Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT
9.27.13

BILL 6

Temporary storage location: C:\Temp\14-0157.tmp

LLS NO. 14-0157.01 Debbie Haskins **INTERIM COMMITTEE BILL**

Economic Opportunity and Poverty Reduction Task Force

A BILL FOR AN ACT

CONCERNING REVIEW OF RULES BY EXECUTIVE BRANCH AGENCIES, AND, IN CONNECTION THEREWITH, CREATING A FAMILY ECONOMIC IMPACT ANALYSIS PROCESS TO REVIEW THE IMPACT OF PROPOSED RULES ON THE ABILITY OF A FAMILY TO BECOME SELF-SUFFICIENT AND REQUIRING AGENCIES TO PERIODICALLY CONDUCT A REVIEW OF EXISTING RULES.

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://www.leg.state.co.us/billsummaries.)

Economic Opportunity and Poverty Reduction Task Force. The department of health care policy and financing, the department of human services, the department of public health and environment, and any agency that receives a written request from a person or from a nonprofit organization that advocates on behalf of low-income persons are required to prepare a family economic impact analysis prior to adopting a proposed rule or amendment to existing rules. In the family economic impact analysis, the agency shall evaluate whether the rules or amendments are likely to have a significant impact on the ability of a family to become self-sufficient as measured by a self-sufficiency standard. The state board of human services is required to adopt rules establishing a self-sufficiency standard which is defined as a measure of the income needed by a family of a given composition in a given place to adequately meets its basic needs without public or private assistance. The bill outlines what information should be included in the analysis.

The bill amends the "State Administrative Procedure Act" to require each principal department to create a schedule to review its existing rules over a 5-year period, commencing with January 1, 2015, and continuing every 5 years thereafter. The rule-making agencies or officials, if applicable, within each principal department are required to conduct a mandatory review of their rules to determine whether the rules should be continued in their current form, amended, or repealed. The bill specifies issues the rule-making agency or official in the principal department should evaluate, including:

- Whether there is a continued need for the rule;
- Whether the rule overlaps, duplicates, or conflicts with other rules of the agency or with other federal, state, or local government rules;
- Whether the rule is written in plain language and is easy to understand;
- Whether the rule has achieved the desired intent and whether more or less regulation is necessary;
- Whether the rule can be amended to give more flexibility, reduce regulatory burdens, or reduce unnecessary paperwork or steps while maintaining benefits;
- Whether the rule is implemented in an efficient and effective manner;
- The nature of complaints or comments concerning the rule that the agency has received from the public or from individuals, businesses, or agencies affected by or regulated by the rule;
- The degree to which technology, economic conditions, or other factors have changed since the rule was originally adopted;
- Whether the rule is consistent with current agency practices

and procedures or whether the rule has become obsolete and outdated;

- Whether the rule has been used within the preceding 5 years; and
- Whether there are unwritten rules on the imposition of fines or punishments for violations of the rule that could be more clearly stated in the rules to achieve consistency and transparency with the persons and businesses regulated and affected by the rule.

Each rule-making agency or official shall provide public notice of its review of the rules and take input from the public and other state agencies. Based on this review, the agency or official shall determine whether the existing rules should be continued in their current form, modified, or repealed.

The principal department must include the results of each mandatory review of rules as part of its departmental regulatory agenda that it submits to the general assembly as part of the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act provisions.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-4-102**, add** (3.7),
3 (5.7), and (17.3) as follows:

4 **24-4-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (3.7) "BASIC NEEDS", AS USED IN A FAMILY ECONOMIC IMPACT
7 ANALYSIS, MEANS THE ABILITY OF A FAMILY TO ACCESS NECESSITIES SUCH
8 AS HEALTH CARE, FOOD, AND HOUSING. <{***what should be included?***}>

