Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

Bill F

DRAFT

LLS NO. 04-0253.01 Duane Gall

HOUSE BILL

HOUSE SPONSORSHIP

Spradley, Plant, Romanoff, and Young

SENATE SPONSORSHIP

Anderson, Owen, Reeves, and Teck

House Committees **Senate Committees**

A BILL FOR AN ACT

101 **CONCERNING CONSOLIDATION OF THE REPRESENTATION OF**
102 **CONSUMER INTERESTS BEFORE THE PUBLIC UTILITIES**
103 **COMMISSION IN THE OFFICE OF CONSUMER COUNSEL, AND, IN**
104 **CONNECTION THEREWITH, TRANSFERRING CERTAIN PERSONNEL**
105 **FROM THE PUBLIC UTILITIES COMMISSION TO THE OFFICE OF**
106 **CONSUMER COUNSEL AND MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on State Government Expenditures. Consolidates the representation of consumer interests in enforcement

proceedings in the office of consumer counsel (OCC), in contrast to the current situation in which public utilities commission (PUC) trial staff represent both consumer and industry interests generally while the OCC represents the interests of particular classes of consumers in selected cases. Transfers specified employees of the PUC to the OCC. Adjusts appropriations accordingly.

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

SECTION 1. 40-6-101 (1), Colorado Revised Statutes, is amended to read:

40-6-101. Proceedings - delegation of duties - rules. (1) (a) The commission shall conduct its proceedings in such manner as will best conduce the proper dispatch of business and the ends of justice. All of the provisions of article 4 of title 24, C.R.S., shall apply to the work, business, proceedings, and functions of the commission, or any individual commissioner or administrative law judge; ~~but~~ EXCEPT THAT, where there is a specific statutory provision in this title applying to the commission, such specific statutory provision shall control as to the commission. For this purpose, any administrative law judge, as provided in this title, shall be deemed to be a hearing commissioner as that term is used in ~~said~~ article 4 of title 24, C.R.S. The commission may from time to time make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, or before any individual commissioner or administrative law judge, including forms of notices and the service thereof. Any party to the proceeding may appear before the commission or any individual commissioner or administrative law judge and be heard. Every vote and official act of the commission, any individual commissioner, or an administrative law judge shall be entered of record and such record shall be made public upon the request

of any party interested. All hearings before the commission, any individual commissioner, or an administrative law judge shall be public.

(b) IN ANY PROCEEDING BEFORE THE COMMISSION, WHENEVER THE INTEREST OF A SPECIFICALLY IDENTIFIABLE CLASS OF CONSUMERS IS TO BE REPRESENTED, SUCH INTEREST SHALL BE REPRESENTED BY THE OFFICE OF CONSUMER COUNSEL CREATED IN ARTICLE 6.5 OF THIS TITLE.

SECTION 2. 40-6.5-102 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

40-6.5-102. Office of consumer counsel - creation - appointment - attorney general to represent. (2) (c) (I) ON JULY 1, 2004, ALL EMPLOYEES OF THE PUBLIC UTILITIES COMMISSION WHOSE PRINCIPAL DUTIES ARE CONCERNED WITH THE REPRESENTATION OF CONSUMER INTERESTS IN CONTESTED PROCEEDINGS BEFORE SAID COMMISSION OR WHOSE RESPONSIBILITIES INCLUDE CONSUMER RELATIONS ISSUES, AND WHOSE EMPLOYMENT IN THE OFFICE OF CONSUMER COUNSEL IS DEEMED NECESSARY BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES TO CARRY OUT THE PURPOSES OF THIS ARTICLE, SHALL BE TRANSFERRED TO THE OFFICE OF CONSUMER COUNSEL IN THE DEPARTMENT OF REGULATORY AGENCIES AND SHALL BECOME EMPLOYEES THEREOF. SUCH EMPLOYEES SHALL RETAIN ALL RIGHTS TO THE STATE PERSONNEL SYSTEM AND RETIREMENT BENEFITS UNDER THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH THE STATE PERSONNEL SYSTEM LAWS AND RULES.

(II) ON JULY 1, 2004, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,

DOCUMENTS, AND RECORDS OF THE PUBLIC UTILITIES COMMISSION PERTAINING TO THE DUTIES AND FUNCTIONS OF THE EMPLOYEES TRANSFERRED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE TRANSFERRED TO THE OFFICE OF CONSUMER COUNSEL IN THE DEPARTMENT OF REGULATORY AGENCIES AND SHALL BECOME THE PROPERTY THEREOF.

SECTION 3. 40-6.5-104 (2) and (3), Colorado Revised Statutes, are amended to read:

40-6.5-104. Representation by consumer counsel. (2) In ~~exercising his discretion~~ DETERMINING whether ~~or not~~ AND ON BEHALF OF WHOM to appear in a proceeding, the consumer counsel shall consider the importance and the extent of the public interest involved ~~In evaluating the public interest, the consumer counsel~~ AND shall give due consideration to the short- and long-term impact of the proceedings upon various classes of consumers, so as not to jeopardize the interest of one class in an action by another. If the consumer counsel determines that there may be inconsistent interests among the various classes of the consumers he OR SHE represents in a particular matter, ~~he~~ THE CONSUMER COUNSEL may choose to represent one of the interests or to represent no interest. Nothing in this section shall be construed to limit the right of any person, firm, or corporation to petition or make complaint to the commission or otherwise intervene in proceedings or other matters before the commission.

(3) The consumer counsel shall be served with notices of all proposed gas, electric, and telephone tariffs and ~~he shall be served~~ with copies of all orders of the commission affecting the charges of agricultural consumers, residential consumers, and small business

consumers.

SECTION 4. 40-6.5-106 (1) (a), Colorado Revised Statutes, is amended to read:

40-6.5-106. Powers of consumer counsel. (1) The consumer counsel:

(a) May employ such attorneys, engineers, economists, accountants, or other employees as may be necessary to carry out his OR HER duties and shall employ a maximum of ~~sixteen~~ _____ full-time employees or the equivalent thereof;

SECTION 5. Appropriation - adjustments in long bill. (1) In addition to any other appropriation, there is hereby appropriated to the department of regulatory agencies, for allocation to the office of consumer counsel, for the fiscal year beginning July 1, 2004, the sum of _____ dollars ($) and ___ FTE, or so much thereof as may be necessary, from the fixed utility fund created in section 40-2-114, Colorado Revised Statutes, for the implementation of this act.

(2) For the implementation of this act, the appropriation to the department of regulatory agencies, for allocation to the public utilities commission, made in the annual general appropriation act for the fiscal year beginning July 1, 2004, from cash funds exempt, shall be decreased by _____ dollars ($) and ___ FTE.

SECTION 6. Effective date. This act shall take effect July 1, 2004.

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