

# State Government

## State Government Organization and Operations

**SB 11-208** (Enacted)  
Merge Department of Natural Resources  
Entities Wildlife Parks & Rec

**HB 11-1030** (Enacted)  
Procurement Set Aside Program

**HB 11-1099** (Postponed Indefinitely)  
Procurement Process Task Force

**HB 11-1129** (Postponed Indefinitely)  
State Procurement Preferences

**HB 11-1142** (Postponed Indefinitely)  
State Economic Impact of State  
Procurement

**HB 11-1155** (Enacted)  
Lieutenant Governor as Head of  
Principal Department

**HB 11-1230** (Enacted)  
Consolidate Housing Assist into  
Department of Local Affairs

**HB 11-1249** (Postponed Indefinitely)  
Department of Personnel  
Modifications

**HB 11-1312** (Postponed Indefinitely)  
Reorganization of Governor's Energy  
Office

## Governmental Efficiency/ Cost Savings/ Transparency

**SB 11-041** (Deemed Lost)  
Efficiencies in State Executive  
Departments

**SB 11-167** (Postponed Indefinitely)  
Efficiencies in State Regulatory  
System

**HB 1118** (Enacted)  
Public Highway Authority Performance  
Audits

**HB 11-1212** (Enacted)  
Lean Government Principle and  
Performance Budgets

**HB 11-1215** (Postponed Indefinitely)  
Accountability Special Purpose  
Authorities

**HB 11-1262** (Enacted)  
Electric Utility Public Utilities  
Commission Transparency in Bidding

## Information Technology and Communications

**SB 11-062** (Enacted)  
Office of Information Technology  
Statutory Clean-up

**SB 11-082** (Enacted)  
Office of the State Auditor Security  
Audits IT Systems

**SB 11-231** (Enacted)  
Colorado Channel Authority Operation

**SB 11-262** (Postponed Indefinitely)  
Public Utilities Commission  
Telecommunications Regulation Reform

**HB 11-1095** (Enacted)  
Protect Security Secretary of State  
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## Public Employees' Retirement Association (PERA)

**SB 11-074** (Postponed Indefinitely)  
Option to Change PERA Contribution  
Rates

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Continue PERA Contribution Rate  
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**SB 11-127** (Postponed Indefinitely)  
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**HB 11-1008** (Postponed Indefinitely)  
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**HB 11-1248** (Postponed Indefinitely)  
Composition of PERA Board

## State Government Activities and Restrictions

**SB 11-053** (Postponed Indefinitely)  
Governor Disaster Authority Firearms

**SB 11-059** (Postponed Indefinitely)  
Prohibited Ads for Elected State  
Officials

**SB 11-112** (Postponed Indefinitely)  
No Collective Bargaining by  
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**SB 11-117** (Postponed Indefinitely)  
Limit Government Restrictions on Private  
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**HB 11-1065** (Postponed Indefinitely)  
No Elected Officials in Public Ads

**HB 11-1066** (Postponed Indefinitely)  
Due Process Prior to Government  
Taking

**HB 11-1134** (Deemed Lost)  
Restrict Government Employment of  
Lobbyists

**HB 11-1211** (Enacted)  
Restrict Travel State-chartered  
Entities

**HB 11-1320** (Deemed Lost)  
Prohibit State Collective Bargaining

During the 2011 legislative session, the General Assembly considered a number of bills that impact state government, including bills addressing state government operations and efficiency, the management of state government technology and communication, the funding and structure of pension benefits in the Public Employees' Retirement Association, and restrictions to state government activities such as collective bargaining.

## **State Government Organization and Operations**

The General Assembly considered a variety of bills during the 2011 session related to the organization and operation of state government. Several topics were addressed, including state procurement procedures, consolidation of state services, and reorganization of certain state agencies.

**House Bill 11-1030** provides clarification regarding a program known as the Disability Set Aside Program. Under current law, state agencies are required to first solicit bids for certain services from nonprofit agencies that employ persons with severe disabilities. The program applies to the following services: advertising and public relations, building maintenance, food services, grounds maintenance and landscaping, janitorial services, laundry supplies and equipment, mail courier and shipping services, printing and bindery services, security, telecommunications, transcription services, and vending services. The bill clarifies that participating vendors must operate in Colorado and maintain the requirements for self-certification as an employer of persons with severe disabilities through the end of the contract.

