

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0492.01 Ed DeCecco x4216

HOUSE BILL 12-1112

HOUSE SPONSORSHIP

Ryden, Court, Fischer, Hullinghorst, Kerr A., Lee, McCann, Williams A., Young, Ferrandino, Fields, Pabon, Pace, Schafer S., Tyler

SENATE SPONSORSHIP

(None),

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A STATE ECONOMIC IMPACT RATING AS AN EVALUATION**
102 **FACTOR IN AWARDING A STATE PROCUREMENT CONTRACT.**

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>.)

The bill creates the economic impact rating system advisory board (advisory board) in the office of economic development (office). The board consists of 11 voting members with specific qualifications appointed by the governor and 5 ex officio nonvoting members. The advisory board is charged with analyzing the feasibility of establishing an

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

economic impact rating system (system), which measures a company's economic impact in the state. The advisory board is required to annually report to legislative committees on the status of the system.

If the system is feasible, the advisory board will assist the office in the development of the system. The system must be designed to allow a company to input information about its operations and connections to the state, and the information will be used to generate a state economic impact rating. To the extent possible, the office is required to design the system so that a company may access it on-line. The office is required to notify the executive director of the department of personnel when an operational system has been developed.

Once the system is operational, the state economic impact rating is to be used for proposals solicited through a request for proposals. A state purchasing director or the head of the purchasing agency is required to use the state economic impact rating as an evaluation factor in determining which offeror's proposal is most advantageous to the state. An offeror that responds to a request for proposals is not required to submit its state economic impact rating.

The only source of funding for the system is from the newly created economic impact rating system cash fund, which consists of gifts, grants, or donations. Moneys in the fund are continuously appropriated to the office for the system.

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

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Maximizing Our State Taxpayers' Return on Investment
4 Act".

5 **SECTION 2.** In Colorado Revised Statutes, 2-3-1203, **add** (3)
6 (cc) (V) as follows:

7 **2-3-1203. Sunset review of advisory committees.** (3) The
8 following dates are the dates for which the statutory authorization for the
9 designated advisory committees is scheduled for repeal:

10 (cc) July 1, 2016:

11 (V) THE ECONOMIC IMPACT RATING SYSTEM ADVISORY BOARD
12 CREATED IN SECTION 24-48.5-114 (3), C.R.S.;

13 **SECTION 3.** In Colorado Revised Statutes, **add** 24-48.5-114 as

1 follows:

2 **24-48.5-114. Economic impact rating system - notice of**
3 **funding through gifts, grants, and donations - legislative declaration**
4 **- definitions - repeal. (1) Legislative declaration. (a) THE GENERAL**

5 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

6 (I) GOOD STEWARDSHIP OF PUBLIC MONEYS IS OF THE UTMOST
7 IMPORTANCE TO ENSURE THAT TAXPAYERS RECEIVE THE HIGHEST
8 POSSIBLE RETURN ON THE INVESTMENT OF THEIR MONEY;

9 (II) STATE PROJECTS AWARDED THROUGH THE REQUEST FOR
10 PROPOSALS PROCESS TOTAL OVER THREE HUNDRED MILLION DOLLARS;

11 (III) IT IS IMPERATIVE THAT THE STATE RECOGNIZE AND REWARD
12 COMPANIES THAT ARE COMMITTED TO COLORADO;

13 (IV) WHILE THE STATE HAS A RESPONSIBILITY TO PROCURE A
14 RESPONSIBLE CONTRACTOR FOR A PROJECT, IT ALSO HAS A DUTY TO INVEST
15 STATE MONEY SO THAT THE HIGHEST POSSIBLE RETURN AND GREATEST
16 ECONOMIC IMPACT IS ACHIEVED THROUGH THE CONTRACT AWARD;

17 (V) IN ORDER TO EVALUATE THE POTENTIAL ECONOMIC IMPACT OF
18 DIFFERENT PROPOSALS SOLICITED THROUGH A REQUEST FOR PROPOSALS,
19 IT IS NECESSARY TO DEVELOP AN ECONOMIC IMPACT RATING SYSTEM; AND

20 (VI) A STATE AGENCY SHOULD CONSIDER THE STATE ECONOMIC
21 IMPACT RATING OF AN OFFEROR WHEN AWARDING A STATE CONTRACT
22 THAT IS ENTERED INTO BY COMPETITIVE SEALED PROPOSALS.