9 (5.7) "FAMILY ECONOMIC IMPACT ANALYSIS" MEANS A
10 COST-BENEFIT ANALYSIS OF PROPOSED RULES OR AMENDMENTS TO
11 EXISTING RULES TO DETERMINE IF THE RULES OR AMENDMENTS ARE
12 LIKELY TO HAVE A SIGNIFICANT IMPACT ON THE ABILITY OF A FAMILY TO
13 BECOME SELF-SUFFICIENT, AS MEASURED BY THE SELF-SUFFICIENCY
14 STANDARD SET BY THE STATE BOARD OF HUMAN SERVICES BY RULE

1 PURSUANT TO SECTION 24-4-103 (2.6).

2 (17.3) "SELF-SUFFICIENCY STANDARD", FOR PURPOSES OF A
3 FAMILY ECONOMIC IMPACT ANALYSIS PREPARED IN ACCORDANCE WITH
4 SECTION 24-4-103 (2.6), MEANS A MEASURE OF THE INCOME NEEDED BY A
5 FAMILY OF A GIVEN COMPOSITION IN A GIVEN PLACE TO ADEQUATELY
6 MEET ITS BASIC NEEDS WITHOUT PUBLIC OR PRIVATE ASSISTANCE AND AS
7 SET BY RULE BY THE STATE BOARD OF HUMAN SERVICES PURSUANT TO
8 SECTION 24-4-103 (2.6).

9 **SECTION 2.** In Colorado Revised Statutes, 24-4-103, **add** (2.6)
10 as follows:

11 **24-4-103. Rule-making - procedure - definitions - repeal.**
12 (2.6) (a) THE REQUIREMENTS OF THIS SUBSECTION (2.6) APPLY TO THE
13 FOLLOWING AGENCIES:

14 (I) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;

15 (II) THE DEPARTMENT OF HUMAN SERVICES;

16 (III) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;
17 AND

18 <{***what state agencies should be required to do this?***}>

19 (IV) ANY AGENCY THAT RECEIVES A WRITTEN REQUEST FROM ANY
20 PERSON REPRESENTING HIMSELF OR HERSELF OR FROM A NONPROFIT
21 ORGANIZATION THAT ADVOCATES ON BEHALF OF LOW-INCOME PERSONS
22 REQUESTING THAT THE AGENCY PREPARE A FAMILY ECONOMIC IMPACT
23 ANALYSIS. <{***this allows rules of other agencies not specified to be***
24 ***requested on a case-by-case basis***}>

25 (b) ON OR BEFORE DECEMBER 1, 2014, THE STATE BOARD OF
26 HUMAN SERVICES SHALL ADOPT RULES TO SET A SELF-SUFFICIENCY
27 STANDARD TO BE USED WHEN RULE-MAKING AGENCIES PREPARE A FAMILY