Three additional bills were considered, but did not pass, related to state procurement procedures. **House Bill 11-1142** would have required state agencies to consider the state economic impact when awarding procurement contracts. The Department of Personnel and Administration would have been responsible for creating a methodology and policy used by the state department. **House Bill 11-1099** would have created a nine-member interim committee to study and make recommendations on issues related to the state procurement code. Lastly, **House Bill 11-1129** would have required state agencies, when purchasing supplies or services, to prefer certain bidders and products under specified conditions as defined in the bill.

Several bills relating to the consolidation of state services and reorganization of certain state agencies were adopted. **House Bill 11-1230** consolidates housing assistance programs in the Department of Human Services (DHS) into the Department of Local Affairs (DOLA). The bill also transfers the Office of Homeless Youth Services from the DHS to the DOLA. Finally, the bill requires the DOLA and the DHS to coordinate and achieve at least a 25 percent reduction in employee positions dedicated to the distribution of financial housing assistance to low-income families and to persons with disabilities.

Within the Department of Natural Resources (DNR), **Senate Bill 11-208** combines the Wildlife Commission and the Board of Parks and Outdoor Recreation into a new Parks and Wildlife Board. It also combines the Division of Wildlife and the Division of Parks and Outdoor Recreation into a new Division of Parks and Wildlife. The consolidation of these entities is effective July 1, 2011.

**House Bill 11-1155** provides that if the Colorado Lieutenant Governor is appointed to concurrently serve as the head of a principal state department, such appointment does not result in a forfeiture of the Lieutenant Governor position. Additionally, the bill specifies that the concurrent holding of said positions is deemed not to be incompatible or in conflict with the duties of Lieutenant Governor or the duties, powers, and functions of the head of a principal department.

**House Bill 11-1249**, which was postponed indefinitely, would have made several administrative changes within the Department of Personnel and Administration, including changing procedures for the assessment of indirect costs for institutions of higher education, clarifying leave policies for employee volunteers, and extending the timing of the annual state compensation report from August 1 to September 15. The bill would have also modified and established new requirements for several statewide procedures and programs.

Finally, **House Bill 11-1312**, which was also postponed indefinitely, would have made changes to the Governor's Energy Office (GEO). The bill would have:

- reorganized the office;
- changed the office's name to the Colorado Energy Office;
- transferred regional representatives now at the GEO to the Office of Economic Development and International Trade (OEDIT);
- reduced the GEO workforce by 25 percent;
- adjusted the GEO mission; and
- changed the name of the Clean Energy Fund to the Energy Innovation Fund.

### **Governmental Efficiency, Cost Savings, and Transparency**

Three bills related to state government transparency and accountability were enacted during the session.

**House Bill 11-1262** directs the Colorado Public Utilities Commission (PUC) to promulgate rules, within 90 days of the passage of the bill, regarding information provided by investor-owned utilities (IOU) to electric generation facility owners. Specifically, the bill requires that facility owners have access to any modeling and assumptions used by the IOU in resource acquisition bidding that directly relates to their facilities. The bill also requires the PUC to designate resource acquisition information as highly confidential.

**House Bill 11-1118** authorizes the State Auditor to conduct a performance audit, at the discretion of the Legislative Audit Committee, of any public highway authority (PHA) in the state, during years in which the Transportation Legislation Review Committee does not meet. Currently, there are three PHAs established that would be subject to the bill's requirements: E-470 Public Highway Authority; Northwest Parkway Public Highway Authority; and Jefferson Parkway Public Highway Authority.

