

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**ENGROSSED**

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

LLS NO. 18-0936.01 Duane Gall x4335

**HOUSE BILL 18-1281**

---

**HOUSE SPONSORSHIP**

**Esgar,**

**SENATE SPONSORSHIP**

**(None),**

---

**House Committees**

Transportation & Energy  
Finance

**Senate Committees**

---

**A BILL FOR AN ACT**

101      **CONCERNING MEASURES TO ENHANCE THE CONSUMER PROTECTION**  
102           **MISSION OF THE COLORADO PUBLIC UTILITIES COMMISSION,**  
103           **AND, IN CONNECTION THEREWITH, PROHIBITING A PERSON WITH**  
104           **RECENT CONNECTIONS TO A REGULATED UTILITY FROM SERVING**  
105           **ON THE COMMISSION AND PROVIDING FOR PERIODIC**  
106           **PERFORMANCE AUDITS.**

---

**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>.)*

**Section 2** of the bill prohibits a person from serving on the public

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  
Amended 2nd Reading  
April 17, 2018

utilities commission if he or she:

- ! Has, within the immediately preceding 4 years, served as an officer or director of a regulated utility; or
- ! Has or acquires any official relation to, or financial interest in, a regulated utility.

**Section 3** encourages the director of the commission to assign employees to temporary training and development sessions with other state agencies, particularly those with which the commission has frequent interaction, to improve the employees' substantive expertise and familiarity with the operations of those agencies. Section 3 also requires the director to keep written and audio records of the commission's proceedings and make them publicly available online.

In addition, section 3 expressly authorizes the executive director of the department of regulatory agencies (of which the commission is a part) to request that the state auditor conduct performance audits of the commission and its staff and operations.

**Section 4** directs the commission to adopt rules concerning conflicts of interest, incompatible activities, and ex parte communications.

**Section 1** makes conforming amendments.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-1-102, **amend** the  
3 introductory portion; and **add** (6.5) as follows:

4 **40-1-102. Definitions.** As used in articles 1 to 7 of this ~~title~~ TITLE  
5 40, unless the context otherwise requires:

6 (6.5) "DIRECTOR" MEANS THE DIRECTOR OF THE COMMISSION.

7 **SECTION 2.** In Colorado Revised Statutes, 40-2-101, **amend** (2)  
8 as follows:

9 **40-2-101. Creation - appointment - term - subject to**  
10 **termination - repeal of article.** (2) (a) No more than two members of  
11 the public utilities commission shall be affiliated with the same political  
12 party, and any appointment to fill a vacancy shall be for the unexpired  
13 term. Each commissioner shall be a qualified elector of this state. The  
14 governor shall designate one member of the commission as chair of the

1 commission. The commissioners shall devote their entire time to the  
2 duties of their office to the exclusion of any other employment and shall  
3 receive such compensation as is designated by law. A majority of the  
4 commission shall constitute a quorum for the transaction of its business.

5 [REDACTED]  
6 (b) (I) EFFECTIVE JULY 1, 2018, A MEMBER OF THE COMMISSION  
7 SHALL NOT ACQUIRE OR HOLD ANY OFFICIAL RELATION TO, NOR HAVE A  
8 FINANCIAL INTEREST IN, AN ENTITY SUBJECT TO REGULATION BY THE  
9 COMMISSION. IF A COMMISSIONER ACQUIRES OR HOLDS A FINANCIAL  
10 INTEREST IN AN ENTITY SUBJECT TO REGULATION BY THE COMMISSION, HIS  
11 OR HER OFFICE BECOMES VACANT UNLESS WITHIN A REASONABLE TIME HE  
12 OR SHE DIVESTS HIMSELF OR HERSELF OF THE INTEREST.

13 (II) AS USED IN THIS SUBSECTION (2)(b), "FINANCIAL INTEREST"  
14 DOES NOT INCLUDE PASSIVE OWNERSHIP OF STOCKS, BONDS, OR OTHER  
15 INTERESTS AS PART OF A MUTUAL FUND OR SIMILAR INVESTMENT VEHICLE.

16 **SECTION 3.** In Colorado Revised Statutes, 40-2-104, **amend** (1)  
17 and (3) as follows:

18 **40-2-104. Assistants and employees.** (1) (a) The director of the  
19 ~~commission~~ may appoint such experts, engineers, statisticians,  
20 accountants, investigative personnel, clerks, and other employees as are  
21 necessary to carry out ~~the provisions of this title~~ TITLE 40 or to perform  
22 the duties and exercise the powers conferred by law upon the  
23 commission.

