-2.5-102. Creating efficiencies in the state regulatory system.**

15 (1) NO LATER THAN JULY 1, 2011, THE COMMITTEE ON LEGAL SERVICES
16 SHALL SUBMIT RECOMMENDATIONS FOR A BIPARTISAN TASK FORCE TO
17 STUDY THE STATE'S REGULATORY SYSTEM. THE TASK FORCE SHALL
18 CONSIST OF TWELVE MEMBERS DIVIDED EQUALLY BETWEEN THE TWO
19 MAJOR POLITICAL PARTIES WITH THE GREATEST NUMBER OF REGISTERED
20 ELECTORS IN THE STATE. EACH OF THE TWO MAJOR POLITICAL PARTIES
21 REPRESENTED ON THE COMMITTEE ON LEGAL SERVICES SHALL
22 RECOMMEND SIX TASK FORCE MEMBERS. SUCH RECOMMENDATIONS SHALL
23 BE SUBMITTED FOR APPROVAL TO THE PARTIES' RESPECTIVE MINORITY
24 LEADERS, PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE OF
25 REPRESENTATIVES, AS APPROPRIATE. THE TASK FORCE SHALL CONSIST OF:

- 26 (a) TWO PRIVATE INDUSTRY LEADERS;
- 27 (b) TWO SMALL OR MEDIUM BUSINESS LEADERS;

1 (c) TWO MEMBERS FROM ORGANIZATIONS, INSTITUTES,
2 CORPORATIONS, OR GROUPS THAT CONDUCT RESEARCH AND ENGAGE IN
3 ADVOCACY IN AREAS SUCH AS BUSINESS POLICY OR THE ECONOMY;

4 (d) TWO FORMER EMPLOYEES OF A STATE REGULATORY BODY;

5 (e) TWO ACADEMICS FROM THE ECONOMICS FACULTY OF ANY
6 PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION IN THIS STATE
7 WHO HAVE EXPERIENCE RELATED TO PUBLIC ADMINISTRATION OR
8 REGULATORY COMPLIANCE; AND

9 (f) TWO PEOPLE WITH SIGNIFICANT PROJECT MANAGEMENT
10 EXPERIENCE.

11 (2) THE TASK FORCE SHALL DESIGNATE ONE OF THE INDUSTRY
12 LEADERS AND ONE OF THE SMALL BUSINESS LEADERS AS CHAIR AND
13 VICE-CHAIR.

14 (3) THE TASK FORCE SHALL MEET WITHIN THIRTY DAYS AFTER THE
15 COMMITTEE ON LEGAL SERVICES APPOINTS THE MEMBERS AND SHALL
16 MEET ADDITIONALLY AS CONVENED BY THE CHAIR.

17 (4) THE DUTIES OF THE TASK FORCE ARE TO REVIEW THE STATE'S
18 REGULATORY SYSTEM AND DETERMINE:

19 (a) WHETHER THE CURRENT SYSTEM CREATES A REGULATORY
20 ADVANTAGE TO ONE SEGMENT OF AN INDUSTRY AT THE EXPENSE OF
21 ANOTHER;

22 (b) WHETHER THE EXISTING AVAILABILITY OF A COST BENEFIT
23 ANALYSIS, AS DEFINED IN SECTION 24-4-103 (2.5), NEEDS STRENGTHENING
24 IN ORDER TO PRODUCE MEANINGFUL MEASURES OF ADVERSE IMPACTS ON
25 CONSUMERS AND PRIVATE INDUSTRY;

26 (c) WHETHER THE ENFORCEMENT PRACTICES OF THE CURRENT
27 SYSTEM, IF ANY, CREATE INCENTIVES FOR UNREASONABLY PUNITIVE FINES

1 AND PENALTIES ON PRIVATE PARTIES;

2 (d) WHETHER ECONOMIC CONDITIONS MERIT A DOWNSIZING OF THE
3 REGULATORY BODY WITH RESULTING REDUCTION OF FINANCIAL
4 COMPLIANCE COSTS;

5 (e) WHETHER A PARTICULAR REGULATED INDUSTRY IS REGULATED
6 IN AN OUTMODED FORM OF REGULATION THAT IS NO LONGER ADVISABLE;

7 (f) WHETHER CURRENTLY REGULATED INDUSTRIES ARE
8 REGULATED BY OTHER MEANS, INCLUDING BUT NOT LIMITED TO FEDERAL
9 REGULATORY SYSTEMS;

10 (g) WHETHER CONTINUED REGULATION OF THE REGULATED
11 INDUSTRY IS JUSTIFIED, OR WHETHER THERE ARE ADEQUATE
12 MARKETPLACE SOLUTIONS TO ALLOW FOR THE REMOVAL OF CURRENT
13 REGULATIONS, THEREBY RESULTING IN COST SAVINGS;

14 (h) WHETHER THE CURRENT SYSTEM REGULATES FEWER
15 BUSINESSES THAN IT DID IN THE 2007-08 STATE FISCAL YEAR; AND

16 (i) WHETHER CREDIBLE TESTIMONY BY REGULATED INDUSTRIES
17 SUGGESTS THAT COMPLIANCE COSTS COULD BE REDUCED OR ELIMINATED
18 AT NO RISK TO THE PUBLIC WELFARE OR ENVIRONMENT AND AT NO RISK OF
19 CREATING OR PROTECTING A MONOPOLY.