**House Bill 11-1212** amends the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act concerning performance-based state budgeting. The bill

incorporates lean government principles into the legislative declaration, noting that such principles can lead to beneficial results. As defined by the bill, lean government principles means the continuous and rapid process improvement of state government by eliminating state entities' nonvalue-added processes and resources, providing feedback on process improvements that have the purpose of increasing a department's efficiency and effectiveness, and measuring the outcomes of such improvements. Lean government principles may involve some or all of the following strategies:

- the development of a process map that describes the procedures by which the department produces value;
- the implementation of planned rapid improvements in the department's processes that will increase value or decrease staff time, inventory, defects, overproduction, complexity, delays, or excessive movement;
- the development of timelines for making rapid process improvements;
- the involvement of department employees at all levels in mapping the department's processes and in making recommendations for improvements;
- providing the means to measure each process to demonstrate the effectiveness of each process;
- the training of department employees as experts in lean government principles; and
- the development of a process to understand barriers to applying lean government principles.

Lastly, the bill requires that all state departments electing to include lean government principles in its strategic plan submit a report on how those principles are applied in the department.

Three bills addressing state government efficiency and accountability were considered, but did not pass. **House Bill 11-1215** would have applied the Colorado Open Records Act and open meeting requirements to special purpose authorities. Special purpose authorities are entities created in state law to serve a public purpose. Examples of special purpose authorities include PERA, the Colorado Channel Authority, the Denver Health and Hospital Authority, Pinnacle Assurance, and CoverColorado, among others.

**Senate Bill 11-041** would have created a 14-member task force to study the functions and organization of state executive departments. Specifically, the task force would have been charged with determining the core functions of state government and whether certain functions are better managed by the state or by the private or nonprofit sector.

**Senate Bill 11-167** would have created a 12-member task force to study the state's regulatory system. The task force would have been responsible for reviewing the current Code of Colorado Regulations and the process for rule-making under the State Administrative Procedure Act.

## **Information Technology and Communication**

A number of bills were enacted this session relating to the functions of the Governor's Office of Information Technology, information technology security and audits, and broadcasting the

proceedings of the General Assembly.

**Senate Bill 11-062** modifies several statutes related to the Governor's Office of Information Technology (OIT). The bill allows the OIT to approve all information technology purchases for state agencies. It also allows OIT to acquire and manage the statewide communication and information technology infrastructure. The bill creates a requirement that all state agencies, the Department of Higher Education, and higher education institutions develop annual information technology security plans and submit them to the Chief Information Officer for approval. Finally, the bill changes several provisions concerning OIT funding by eliminating the Telecommunications Revolving Fund and Computer Services Revolving Fund and redirecting their fund balances and revenue to the Information Technology Revolving Fund.

**Senate Bill 11-082** authorizes the State Auditor to conduct audits of security systems used for information technology maintained or administered by the state, including educational institutions, and the judicial and legislative branches. The State Auditor may conduct testing of computer networks or information systems in order to assess network or information system vulnerability and contract with auditors or information technology security specialists to perform the required work.

**House Bill 11-1095** requires the Department of State to implement a password-protected system for online business filings and take appropriate action to address fraudulent activities involving business filings and records.

**Senate Bill 11-231** allows the Colorado Channel Authority (authority) to broadcast audio recordings of the proceedings of the General Assembly via the Internet. The bill also clarifies that authority board members who are appointed by legislative leadership must be current members of the General Assembly and represent a major political party. Prior to the bill's passage, the authority was only authorized, in statute, to televise the proceeding of the Colorado General Assembly.

Finally, **Senate Bill 11-262**, which was postponed indefinitely, would have repealed and reenacted the existing statutes governing regulation of telecommunications by the Colorado Public Utilities Commission (PUC). The bill would have directed the PUC to withdraw price controls for all services except basic local telephone service and emergency service. It would have also directed the PUC to periodically reexamine whether competition had advanced in particular geographic areas so that price controls on these services could be withdrawn. Furthermore, the bill would have added voice-over-internet-protocol (VoIP) service as a recognized alternative for providing voice communications.

### **Public Employees' Retirement Association**

Several bills related to the Public Employees' Retirement Association (PERA) were under consideration during the 2011 legislative session. The legislation addressed adjustments to PERA employer and employee contribution rates, changes to current PERA retirement plan options, and changes to the composition of PERA's board of trustees.