24 (b) THE DIRECTOR MAY AUTHORIZE COMMISSION EMPLOYEES TO  
25 UNDERTAKE TEMPORARY TRAINING AND DEVELOPMENT ASSIGNMENTS  
26 WITH OTHER AGENCIES, DEPARTMENTS, AND COMMISSIONS. THESE  
27 ASSIGNMENTS SHOULD BE SELECTED TO ENHANCE THE EMPLOYEES'

1 SUBSTANTIVE EXPERTISE RELATED TO, AND FAMILIARITY WITH THE  
2 OPERATIONS OF, AGENCIES THAT UNDERTAKE COORDINATED ACTIVITIES  
3 WITH THE COMMISSION, SUCH AS THE COLORADO ENERGY OFFICE, THE AIR  
4 QUALITY CONTROL COMMISSION, THE DEPARTMENT OF PUBLIC HEALTH  
5 AND ENVIRONMENT, AND THE COLORADO WATER CONSERVATION BOARD.  
6 IN ADDITION, THE DIRECTOR MAY COLLABORATE WITH COLORADO  
7 INSTITUTIONS OF HIGHER EDUCATION TO DEVELOP CURRICULUM AND  
8 TRAINING NECESSARY OR USEFUL TO CANDIDATES FOR EMPLOYMENT WITH  
9 THE COMMISSION.

10 (3) (a) The director ~~of the commission~~ shall hire and designate  
11 employees of the commission as administrative law judges who shall have  
12 the power to administer oaths, examine witnesses, receive evidence, and  
13 conduct hearings, investigations, and other proceedings on behalf of the  
14 commission.

15 (b) THE DIRECTOR SHALL MAKE AND MAINTAIN AUDIO  
16 RECORDINGS OF ALL PROCEEDINGS OF THE COMMISSION, INCLUDING THOSE  
17 REQUIRED BY SECTION 40-2-106, AND SHALL POST AUDIO RECORDINGS  
18 AND ANY OTHER OFFICIAL RECORDS OF THOSE PROCEEDINGS ONLINE FOR  
19 ACCESS BY THE PUBLIC.

20 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
21 REGULATORY AGENCIES MAY PERIODICALLY REQUEST THAT THE STATE  
22 AUDITOR CONDUCT A PERFORMANCE AUDIT OF THE COMMISSION AND ITS  
23 STAFF AND OPERATIONS.

24 **SECTION 4.** In Colorado Revised Statutes, 40-6-123, **amend** (1)  
25 and (3) as follows:

26 **40-6-123. Standards of conduct.** (1) (a) Members and staff of  
27 the commission shall conduct themselves in such a manner as to ensure

1 fairness in the discharge of the duties of the commission, to provide  
2 equitable treatment of the public, utilities, and other parties, to maintain  
3 public confidence in the integrity of the commission's actions, and to  
4 prevent the appearance of impropriety or of conflict of interest. The  
5 standards set forth in this section AND IN RULES ADOPTED BY THE  
6 COMMISSION UNDER SUBSECTION (1)(b) OF THIS SECTION apply at all times  
7 to the commissioners, to their staff, including administrative law judges,  
8 and to parties under contract with the commission for state business.

9 (b) THE COMMISSION SHALL ADOPT RULES SETTING FORTH:

10 (I) THE COMMISSION'S POLICIES CONCERNING RECUSAL OF  
11 COMMISSIONERS, ADOPTING A STANDARD OF RECUSAL UNDER WHICH A  
12 COMMISSIONER WHO WAS FORMALLY EMPLOYED AS AN OFFICER OR  
13 DIRECTOR OF AN ENTITY SUBJECT TO REGULATION BY THE COMMISSION  
14 SHOULD RECUSE HIMSELF OR HERSELF FROM A PROCEEDING IF A PERSON  
15 WHO IS AWARE OF THE FACTS OF THE PROCEEDING MIGHT REASONABLY  
16 QUESTION WHETHER THE COMMISSIONER IS ABLE TO ACT IMPARTIALLY;

17 (II) THE COMMISSION'S POLICIES CONCERNING CONFLICTS OF  
18 INTEREST;

19 (III) A STATEMENT OF ACTIVITIES AND RELATIONSHIPS THAT THE  
20 COMMISSION DEEMS INCOMPATIBLE WITH ITS POLICIES CONCERNING  
21 CONFLICTS OF INTEREST; AND

22 (IV) LIMITATIONS ON EX PARTE COMMUNICATIONS.

23 (3) Neither commissioners, staff members, parties under contract  
24 for state work, or members of the immediate families of such persons  
25 shall request or accept any gift, bequest, or loan from persons who appear  
26 before the commission; except that commissioners and staff members  
27 may participate in meetings, conferences, or educational programs which

1 THAT are open to other persons SO LONG AS ALL SUCH MEETINGS,  
2 CONFERENCES, OR PROGRAMS ARE CONSISTENT WITH THE COMMISSION'S  
3 CURRENT RULES AND POLICIES ADOPTED IN ACCORDANCE WITH  
4 SUBSECTION (1)(b) OF THIS SECTION.

5 **SECTION 5. Effective date.** This act takes effect July 1, 2018.

6 **SECTION 6. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.