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Amending 24-34-104, Colorado Revised Statutes 1973, as Amended, Concerning Legislative Review of Regulatory Agencies.

Colorado General Assembly

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CHAPTER 324

GOVERNMENT — STATE

REGULATORY AGENCIES — REVIEW

SENATE BILL NO. 6. BY SENATORS Anderson, Comer, Kogovsek, MacManus, Pinck, Allshouse, and McCormick; also REPRESENTATIVES Hamlin, Dittmore, Kirscht, Strahle, Valdez, Webb, Cantrell, Castro, DelHerrera, DeMoulin, Herzberger, Lucero, Reeves, Showalter, and Zakheim.

AN ACT

AMENDING 24-34-104, COLORADO REVISED STATUTES 1973, AS AMENDED, CONCERNING LEGISLATIVE REVIEW OF REGULATORY AGENCIES.

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

Section 1. 24-34-104 (5), (7), (9); and (11), Colorado Revised Statutes 1973, as amended, are amended, and the said 24-34-104 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-34-104. General assembly review of regulatory agencies for termination, continuation, or reestablishment. (5) Upon termination, each division, board, or agency shall continue in existence until July 1 of the next succeeding year for the purpose of winding up its affairs. During the wind-up period, termination shall not reduce or otherwise limit the powers or authority of each respective agency; EXCEPT THAT EVERY LICENSE ISSUED OR RENEWED DURING THE WIND-UP PERIOD SHALL EXPIRE AT THE END OF SAID PERIOD, AND ORIGINAL LICENSE AND RENEWAL FEES SHALL BE PRORATED ACCORDINGLY. Upon the expiration of the one year after termination, each respective agency shall cease all activities. WHEN A LICENSE ISSUED OR RENEWED PRIOR TO TERMINATION IS SCHEDULED TO EXPIRE AFTER THE CESSATION OF ACTIVITIES, THE LICENSE SHALL EXPIRE AT THE END OF THE WIND-UP PERIOD AND THE AGENCY SHALL REFUND THE PORTION OF THE LICENSE FEE PAID WHICH IS ATTRIBUTABLE TO THE PERIOD FOLLOWING THE CESSATION OF ACTIVITIES. ANY CRIMINAL PENALTY FOR ENGAGING IN ANY PROFESSION OR ACTIVITY WITHOUT BEING LICENSED THEREFOR SHALL NOT BE ENFORCEABLE WITH RESPECT TO ACTIVITIES OCCURRING AFTER AN AGENCY HAS CEASED ITS ACTIVITIES PURSUANT TO THIS SECTION.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(5.5) Whenever the state constitution imposes any powers, duties, or functions on an agency or officer subject to the provisions of this section and such agency or officer is terminated and the general assembly does not designate another agency or officer to exercise such powers or perform such duties and functions, such agency or officer shall continue in existence, after the one-year wind-up period, under the principal department as if the agency or officer were transferred to the department by a type 2 transfer, as defined in section 24-1-105, until the general assembly shall otherwise designate.

(7) The legislative audit committee shall cause to be conducted a performance audit of each division, board, or agency scheduled for termination under this section. The performance audit shall be completed at least three SIX months prior to the date established by this section for termination. In conducting the audit, the legislative audit committee shall take into consideration, but not be limited to considering, the factors listed in paragraph (b) of subsection (8) of this section. Upon completion of the audit report, the legislative audit committee shall hold a public hearing for purposes of review of the report. A copy of the report shall be made available to each member of the general assembly.

(9) If no action has been taken to extend the life of an agency SCHEDULED TO BE TERMINATED ON JULY 1 OF AN EVEN-NUMBERED YEAR because the subject was not designated in writing by the governor during the first ten days of the legislative session, pursuant to section 7 of article V of the state constitution, the agency shall continue in existence NOT BE TERMINATED until JULY 1 OF the next subsequent odd-numbered year, legislative session, at PRIOR TO which time the general assembly shall MAY reconsider the termination. If terminated, in no case shall an agency have less than one year to wind up its affairs. CONTINUATION, OR REESTABLISHMENT OF SUCH AGENCY.

(11) This section shall not cause the dismissal of any claim or right of a citizen PERSON THROUGH OR against any such agency or any claim or right of an agency terminated WHICH HAS CEASED ITS ACTIVITIES pursuant to this section which is OR MAY BE subject to litigation. ANY PERSON MAY PURSUE SAID CLAIMS OR RIGHTS THROUGH OR AGAINST THE DEPARTMENT OF REGULATORY AGENCIES, AND said claims and rights OF AN AGENCY WHICH HAS CEASED ITS ACTIVITIES shall be assumed by the department of regulatory agencies. Nothing in this section shall interfere with the general assembly otherwise considering legislation on any division, board, agency, or similar body existing within the department of regulatory agencies.

(12) When an agency is terminated pursuant to the provisions of this section and the general assembly reestablishes the agency during its wind-up period with substantially the same powers, duties, and functions, the agency shall be deemed to have been continued.

Section 2. 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.