1 ECONOMIC IMPACT ANALYSIS AS REQUIRED BY THIS SUBSECTION (2.6).
2 (c) (I) PRIOR TO ADOPTING A PROPOSED RULE OR A PROPOSED
3 AMENDMENT TO AN EXISTING RULE, AN AGENCY DESCRIBED IN
4 PARAGRAPH (a) OF THIS SUBSECTION (2.6) SHALL PREPARE A FAMILY
5 ECONOMIC IMPACT ANALYSIS OF THE RULES. THE AGENCY SHALL
6 COMPLETE THE FAMILY ECONOMIC IMPACT ANALYSIS AT LEAST TEN DAYS
7 BEFORE THE HEARING ON THE RULE OR AMENDMENT AND SHALL MAKE THE
8 ANALYSIS AVAILABLE TO THE PUBLIC BY POSTING THE ANALYSIS ON THE
9 AGENCY'S OFFICIAL WEB SITE. BY FILING AN ADDITIONAL NOTICE
10 PUBLISHED IN THE COLORADO REGISTER, THE AGENCY MAY POSTPONE THE
11 HEARING ON THE RULE OR AMENDMENT TO COMPLY WITH THE
12 REQUIREMENT TO COMPLETE THE FAMILY ECONOMIC IMPACT ANALYSIS AT
13 LEAST TEN DAYS BEFORE THE HEARING. FAILURE TO COMPLETE A FAMILY
14 ECONOMIC IMPACT ANALYSIS PURSUANT TO THIS SUBSECTION (2.6)
15 PRECLUDES THE ADOPTION OF SUCH RULE OR AMENDMENT. A FAMILY
16 ECONOMIC IMPACT ANALYSIS MUST INCLUDE THE FOLLOWING:
17 (A) THE REASON FOR THE RULE OR AMENDMENT;
18 (B) THE IMPACT, IF ANY, OF THE RULE OR AMENDMENT ON THE
19 INCOME OF WORKING FAMILIES;
20 (C) THE ANTICIPATED ECONOMIC BENEFITS OF THE RULE OR
21 AMENDMENT TO FAMILIES AND WHETHER THE RULE OR AMENDMENT WILL
22 HELP FAMILIES MEET THE SELF-SUFFICIENCY STANDARD;
23 (D) THE ANTICIPATED ECONOMIC HARM OF THE RULE OR
24 AMENDMENT TO FAMILIES, IF ANY, AND WHETHER THE RULE OR
25 AMENDMENT WILL HINDER THE ABILITY OF FAMILIES TO MEET THE
26 SELF-SUFFICIENCY STANDARD;
27 (E) WHETHER THE RULE OR AMENDMENT WILL BUILD THE ASSETS

1 AND FINANCIAL SECURITY OF THE STATE'S WORKING FAMILIES;
2 (F) THE ANTICIPATED COSTS OF THE RULE OR AMENDMENT, WHICH
3 SHALL INCLUDE THE DIRECT COSTS TO THE AGENCY OR TO LOCAL
4 GOVERNMENT TO ADMINISTER THE RULE OR AMENDMENT, THE DIRECT AND
5 INDIRECT COSTS TO FAMILIES TO COMPLY WITH THE RULE OR AMENDMENT,
6 AND THE DIRECT AND INDIRECT COSTS TO BUSINESS AND OTHER ENTITIES
7 REQUIRED TO COMPLY WITH THE RULE OR AMENDMENT;
8 (G) ANY ADVERSE EFFECTS ON THE ECONOMY, CONSUMERS,
9 PRIVATE MARKETS, SMALL BUSINESSES, JOB CREATION, AND ECONOMIC
10 COMPETITIVENESS; AND
11 (H) INFORMATION ABOUT THE DATA SOURCES USED TO PREPARE
12 THE STATEMENT AND A BRIEF DESCRIPTION OF THE DATA ANALYSIS THAT
13 WAS MADE.
14 (II) THIS PARAGRAPH (c) IS EFFECTIVE JANUARY 1, 2015.
15 <{***Applicability clause needed?***}>
16 (d) IF THE AGENCY HAS MADE A GOOD FAITH EFFORT TO COMPLY
17 WITH THE REQUIREMENTS OF PARAGRAPH (c) OF THIS SUBSECTION (2.6),
18 THE RULE OR AMENDMENT SHALL NOT BE INVALIDATED ON THE GROUND
19 THAT THE CONTENTS OF THE FAMILY ECONOMIC IMPACT ANALYSIS ARE
20 INSUFFICIENT OR INACCURATE.
21 **SECTION 3.** In Colorado Revised Statutes, 26-1-107, **add** (6) (i)
22 as follows:
23 **26-1-107. State board of human services - rules.** (6) The state
24 board shall:
25 (i) ADOPT RULES SETTING A SELF-SUFFICIENCY STANDARD, AS
26 DEFINED IN SECTION 24-4-102 (17.3), C.R.S., TO BE USED BY
27 RULE-MAKING AGENCIES REQUIRED TO PREPARE A FAMILY ECONOMIC