During the 2010 session, Senate Bill 10-146 shifted 2.5 percent of the state's PERA contributions to state and judicial division employees for FY 2010-11, making a temporary reduction in the state's

contribution to PERA. To offset the reduction in the state's contribution, employees' member contribution rates were increased in the state and judicial divisions. **Senate Bill 11-076** continues the contribution changes to PERA that were put in place by Senate Bill 10-146. For the state and judicial divisions, it temporarily shifts 2.5 percent of the total contribution from employers to employees for FY 2011-12 only. Salary-based PERA contribution rates change as follows:

- contributions by state troopers will increase from 10 to 12.5 percent, while the employer contribution rate will decrease from 12.85 to 10.35 percent;
- all other state employees will increase their member contribution rate from 8 percent to 10.5 percent, while the employer contribution rate will decrease from 10.15 to 7.65 percent; and
- all judicial division employees will increase their member contribution rate from 8 percent to 10.5 percent, while the employer contribution rate will decrease from 13.66 to 11.16 percent.

Also related to adjustments in PERA contribution rates, **Senate Bill 11-074**, which was postponed indefinitely, would have allowed employers in the school, local government, or the Denver Public Schools division of PERA to alter how employer and member contribution rates are paid. It would have allowed employers to decrease the employer contribution rate and increase the member contribution rate by a corresponding amount, up to 2.5 percent of total employee salaries.

Other bills related to PERA were considered, but did not pass. **Senate Bill 11-127** would have modified contributions to and membership in PERA. This bill would have eliminated new enrollment in the existing defined benefit plans for all PERA divisions as of January 1, 2012, and would have created a new defined contribution plan in which all existing defined contribution plan members and newly hired employees would be required to enroll. Participants in the new defined contribution plan would not have been considered to be members of PERA.

By law, the management of PERA funds are vested in PERA's Board of Trustees. As required by statute, the board is composed 15 trustees, including:

- the State Treasurer;
- three members of the state division;
- four members of the school division;
- one member of the local government division;
- one member of the judicial division;
- two retirees from different divisions;
- three Governor-appointed trustees who have been approved by the state Senate and are not PERA members or retirees; and
- one ex officio member appointed by the Denver Public Schools board of education.

**House Bill 11-1008** would have changed the composition of the PERA board of trustees. Under the new composition, a majority of trustees would have been non-PERA members with experience in certain fields. This bill would have created a board consisting of:

- eight trustees appointed by the Governor and confirmed by the Senate who are not PERA members or retirees, five of whom are appointed on a staggered basis after

- January 1, 2012;
- the State Treasurer;
- two members of and elected by the school division;
- one member of and elected by each of the state, local government, and judicial divisions; and
- one elected retiree.

Similarly, **House Bill 11-1248** would have made changes to the makeup of the PERA board of trustees. The bill would have required that the board be composed of:

- six trustees appointed by the Governor and confirmed by the Senate who are not PERA members or retirees and who are experts in certain fields, three of whom are appointed on a staggered basis after January 1, 2012;
- the State Treasurer;
- three elected members of the school division, including one member who is at least 15 years from retirement eligibility;
- two elected members of the state division, including one member who is at least 15 years from retirement eligibility;
- one elected member of each of the local government and judicial divisions; and
- one elected retiree.

## **State Government Activities and Restrictions**

Several bills were considered relating to restrictions on state government activities. One bill, concerning restrictions on travel-related expenditures by state-chartered entities, passed. Other bills considered, but not enacted, addressed elected officials and advertising, state government employee collective bargaining, and restrictions to the Governor's authority in certain circumstances.

**House Bill 11-1211** places restrictions on public entities for travel-related expenditures. The restrictions apply to board members, officers, or employees of the public entity. Public entities include higher education institutions, service authorities, school districts, local improvement districts, law enforcement authorities, special purpose authorities, and special districts. Specifically, the bill provides that a public entity may not pay more than twice the maximum federal daily rate (per diem) for lodging, meals, and incidental travel-related expenses for a covered person. Public entities are also prohibited from paying travel costs on behalf of a spouse or the immediate family member of a covered person. Covered persons are required to reimburse the state-chartered entity for any amounts in excess of allowable expenses.

