

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 21, 2018
Date

Committee on Business, Labor, & Technology.

After consideration on the merits, the Committee recommends the following:

HB18-1237 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend reengrossed bill, page 2, strike lines 10 and 11 and substitute:
- 2 **"SECTION 2.** In Colorado Revised Statutes, 24-4-103, **amend**
3 (2.5)(a) and (2.5)(b); **repeal** (2.5)(f); and **add** (2.5)(g), (2.5)(h), and
4 (2.5)(i) as follows:".
- 5 Page 2, strike line 13 and substitute "**citation correction - reporting**
6 **-repeal.** (2.5) (a) (I) At the time of filing a notice of proposed
7 rule-making with the secretary of state as the secretary may require, an
8 agency shall submit a draft of the proposed rule or the proposed
9 amendment to an existing rule and a statement, in plain language,
10 concerning the subject matter or purpose of the proposed rule or
11 amendment to ~~the office of~~ the executive director in the department of
12 regulatory agencies. The executive director, or his or her designee, shall
13 distribute the proposed rule or amendment, the agency's statement
14 concerning the subject matter or purpose of the proposed rule or
15 amendment, and any cost-benefit analysis prepared pursuant to this
16 section to all persons who have submitted a request to receive notices
17 from the department of regulatory agencies about proposed rule-making.
- 18 (II) WITHIN FIVE DAYS AFTER RECEIVING A DRAFT OF AN AGENCY'S
19 PROPOSED RULE OR PROPOSED AMENDMENT PURSUANT TO SUBSECTION
20 (2.5)(a)(I) OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE
21 DEPARTMENT OF REGULATORY AGENCIES, OR THE EXECUTIVE DIRECTOR'S
22 DESIGNEE, SHALL REVIEW THE PROPOSED RULE OR PROPOSED AMENDMENT

1 TO DETERMINE IF ANY PORTION OF IT CONSTITUTES A SIGNIFICANT
2 REGULATORY ACTION. IF THE EXECUTIVE DIRECTOR OR THE EXECUTIVE
3 DIRECTOR'S DESIGNEE DETERMINES THAT ANY PORTION OF THE PROPOSED
4 RULE OR PROPOSED AMENDMENT CONSTITUTES A SIGNIFICANT
5 REGULATORY ACTION, HE OR SHE SHALL SEND A COPY OF THE PROPOSED
6 RULE OR PROPOSED AMENDMENT, ALONG WITH AN EXPLANATION WHY IT
7 CONSTITUTES A SIGNIFICANT REGULATORY ACTION, TO THE OFFICE. AT
8 LEAST TEN BUSINESS DAYS BEFORE THE AGENCY'S HEARING ON THE
9 PROPOSED RULE OR PROPOSED AMENDMENT, THE DIRECTOR OF THE OFFICE
10 OR THE DIRECTOR'S DESIGNEE, IN COLLABORATION WITH THE AGENCY,
11 SHALL CONDUCT A COST-BENEFIT ANALYSIS OF THE PROPOSED RULE OR
12 PROPOSED AMENDMENT PURSUANT TO SUBSECTION (2.5)(a)(V) OF THIS
13 SECTION AND SHALL SEND THE COST-BENEFIT ANALYSIS TO THE
14 EXECUTIVE DIRECTOR AND TO THE AGENCY. THE AGENCY SHALL MAKE
15 THE COST-BENEFIT ANALYSIS AVAILABLE TO THE PUBLIC BY POSTING IT ON
16 THE AGENCY'S OFFICIAL WEBSITE. THE EXECUTIVE DIRECTOR, OR THE
17 EXECUTIVE DIRECTOR'S DESIGNEE, SHALL POST THE ANALYSIS ON THE
18 DEPARTMENT OF REGULATORY AGENCIES' OFFICIAL WEBSITE.

19 (III) Any person may, within five BUSINESS days after publication
20 of the notice of proposed rule-making in the Colorado register, request
21 that the department of regulatory agencies require the agency submitting
22 the proposed rule or amendment to prepare a cost-benefit analysis. ~~The~~
23 ~~executive director, or his or her designee, shall determine, after~~
24 ~~consultation with the agency proposing the rule or amendment, whether~~
25 ~~to require the agency to prepare a cost-benefit analysis. If the executive~~
26 ~~director, or his or her designee, determines that a cost-benefit analysis is~~
27 ~~required,~~ THE DEPARTMENT SHALL REQUIRE the agency ~~shall~~ TO complete
28 a cost-benefit analysis at least ten BUSINESS days before the hearing on the
29 rule or amendment, ~~shall~~ make the analysis available to the public by
30 posting the analysis on the agency's official website, and ~~shall~~ submit a
31 copy to the executive director OF THE DEPARTMENT or his or her designee.
32 The executive director, or his or her designee, shall post the analysis on
33 the department of regulatory agencies' official website.