1 IMPACT ANALYSIS, AS DEFINED IN SECTION 24-4-102 (5.7), C.R.S., AND AS
2 SET FORTH IN SECTION 24-4-103 (2.6), C.R.S. THE STATE BOARD MUST
3 ADOPT THE RULES ON THE SELF-SUFFICIENCY STANDARD ON OR BEFORE
4 DECEMBER 1, 2014.
5 **SECTION 4.** In Colorado Revised Statutes, **add** 24-4-103.3 as
6 follows:
7 **24-4-103.3. Mandatory review of rules by agencies - report on**
8 **results of review in departmental regulatory agendas.** (1) (a) NO
9 LATER THAN JANUARY 1, 2015, AND EVERY FIVE YEARS THEREAFTER,
10 EACH PRINCIPAL DEPARTMENT SHALL ASSIGN A REVIEW DATE TO EACH SET
11 OF RULES OF THE DEPARTMENT BASED UPON THE CODE OF COLORADO
12 REGULATION NUMBER AND BASED UPON THE RULE-MAKING AGENCY OR
13 OFFICIAL THAT ADOPTED THOSE RULES. THE PRINCIPAL DEPARTMENT
14 SHALL POST THE SCHEDULE OF REVIEW DATES FOR EACH CODE OF
15 COLORADO REGULATION NUMBER AND RULE-MAKING AGENCY OR
16 OFFICIAL IN THE DEPARTMENT ON ITS WEB SITE. IF THE VOLUME OF RULES
17 IN A PRINCIPAL DEPARTMENT IS TOO GREAT TO REVIEW WITHIN ONE YEAR,
18 THE PRINCIPAL DEPARTMENT MAY ASSIGN REVIEW DATES TO ITS RULES SO
19 THAT APPROXIMATELY ONE-FIFTH OF THE RULES IN THE CODE OF
20 COLORADO REGULATIONS OF THAT PRINCIPAL DEPARTMENT ARE
21 SCHEDULED FOR REVIEW DURING EACH CALENDAR YEAR OF THE
22 FIVE-YEAR PERIOD. THE PRINCIPAL DEPARTMENT SHALL MAINTAIN THE
23 SCHEDULE SO THAT ALL RULES ARE REVIEWED WITHIN EVERY FIVE YEARS
24 THEREAFTER.
25 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
26 THIS SUBSECTION (1), A PRINCIPAL DEPARTMENT IS NOT REQUIRED TO
27 CONDUCT THE MANDATORY REVIEW UNDER THIS SECTION IF THE

1 DEPARTMENT'S RULES ARE ALSO SUBJECT TO A SUNSET REVIEW
2 CONDUCTED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT
3 TO SECTION 24-34-104. <{***how do you want to handle sunset reviews,***
4 ***which often are done every 6 to 10 years***}>
5 (2) PRIOR TO THE SCHEDULED REVIEW DATE FOR RULES AS
6 DESIGNATED BY THE PRINCIPAL DEPARTMENT, THE RULE-MAKING AGENCY
7 OR OFFICIAL THAT ADOPTED THE RULES SHALL REVIEW EACH OF THE RULES
8 TO DETERMINE IF THE RULE SHOULD BE CONTINUED IN ITS CURRENT FORM,
9 AMENDED, OR REPEALED. THE RULE-MAKING AGENCY OR OFFICIAL SHALL
10 CONSIDER THE FOLLOWING:
11 (a) WHETHER THERE IS A CONTINUED NEED FOR THE RULE;
12 (b) WHETHER THE RULE OVERLAPS, DUPLICATES, OR CONFLICTS
13 WITH OTHER RULES OF THE AGENCY OR WITH OTHER FEDERAL, STATE, OR
14 LOCAL GOVERNMENT RULES;
15 (c) WHETHER THE RULE IS WRITTEN IN PLAIN LANGUAGE AND IS
16 EASY TO UNDERSTAND;
17 (d) WHETHER THE RULE HAS ACHIEVED THE DESIRED INTENT AND
18 WHETHER MORE OR LESS REGULATION IS NECESSARY;
19 (e) WHETHER THE RULE CAN BE AMENDED TO GIVE MORE
20 FLEXIBILITY, REDUCE REGULATORY BURDENS, OR REDUCE UNNECESSARY
21 PAPERWORK OR STEPS WHILE MAINTAINING BENEFITS;
22 (f) WHETHER THE RULE IS IMPLEMENTED IN AN EFFICIENT AND
23 EFFECTIVE MANNER, INCLUDING THE REQUIREMENTS FOR THE ISSUANCE OF
24 PERMITS AND LICENSES;
25 (g) THE NATURE OF COMPLAINTS OR COMMENTS CONCERNING THE
26 RULE THAT THE AGENCY HAS RECEIVED FROM THE PUBLIC OR FROM
27 INDIVIDUALS, BUSINESSES, OR AGENCIES AFFECTED BY OR REGULATED BY