20 (5) (a) (I) THE TASK FORCE SHALL REPORT IN WRITING TO THE
21 COMMITTEE ON LEGAL SERVICES NO LATER THAN AUGUST 6, 2012,
22 REGARDING ITS FINDINGS, RECOMMENDATIONS, AND ESTIMATED COST
23 SAVINGS RELATED TO ITS DUTIES SPECIFIED IN SUBSECTION (4) OF THIS
24 SECTION.

25 (II) THE ESTIMATED COST SAVINGS SHALL INCLUDE AN ANALYSIS
26 OF SAVINGS TO THE REGULATORY AGENCIES AS WELL AS TO THE
27 REGULATED INDUSTRIES. THE COST SAVINGS TO REGULATED INDUSTRIES

1 SHALL INCLUDE AN ANALYSIS OF BOTH ESTIMATED SAVINGS OF DIRECT
2 COSTS SUCH AS REGULATORY FEES AS WELL AS INDIRECT COMPLIANCE
3 COSTS FOR THE REGULATED INDUSTRY.

4 (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
5 COMMITTEE ON LEGAL SERVICES SHALL CONSIDER ALL
6 RECOMMENDATIONS, FINDINGS, AND ESTIMATED COST SAVINGS MADE BY
7 THE TASK FORCE AND SHALL RECOMMEND TO THE GENERAL ASSEMBLY
8 SUCH LEGISLATION REGARDING THE FINDINGS, RECOMMENDATIONS, AND
9 ESTIMATED COST SAVINGS OF THE COLS TASK FORCE AS MAY BE
10 NECESSARY.

11 (6) THE MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT
12 COMPENSATION BUT MAY BE REIMBURSED FOR ALL NECESSARY AND
13 ACTUAL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES ONLY
14 IF MONEYS ARE CREDITED TO THE LEGISLATIVE DEPARTMENT CASH FUND
15 PURSUANT TO PARAGRAPH (a) OF SUBSECTION (8) OF THIS SECTION IN AN
16 AMOUNT SUFFICIENT TO FUND SUCH REIMBURSEMENTS.

17 (7) THE MEMBERS OF THE TASK FORCE MAY MEET WITHOUT ANY
18 STAFF ASSISTANCE DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

19 (8) (a) THE LEGISLATIVE COUNCIL STAFF, ON BEHALF OF THE TASK
20 FORCE, IS AUTHORIZED TO RECEIVE FEDERAL MONEYS, CONTRIBUTIONS,
21 GRANTS, GIFTS, DONATIONS, SERVICES, AND IN-KIND DONATIONS FROM
22 ANY PUBLIC OR PRIVATE ENTITY FOR ANY DIRECT OR INDIRECT COSTS
23 ASSOCIATED WITH THE DUTIES OF THE TASK FORCE SET FORTH IN THIS
24 SECTION. THE LEGISLATIVE COUNCIL STAFF SHALL TRANSFER ANY
25 MONEYS RECEIVED PURSUANT TO THIS PARAGRAPH (a) TO THE STATE
26 TREASURER, WHO SHALL CREDIT THE MONEYS TO THE LEGISLATIVE
27 DEPARTMENT CASH FUND CREATED IN SECTION 2-2-1601, C.R.S., FOR USE

1 IN IMPLEMENTING THIS SECTION.

2 (b) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL,
3 THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES, AND THE
4 STATE AUDITOR MAY SUPPLY STAFF ASSISTANCE TO THE TASK FORCE AS
5 THEY DEEM APPROPRIATE WITHIN EXISTING APPROPRIATIONS. IF STAFF
6 ASSISTANCE IS NOT AVAILABLE WITHIN EXISTING APPROPRIATIONS, THEN
7 THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, THE DIRECTOR
8 OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES, AND THE STATE AUDITOR
9 MAY SUPPLY STAFF ASSISTANCE TO THE TASK FORCE ONLY IF MONEYS ARE
10 CREDITED TO THE LEGISLATIVE DEPARTMENT CASH FUND PURSUANT TO
11 PARAGRAPH (a) OF THIS SUBSECTION (8) IN AN AMOUNT SUFFICIENT TO
12 FUND STAFF ASSISTANCE. THE TASK FORCE MAY ALSO ACCEPT STAFF
13 SUPPORT FROM THE PRIVATE SECTOR.

14 (c) THE COSTS OF PROVIDING STAFF ASSISTANCE TO THE TASK
15 FORCE BY THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, THE
16 DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES, AND THE
17 STATE AUDITOR SHALL BE APPROVED BY THE CHAIR OF THE LEGISLATIVE
18 COUNCIL AND PAID BY VOUCHERS AND WARRANTS DRAWN AS PROVIDED
19 BY LAW FROM MONEYS CONTINUOUSLY APPROPRIATED FROM THE
20 LEGISLATIVE DEPARTMENT CASH FUND.

21 (d) THE COMMITTEE ON LEGAL SERVICES SHALL PERFORM THE
22 TASKS ASSIGNED TO IT PURSUANT TO THIS SECTION WITHIN ITS EXISTING
23 APPROPRIATIONS AND ITS NORMAL MEETING SCHEDULE.

24 **SECTION 2. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.