

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0121.01 Kristen Forrestal x4217

SENATE BILL 19-021

SENATE SPONSORSHIP

Moreno, Zenzinger, Court, Crowder, Gardner, Priola, Tate

HOUSE SPONSORSHIP

McKean,

Senate Committees

Health & Human Services

House Committees

Health & Insurance

A BILL FOR AN ACT

101 **CONCERNING ELIMINATING THE REQUIREMENT THAT THE STATE**
102 **BOARD OF HEALTH APPROVE THE RETENTION OF COUNSEL IN**
103 **CERTAIN CIRCUMSTANCES.**

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://leg.colorado.gov/>.)

Statutory Revision Committee. The bill removes the requirement that the state board of health (state board) approve the retention of counsel when the executive director of the department of public health and environment seeks to bring an action to enjoin, prosecute, or enforce public health laws or standards and the local district attorney fails to act.

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

HOUSE
2nd Reading Unamended
February 8, 2019

SENATE
3rd Reading Unamended
January 23, 2019

SENATE
2nd Reading Unamended
January 22, 2019

The bill also removes the requirement that an agency, through its county or district board of health or through its public health director, acquire the approval of the state board before retaining counsel to defend the agency and its officers and employees against actions brought against them.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that the purpose of this act is to repeal obsolete statutory
4 provisions relating to the Colorado department of public health and
5 environment. The general assembly further declares that repealing these
6 statutory provisions does not alter the scope or applicability of the
7 remaining statutes.

8 **SECTION 2.** In Colorado Revised Statutes, **amend** 25-1-112 as
9 follows:

10 **25-1-112. Legal adviser - attorney general - actions.** The
11 attorney general ~~shall be~~ is the legal adviser for the department and shall
12 defend it in all actions and proceedings brought against it. The district
13 attorney of the judicial district in which a cause of action ~~may arise~~
14 ARISES shall bring any ~~action~~ civil or criminal ACTION requested by the
15 executive director of the department to abate a condition ~~which~~ THAT
16 exists in violation of, or to restrain or enjoin any action ~~which~~ THAT is in
17 violation of, or to prosecute for the violation of or for the enforcement of,
18 the public health laws ~~or~~ AND the standards, orders, AND rules ~~and~~
19 regulations of the department established by or issued under the
20 provisions of this part 1. If the district attorney fails to act, the executive
21 director may bring any such action and shall be represented by the
22 attorney general or ~~with the approval of the board~~ by special counsel.

23 **SECTION 3.** In Colorado Revised Statutes, **amend** 25-1-514 as

1 follows:

2 **25-1-514. Legal adviser - county attorney - actions.** The county
3 attorney for the county or the district attorney of the judicial district in
4 which a cause of action arises shall bring any civil or criminal action
5 requested by a county or district public health director to abate a condition
6 that exists in violation of, or to restrain or enjoin any action that is in
7 violation of, or to prosecute for the violation of or for the enforcement of,
8 the public health laws and the standards, orders, and rules of the state
9 board or a county or district board of health. If the county attorney or the
10 district attorney fails to act, the public health director may bring an action
11 and be represented by special counsel employed by him or her with the
12 approval of the county or district board. An agency, through its county or
13 district board of health or through its public health director, ~~with the~~
14 ~~approval of the state board~~, may employ or retain and compensate an
15 attorney to be the legal adviser of the agency and to defend ~~all actions and~~
16 ~~proceedings brought against~~ the agency ~~or~~ AND the officers and
17 employees of the agency AGAINST ALL ACTIONS AND PROCEEDINGS
18 BROUGHT AGAINST THEM.

19 **SECTION 4. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

1 November 2020 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor.