



IMPROVING PUBLIC ACCESS TO GOVERNMENT RULEMAKING

HB20-1039: TRANSPARENT STATE WEB PORTAL SEARCH RESULTS

Representatives Mark Baisley & James Coleman / Senators Jack Tate & Rachel Zenzinger

Outcomes of HB 20-1039:

- Establishing a taskforce to study and outline a plan for a centralized and mobile-optimized website for all agency rulemaking that is easily navigable and searchable for the average citizen and business owner
- The taskforce will present a project plan and funding request to the Business Affairs Committee in January of 2021

Rationale for HB 20-1039:

- Rules adopted by executive branch agencies can significantly impact individuals and businesses
- Navigating the parallel systems at DORA, the Secretary of State, and each agency is challenging for individuals and businesses who do not have, or cannot afford, lawyers and consultants to contribute to the creation of rules
- Increasing public access to rulemaking strengthens our Colorado democracy
- Federal rulemaking has been centralized for over 10 years (Beta.regulations.gov)
- Texas, Virginia, Oregon, and Arizona have made significant strides toward transparency in their regulatory process through technological investment

Supporters of HB 20-1039:

- Colorado Competitive Council
- Colorado Concern
- Colorado Press Association
- Colorado Realtors Association
- Common Cause
- Denver Metro Chamber of Commerce
- National Federation of Independent Businesses

Please support public engagement and transparency through a centralized and searchable rulemaking web portal

Contact:

Pete Kirchhof 303.507.9587 // RD Sewald and Josh Hanfling 303.800.4500

HB1039_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business Affairs & Labor.

HB20-1039 be amended as follows:

1 Amend printed bill, page 2, strike lines 16 through 26.

2 Strike pages 3 through 5 and substitute:

3 **"SECTION 2. Online transparency task force.** (1) There is
4 hereby created the online transparency task force. Interested legislators
5 and the following individuals, or their designees, may participate in the
6 task force:

7 (a) The executive director of each principal department;

8 (b) The secretary of state;

9 (c) The chief information officer appointed pursuant to section
10 24-37.5-103, Colorado Revised Statutes; and

11 (d) The executive director of the statewide internet portal
12 authority appointed pursuant to section 24-37.7-104 (1)(o), Colorado
13 Revised Statutes.

14 (2) The task force member specified in subsection (1)(d) of this
15 section shall chair the task force and call the first meeting of the task
16 force as soon as possible. The task force shall meet as necessary at the
17 call of the chair to timely complete its duties.

18 (3) The purpose of the task force is to recommend ways to
19 enhance citizens' online access to rules and the rule-making process and
20 to increase the transparency of the rule-making process, including
21 potential improvements to existing online resources and the potential
22 creation of new online resources.

23 (4) The task force shall submit a written report that summarizes
24 its recommendations by January 1, 2021, to the general assembly's
25 committees of reference with jurisdiction over business and state affairs.

26 **SECTION 3. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the
28 ninety-day period after final adjournment of the general assembly (August
29 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
30 referendum petition is filed pursuant to section 1 (3) of article V of the
31 state constitution against this act or an item, section, or part of this act
32 within such period, then the act, item, section, or part will not take effect
33 unless approved by the people at the general election to be held in
34 November 2020 and, in such case, will take effect on the date of the
35 official declaration of the vote thereon by the governor."

** ** ** ** **

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0213.02 Thomas Morris x4218

HOUSE BILL 20-1039

HOUSE SPONSORSHIP

Coleman and Baisley,

SENATE SPONSORSHIP

Zenzinger and Tate,

House Committees
Business Affairs & Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A TRANSPARENT STATE WEB PORTAL THAT ALLOWS THE**
102 **PUBLIC TO EASILY SEARCH FOR INFORMATION RELATING TO**
103 **STATE AGENCY RULES AT NO COST.**

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://leg.colorado.gov>.)

Effective January 1, 2021, the bill requires an agency that is or will be conducting rule-making proceedings to post several types of notifications regarding the proceedings on an easily searched rule-making transparency website and mobile application created and hosted by the statewide internet portal authority.

Shading denotes HOUSE amendment! Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby:

4 (a) Finds that rules adopted by executive branch agencies affect
5 many areas of daily life for Colorado citizens, including water, air, food,
6 energy, mobility, employment, and health care;

7 (b) Determines that:

8 (I) Maintaining a vibrant business economy in the state is a goal
9 shared by all Coloradans; and

10 (II) The state has made tremendous progress in its transparency as
11 new and innovative technologies become available; and

12 (c) Declares that this act is a continuation of this ongoing
13 transparency program and that public participation promotes a sense of
14 acceptability and fairness in the rule-making process and can help foster
15 greater public trust.

16 **SECTION 2.** In Colorado Revised Statutes, 24-4-103, **amend** (2)
17 and (2.5)(a) introductory portion as follows:

18 **24-4-103. Rule-making - procedure - definitions - statutory**
19 **citation correction.** (2) When rule-making is contemplated, public
20 announcement thereof ~~may~~ SHALL be made ~~at such time and~~ ON AN
21 EASILY SEARCHED RULE-MAKING TRANSPARENCY WEBSITE AND MOBILE
22 APPLICATION CREATED AND HOSTED BY THE STATEWIDE INTERNET PORTAL
23 AUTHORITY AS REQUIRED IN SUBSECTION (2.5)(a) OF THIS SECTION in such
24 manner as the agency determines. The agency shall:

25 (a) MAKE THE NOTICE AT LEAST FORTY-FIVE DAYS BEFORE THE
26 FIRST PUBLIC HEARING ON THE RULE-MAKING;

1 (b) Establish a representative group of participants with an interest
2 in the subject of the rule-making to submit views or otherwise participate
3 informally in conferences on the proposals under consideration or to
4 participate in the public rule-making proceedings on the proposed rules
5 AND POST THE PARTICIPANTS' NAMES ON THE TRANSPARENCY WEBSITE
6 AND MOBILE APPLICATION WHEN THE INVITATION TO PARTICIPATE IS
7 MADE. In establishing the representative group, the agency shall make
8 diligent attempts to solicit input from representatives of each of the
9 various stakeholder interests that may be affected positively or negatively
10 by the proposed rules.

11 (c) If the agency convenes a representative group ~~prior to~~ BEFORE
12 issuing a notice of proposed rule-making as provided in ~~paragraph (a) of~~
13 ~~subsection (3)~~ SUBSECTION (3)(a) of this section: ~~the agency shall~~

14 (I) POST THE PARTICIPANTS' NAMES ON THE TRANSPARENCY
15 WEBSITE AND MOBILE APPLICATION ALONG WITH THE TIMES WHEN AND
16 PLACES WHERE THE MEETINGS WILL BE HELD; AND

17 (II) Add those persons who participated in the representative
18 group to the list of persons who receive notification of proposed
19 rule-making as provided in ~~paragraph (b) of subsection (3)~~ SUBSECTION
20 (3)(b) of this section.

21 (2.5) (a) ~~At the time of~~ WHEN filing a notice of proposed
22 rule-making with the secretary of state as the secretary may require, an
23 agency shall submit a draft of the proposed rule or the proposed
24 amendment to an existing rule and a statement, in plain language,
25 concerning the subject matter ~~or~~ AND purpose of the proposed rule or
26 amendment AND THE RULE-MAKING TIMELINE, PROCESS, AND DESCRIPTION
27 to the office of the executive director in the department of regulatory

1 agencies AND TO THE STATEWIDE INTERNET PORTAL AUTHORITY CREATED
2 IN SECTION 24-37.7-102. THE STATEWIDE INTERNET PORTAL AUTHORITY
3 SHALL POST THE INFORMATION ON THE TRANSPARENCY WEBSITE AND
4 MOBILE APPLICATION. The executive director or ~~his or her~~ THE EXECUTIVE
5 DIRECTOR'S designee shall distribute the proposed rule or amendment, the
6 agency's statement concerning the subject matter ~~or~~ AND purpose of the
7 proposed rule or amendment, A CITATION TO THE AUTHORIZING STATUTE,
8 and any cost-benefit analysis prepared pursuant to this section to all
9 persons who have submitted a request to receive notices from the
10 department of regulatory agencies about proposed rule-making AND
11 SHALL TRANSMIT THE INFORMATION TO THE STATEWIDE INTERNET PORTAL
12 AUTHORITY TO BE POSTED ON THE TRANSPARENCY WEBSITE AND MOBILE
13 APPLICATION. Any person may, within five days after publication of the
14 notice of proposed rule-making in the Colorado register, request that the
15 department of regulatory agencies require the agency submitting the
16 proposed rule or amendment to prepare a cost-benefit analysis. The
17 executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee shall
18 determine, after consultation with the agency proposing the rule or
19 amendment, whether to require the agency to prepare a cost-benefit
20 analysis. If the executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S
21 designee determines that a cost-benefit analysis is required, the agency
22 shall complete a cost-benefit analysis at least ten days before the hearing
23 on the rule or amendment, shall make the analysis available to the public
24 by posting the analysis on the agency's official website AND
25 TRANSMITTING THE ANALYSIS TO THE STATEWIDE INTERNET PORTAL
26 AUTHORITY TO BE POSTED ON THE TRANSPARENCY WEBSITE AND MOBILE
27 APPLICATION, and shall submit a copy to the executive director or ~~his or~~