34 (IV) By filing an additional notice published in the Colorado
35 register, the agency may postpone the hearing on the rule or amendment
36 to comply with the requirement ~~to complete the~~ THAT ANY cost-benefit
37 analysis REQUIRED PURSUANT TO SUBSECTION (2)(a)(II) OR (2)(a)(III) OF
38 THIS SECTION BE COMPLETED at least ten days before the hearing. ~~Failure~~
39 ~~to complete a requested~~ IF A cost-benefit analysis IS REQUIRED FOR A
40 PROPOSED RULE OR AMENDMENT pursuant to this subsection (2.5), ~~shall~~
41 ~~preclude the adoption of such~~ THE AGENCY SHALL NOT ADOPT THE rule or

1 amendment ~~Such~~ UNTIL THE COST-BENEFIT ANALYSIS HAS BEEN
2 COMPLETED.

3 (V) A cost-benefit analysis, ~~shall~~ WHETHER CONDUCTED BY THE
4 OFFICE IN COLLABORATION WITH AN AGENCY, OR SOLELY BY THE AGENCY,
5 MUST include the following:

6 (H) (A) The reason for the rule or amendment;

7 (H) (B) The anticipated economic benefits of the rule or
8 amendment, ~~which shall include~~ INCLUDING economic growth, the
9 creation of new jobs, and increased economic competitiveness;

10 (H) (C) The anticipated costs of the rule or amendment, ~~which~~
11 ~~shall include~~ INCLUDING the direct costs to the government to administer
12 the rule or amendment and the direct and indirect costs to business and
13 other entities required to comply with the rule or amendment;

14 (H) (D) Any adverse effects on the economy, consumers, private
15 markets, small businesses, job creation, and economic competitiveness;
16 and

17 (H) (E) At least two alternatives to the proposed rule or
18 amendment that can be identified by the submitting agency, THE OFFICE,
19 or a member of the public, including the costs and benefits of pursuing
20 each of the alternatives identified.

21 (b) The executive director OF THE DEPARTMENT OF REGULATORY
22 AGENCIES, or his or her designee, OR, FOR A COST-BENEFIT ANALYSIS
23 CONDUCTED PURSUANT TO SUBSECTION (2.5)(a)(II), THE DIRECTOR OR THE
24 DIRECTOR'S DESIGNEE, shall study the cost-benefit analysis and may urge
25 the agency to revise the rule or amendment to eliminate or reduce the
26 negative economic impact. The executive director, or his or her designee,
27 may inform the public about the negative impact of the proposed rule or
28 the proposed amendment to an existing rule.

29 (f) ~~(f) This subsection (2.5) is~~".

30 Page 3, after line 7 insert:

31 "(h) (I) NOTWITHSTANDING SECTION 24-1-136 (11), THE
32 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES OR
33 THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL, ON AN ANNUAL BASIS,
34 PREPARE A REPORT SUMMARIZING THE COST-BENEFIT ANALYSES
35 CONDUCTED IN THE PREVIOUS TWELVE-MONTH PERIOD, INCLUDING:

36 (A) THE NUMBER OF COST-BENEFIT ANALYSES PREPARED;

37 (B) THE AGENCIES FOR WHICH ONE OR MORE COST-BENEFIT
38 ANALYSES WERE PREPARED;

39 (C) A SUMMARY OF ANY PROPOSED RULE OR PROPOSED

1 AMENDMENT TO AN EXISTING RULE THAT WAS MODIFIED IN RESPONSE TO
2 A COST-BENEFIT ANALYSIS CONDUCTED AND THE MANNER IN WHICH IT
3 WAS MODIFIED; AND

4 (D) FOR COST-BENEFIT ANALYSES THAT WERE PREPARED AS A
5 RESULT OF A DETERMINATION THAT THE PROPOSED RULE OR PROPOSED
6 AMENDMENT TO AN EXISTING RULE CONSTITUTED A SIGNIFICANT
7 REGULATORY ACTION, THE BASIS FOR THE SIGNIFICANT REGULATORY
8 ACTION DETERMINATION.

9 (II) ON OR BEFORE OCTOBER 31, 2019, AND ON OR BEFORE
10 OCTOBER 31 OF EACH YEAR THEREAFTER, THE EXECUTIVE DIRECTOR OR
11 THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL SEND COPIES OF THE REPORT
12 TO THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE IN THE SENATE,
13 THE BUSINESS AFFAIRS AND LABOR COMMITTEE IN THE HOUSE OF
14 REPRESENTATIVES, AND THE LEGISLATIVE AUDIT COMMITTEE, OR THEIR
15 SUCCESSOR COMMITTEES.

16 (i) AS USED IN THIS SUBSECTION (2.5):

17 (I) "OFFICE" MEANS THE OFFICE OF STATE PLANNING AND
18 BUDGETING CREATED IN SECTION 24-37-102.

19 (II) "SIGNIFICANT REGULATORY ACTION" MEANS A PROPOSED RULE
20 THAT, IF ADOPTED, IS LIKELY TO RESULT IN ONE OR MORE OF THE
21 FOLLOWING:

22 (A) A COST OF TEN MILLION DOLLARS OR MORE OVER A FIVE-YEAR
23 PERIOD TO THE REGULATED INDUSTRY OR OTHER PRIVATE ENTITIES TO
24 COMPLY WITH THE RULE; OR

25 (B) A SERIOUS INCONSISTENCY OR OTHER FORM OF INTERFERENCE
26 WITH AN ACTION TAKEN OR PLANNED BY ANOTHER AGENCY."

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