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MEMORANDUM

October 23, 2013

TO: Members of the General Assembly

FROM: Elizabeth Burger, Principal Research Analyst, 303-866-6272

SUBJECT: Committee of Reference SMART Government Act Hearings

Summary

This memorandum provides an overview of the provisions of the "State Measurement for Accountable, Responsive, and Transparent Government Act" (SMART Government Act). House Bill 13-1299 repealed and reenacted the SMART Government Act and revised the process by which committees of reference hold oversight hearings with state agencies. Specifically, executive agencies are now annually required to present specific information to joint legislative committees between November 1 and the first day of the legislative session (January 8 in 2014). Previously, these oversight hearings were held during the legislative session. This memorandum summarizes the information that state agencies are required to submit to committee in advance of the hearings and the requirements of the hearings.

State Agencies Must Submit Specific Information to Committees

State agencies must annually submit a performance plan and regulatory agenda to committees of reference. Departments are also required to annually submit their budgets for the upcoming fiscal year to the Joint Budget Committee.

Performance plan. The SMART Government Act requires state agencies, beginning July 1, 2014, to develop a performance plan. As defined in the bill, a performance plan is a document prepared by the department as part of a performance management system which incorporates the impact of management strategies and continuous process improvement activities on the costs and efficiency of delivering goods and services to taxpayers and customers of state government. The performance plan serves as a guide to the department's major functions and as a tool to evaluate performance goals over time. A performance plan must include:

- a statement of the department's mission or vision;
- a description of the department's major functions;
- performance measures for the department's major functions;

- performance goals that correspond to the department's performance measures and that extend at least three years into the future;
- a narrative description of the strategies necessary to meet the performance goals; and
- a summary of the department's most recent performance evaluation.

Departments must submit their performance plans to the Joint Budget Committee and the relevant joint committees of reference each July 1. Departments are also required to conduct performance evaluations and distribute them to the Joint Budget Committee at least twice each calendar year. Finally, a performance report for each department must be published each November 1, starting in 2014.

Special requirements for certain agencies. In lieu of completing a performance plan, the Department of Higher Education will satisfy the requirements of the SMART Government Act through the master plan for postsecondary education maintained by the Colorado Commission on Higher Education (CCHE) and any performance contracts that the CCHE negotiates and enters into with the governing boards of state institutions of higher education.

The Public Employees' Retirement Association will satisfy the SMART Government Act's requirement to create a performance plan through the association's annual actuarial valuation report and its report to the Governor regarding the policies, financial condition, and administration of the association.

Regulatory agenda. Pursuant to the SMART Government Act, each department, with the exception of the Judicial Branch, is required to submit its regulatory agenda to its oversight committees. Annually on November 1, departments must submit their regulatory agendas to Legislative Council, which will distribute the regulatory agendas to the appropriate committees of reference. The regulatory agenda must contain:

- a list of new rules or revisions to exiting rules that the department expects to propose in the next calendar year;
- the statutory or other basis for the adoption of the proposed rules;
- the purpose of the proposed rules;
- the contemplated schedule for the adoption of the rules;
- an identification and listing of persons or parties that may be affected by the rules; and
- a list and brief summary of all permanent and temporary rules actually adopted since the previous departmental regulatory agenda was filed.

Department budget submittal. State law requires state agencies to submit their budget requests for the upcoming fiscal year to the Joint Budget Committee each November 1.

Committee of Reference SMART Government Act Hearings

Between November 1 and the commencement of the following regular legislative session, committees of reference are required to conduct hearings with each state department. Committees must meet at least *once* during this time period in *even-numbered* years and *twice* during this time period in *odd-numbered* years. Public testimony is allowed at each hearing. The hearings must include a presentation covering the department's:

- performance plan;
- regulatory agenda; and
- budget request and associated legislative agenda for the upcoming legislative session.

Assignments of departments to committees of reference. For purposes of the hearings, the Speaker of the House of Representatives and the President of the Senate are required to assign each state department to a House and Senate committee of reference. The assignments for the 2013-14 SMART Government Act hearings can be found in Attachment A.

During its SMART Government Act hearings with its assigned departments, the Joint Judiciary Committee is also required to hear a presentation from the Colorado Commission on Criminal and Juvenile Justice (CCJJ). The CCJJ must present a progress report on its recommendations for the upcoming legislative session.

Annual presentation of audits. The SMART Government Act requires the State Auditor's Office (SAO) to conduct performance audits of one or more specific programs or services in at least two departments. The SAO must present the audits to the committees of reference to which the relevant departments are assigned.

In 2013, the SAO conducted a performance audit of the medical marijuana regulatory system, which it will present to the Joint Health and Joint Finance Committees in November 2013. The SAO also conducted a performance audit of the Division of Human Resources and the State Personnel Board, which it will present to the Joint Business Committee in November 2013.

Joint committee chairs and liaisons. The chair of each joint committee of reference will preside over the SMART Government Act hearings. A list of the chairs for the 2013-14 and 2014-15 hearings can be found in Attachment A. The chairmanship will switch to the other chamber beginning with the hearings held in November 2016.

The joint committee chair is also required to appoint two members of the joint committee, one from each political party, to serve as liaisons with each department assigned to the committee. Liaisons are to communicate with the department regarding the department's performance management system and performance plan. Legislative Council Staff will notify each department when the committee's liaisons are appointed.

2013-14 Committee Assignments Pursuant to the SMART Government Act

Joint Committee	Agencies	Joint Committee Chair (Nov. 2013- Jan 2015)*
House and Senate Agriculture	Agriculture Natural Resources	Sen. Schwartz
House and Senate Business	Labor and Employment Personnel and Administration Regulatory Agencies Office of Economic Development	Sen. Tochtrop
House and Senate Finance	Public Employees' Retirement Association Revenue Treasury	Rep. Court
House and Senate Education	Education Higher Education	Rep. Hamner
House and Senate Local Government	Local Affairs	Sen. Nicholson
House and Senate State Affairs	Military Affairs State	Rep. Ryden
House and Senate Transportation	Transportation Colorado Energy Office	Rep. Tyler
House Health Insurance and Environment, House Public Health Care and Human Services, and Senate Health and Human Services	Public Health and Environment Human Services Health Care Policy and Financing	Sen. Aguilar
House and Senate Judiciary	Corrections Judicial Law Public Safety State Public Defender Alternate Defense Counsel Office of the Child's Representative Colorado Commission on Criminal and Juvenile Justice**	Sen. Guzman

Note: Agencies that are assigned to committees for oversight pursuant to JR 25, but are not included under the SMART Government Act include: The Office of Information Technology, the Public Utilities Commission, the Health Benefit Exchange, and the Office of State Planning and Budgeting.

*The chairs designated in this column will serve as the joint committee chair for the hearings held in November and December of 2013 and January of 2014 and the hearings held in November and December of 2014 and January of 2015. The chairmanship will rotate to the other house for the hearings held in November and December of 2015 and January 2016 and the hearings held in November and December of 2016 and January of 2017. After that point, the chairmanship will continue to rotate on a two-year basis.

**Only required to brief the committees, not required to comply with the other provisions of the SMART Government Act.