Two bills, which did not pass, addressed elected officials and advertising. **Senate Bill 11-059** would have prohibited elected state officials and their employees from spending public money on any print or visual media announcement, broadcast, website, or similar type of public communication that refers to the elected official or his or her employees by name or audio or visual likeness. The bill would have applied to the following elected officials: Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, members of the General Assembly, members of the State Board of Education, and members of the Board of Regents of the University

of Colorado. The bill would have made the following exceptions:

- an annual information publication that lists the elected official, employees, and contact information;
- any announcement or communication required by law; and
- broadcasts and records of public meetings and other official proceedings.

Similarly, **House Bill 11-1065** would have prohibited the use of state funds to pay for advertisements containing the name or likeness of certain elected state officials. Covered elected officials would have included the Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, and members of the General Assembly. Exceptions to the bill's provisions would have included:

- advertisements required by law in order for the official to conduct his or her official duties;
- communication through official state websites;
- e-mail communications disseminated by an elected official;
- advertising and conducting town hall meetings;
- mail distributed by the U.S. Postal Service; and
- interactions by an elected official on a social media website.

The General Assembly considered, but did not adopt, three bills related to state government employee relations. These bills addressed the issues of collective bargaining by state governmental agencies and restrictions on government employment of lobbyists.

In 2007, Governor Ritter signed Executive Order D 0028 07, which authorized partnership agreements with state employees in the executive branch. Employee organizations may currently become the exclusive representative of state employees in any occupational group or category, and enter into a partnership agreement with the state. A partnership agreement is a formal framework between the state and the employee organization under which issues of mutual concern are discussed, or government services are provided. There are currently four employee organizations with partnership agreements — Colorado WINS, the Association of Colorado State Patrol Professionals, the Service Employee International Union, and the American Federation of Teachers. **Senate Bill 11-112** would have prohibited a state, county, municipal or other government entity or its representatives from recognizing a labor union or employee association as a bargaining agent for public employees. Likewise, **House Bill 11-1320** would have prohibited a state representative from recognizing a labor union or employee association as a bargaining agent for public employees. The state may not collectively bargain with these groups or enter into any collective bargaining contracts with them for any purpose.

Finally, **House Bill 11-1134**, would have imposed restrictions on state government employment. Professional lobbyists would have been prohibited from accepting a position in the Governor's cabinet, as a state agency head or deputy director, or in the senior executive service within two years of leaving the lobbyist position. The bill would have also required employees formerly employed as professional lobbyists to pledge not to work with clients on matters related to their former employment and prohibited them from working for state agencies which they previously

lobbied. The bill would have also prohibited affected employees from becoming professional lobbyists for two years after leaving government service.

Three additional bills relating to state government authority were considered, but did not pass. **Senate Bill 11-117** would have prohibited the state and any political subdivision from:

- requiring a parent or guardian of a minor child to provide a notice from a doctor in order to attest to the child's illness;
- requiring a person or entity to make a monetary or in-kind gift or contribution to a charitable organization as a condition of granting a license, approval, grant, or permit;
- transferring private property acquired through the use of eminent domain to a private party; or
- using automated vehicle identification systems to detect traffic and motor vehicle violations without citing nationally recognized standards demonstrating enhanced benefits to public safety from the use of such a system.

**House Bill 11-1066** would have reinforced a property owner's right to procedural due process in eminent domain proceedings and would have clarified the requirement that a person authorized to take such property must follow appropriate court procedures required by statute. Specifically, the bill would have prohibited governmental takings of:

- livestock without compensation;
- airspace up to 500 feet above real property by publicly owned aircraft; or
- seepage water that has been used for irrigation purposes continuously by a landowner for at least 25 years.

Lastly, **Senate Bill 11-053** would have removed the authority of the Governor to restrict firearms during a state of disaster or emergency. Under current statute, the Governor has authority to restrict various items, such as alcoholic beverages, firearms, explosives, and combustibles, in disasters and emergencies.