1 THE RULE;
2 (h) THE DEGREE TO WHICH TECHNOLOGY, ECONOMIC CONDITIONS,
3 OR OTHER FACTORS HAVE CHANGED SINCE THE RULE WAS ORIGINALLY
4 ADOPTED;
5 (i) WHETHER THE RULE IS CONSISTENT WITH CURRENT AGENCY
6 PRACTICES AND PROCEDURES OR WHETHER THE RULE HAS BECOME
7 OBSOLETE AND OUTDATED;
8 (j) WHETHER THE RULE HAS BEEN USED WITHIN THE PRECEDING
9 FIVE YEARS; AND
10 (k) WHETHER THERE ARE UNWRITTEN RULES ON THE IMPOSITION
11 OF FINES OR PUNISHMENTS FOR VIOLATIONS OF THE RULE THAT COULD BE
12 MORE CLEARLY STATED IN THE RULE TO ACHIEVE CONSISTENCY AND
13 TRANSPARENCY WITH THE PERSONS AND BUSINESSES REGULATED AND
14 AFFECTED BY THE RULE.
15 (3) EACH RULE-MAKING AGENCY OR OFFICIAL SHALL PROVIDE
16 PUBLIC NOTICE OF ITS REVIEW OF THE RULES, GIVE THE PUBLIC AN
17 APPROPRIATE OPPORTUNITY TO PROVIDE INPUT, AND NOTIFY OTHER STATE
18 AGENCIES THAT MAY HAVE JURISDICTION OVER THE SUBJECT MATTER OF
19 THE RULES TO ALLOW FOR COLLABORATION AND INPUT. BASED ON THIS
20 REVIEW, THE RULE-MAKING AGENCY OR OFFICIAL SHALL DETERMINE
21 WHETHER THE EXISTING RULES SHOULD BE CONTINUED IN THEIR CURRENT
22 FORM, AMENDED, OR REPEALED. IF THE RULE-MAKING AGENCY OR
23 OFFICIAL DECIDES THAT A RULE SHOULD BE AMENDED OR REPEALED, THE
24 RULE-MAKING AGENCY OR OFFICIAL MUST COMPLY WITH THE NOTICE AND
25 HEARING REQUIREMENTS OF SECTION 24-4-103.
26 (4) THE PRINCIPAL DEPARTMENT MUST INCLUDE A REPORT ON THE
27 RESULTS OF EACH MANDATORY REVIEW OF RULES WITHIN THAT

1 DEPARTMENT AS PART OF ITS DEPARTMENTAL REGULATORY AGENDA THAT
2 IT SUBMITS TO THE STAFF OF THE LEGISLATIVE COUNCIL FOR DISTRIBUTION
3 TO THE APPLICABLE COMMITTEE OF REFERENCE OF THE GENERAL
4 ASSEMBLY AS OUTLINED IN SECTION 2-7-203, C.R.S.
5 **SECTION 5. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety. <{***does the committee***
8 ***want a safety clause on the bill?***}>