1 ~~her~~ THE EXECUTIVE DIRECTOR'S designee. The executive director or ~~his or~~
2 ~~her~~ THE EXECUTIVE DIRECTOR'S designee shall post the analysis on the
3 department of regulatory agencies' official website. By filing an
4 additional notice published in the Colorado register, the agency may
5 postpone the hearing on the rule or amendment to comply with the
6 requirement to complete the cost-benefit analysis at least ten days before
7 the hearing. Failure to complete a requested cost-benefit analysis pursuant
8 to this subsection (2.5) ~~shall preclude~~ PRECLUDES the adoption of ~~such~~
9 THE rule or amendment. ~~Such~~ THE cost-benefit analysis ~~shall~~ MUST
10 include the following:

11 **SECTION 3. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect January 1, 2021; except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within the ninety-day period after final adjournment of the general
16 assembly, then the act, item, section, or part will not take effect unless
17 approved by the people at the general election to be held in November
18 2020 and, in such case, will take effect January 1, 2021, or on the date of
19 the official declaration of the vote thereon by the governor, whichever is
20 later.

21 (2) This act applies to conduct occurring on or after the applicable
22 effective date of this act.



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1039

FISCAL NOTE

Drafting Number: LLS 20-0213 Date: February 13, 2020
Prime Sponsors: Rep. Coleman; Baisley Bill Status: House Business
Sen. Zenzinger; Tate Fiscal Analyst: Katie Ruedebusch | 303-866-3001
Katie.Ruedebusch@state.co.us

Bill Topic: TRANSPARENT STATE WEB PORTAL SEARCH RULES

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statewide Internet Portal Authority

The bill requires the Statewide Internet Portal Authority to create and host a rulemaking transparency website and mobile application that includes several state agency rulemaking notifications. The bill will increase state workload and statutory public entity expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill requires the Statewide Internet Portal Authority (SIPA) to create a transparency website and mobile application that includes information related to state agency rulemaking. State agencies are required to send notice of a rulemaking at least 45 days before the first public hearing, and the individual names of any person participating in rulemaking representatives groups, to be posted on the website and mobile application. These notification requirements are in addition to the current notification requirements and timelines established by the Secretary of State (SOS) and the Department of Regulatory Agencies (DORA).

Background

Statewide Internet Portal Authority. In 2004, the General Assembly created SIPA to create an efficient, effective, and user friendly statewide internet portal to serve as a place where citizens can electronically access state government information, products, and services. SIPA also provides e-government services to state and local governments. SIPA is an enterprise for purposes of Article X, Section 20 of the Colorado Constitution. SIPA is primarily funding by assessing administrative fees on certain transaction services.

Rulemaking notifications. Under current law, state agencies must make certain notifications and meet certain timeline requirements for rulemaking under the Administrative Procedures Act. State agencies send certain information to the SOS and DORA. This information is posted on the SOS's and DORA's websites.

State Expenditures

The bill may increase workload for all state agencies to provide additional information to SIPA. Workload will vary based on the number of rulemakings per state agency. These workload increases can be accomplished within existing appropriations.

Statutory Public Entity

In FY 2020-21, the bill will increase expenditures in SIPA by approximately \$1.0 million to create the transparency website and mobile application. This estimate is based on a recently created portal for multiple state agencies. In addition, costs and workload will increase for ongoing system support and maintenance, as well as for staff to receive and post information. It is assumed these costs will be paid by SIPA using its existing revenue streams.

Effective Date

The bill takes effect January 1, 2021, if no referendum petition is filed. The bill applies to rulemaking occurring on or after the bill's effective date.

State and Local Government Contacts

All State Agencies