23 (b) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IN
24 THE BEST INTERESTS OF THE STATE TO ESTABLISH AN ADVISORY BOARD TO
25 STUDY HOW BEST TO DEVELOP AN ECONOMIC IMPACT RATING SYSTEM AND,
26 IF POSSIBLE, FOR THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT TO
27 ESTABLISH A SYSTEM TO BE USED AS PART OF THE STATE PROCUREMENT

1 PROCESS.

2 (2) **Definitions.** AS USED IN THIS SECTION:

3 (a) "ADVISORY BOARD" MEANS THE ECONOMIC IMPACT RATING
4 SYSTEM ADVISORY BOARD CREATED IN PARAGRAPH (a) OF SUBSECTION (3)
5 OF THIS SECTION.

6 (b) "ECONOMIC IMPACT RATING SYSTEM" OR "RATING SYSTEM"
7 MEANS THE SYSTEM DESCRIBED IN SUBSECTION (4) OF THIS SECTION.

8 (c) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC
9 DEVELOPMENT CREATED IN SECTION 24-48.5-101.

10 (3) **Advisory board.** (a) THE ECONOMIC IMPACT RATING SYSTEM
11 ADVISORY BOARD IS HEREBY CREATED IN THE OFFICE.

12 (b) (I) THE ADVISORY BOARD CONSISTS OF ELEVEN MEMBERS
13 APPOINTED BY THE GOVERNOR AS FOLLOWS:

14 (A) ONE PERSON WITH EXPERTISE IN THE STATE PROCUREMENT
15 PROCESS;

16 (B) ONE PERSON WITH EXPERTISE IN ECONOMICS;

17 (C) ONE PERSON WITH EXPERTISE IN INFORMATION TECHNOLOGY
18 AND WEB-BASED APPLICATIONS;

19 (D) ONE PERSON WITH EXPERTISE IN SYSTEM MODELING AND
20 DEVELOPMENT;

21 (E) FOUR PEOPLE REPRESENTING THE SERVICE BUSINESS SECTOR;
22 AND

23 (F) THREE PEOPLE REPRESENTING THE PRODUCT BUSINESS SECTOR;

24 (II) TO THE GREATEST EXTENT POSSIBLE, THE GOVERNOR SHALL
25 APPOINT MEMBERS OF THE ADVISORY BOARD TO REFLECT THE GEOGRAPHIC
26 DIVERSITY OF THE STATE AND APPOINT MEMBERS FROM AT LEAST SIX OF
27 THE COLORADO PLANNING AND MANAGEMENT REGIONS ESTABLISHED BY

1 THE OFFICE.

2 (III) ONE OF THE APPOINTED MEMBERS REPRESENTING THE
3 BUSINESS SECTOR MUST BE FROM A WOMEN-OWNED BUSINESS ENTERPRISE
4 AND ANOTHER MUST BE FROM A MINORITY-OWNED OR DISADVANTAGED
5 BUSINESS ENTERPRISE.

6 (IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
7 PERSONNEL, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE,
8 THE DIRECTOR OF THE OFFICE, THE STATE DIRECTOR OF SMALL BUSINESS
9 DEVELOPMENT CENTERS IN THE OFFICE OF ECONOMIC DEVELOPMENT, AND
10 THE DIRECTOR OF THE COLORADO WORKFORCE DEVELOPMENT COUNCIL,
11 OR THE DESIGNEES OF SUCH PERSONS, ARE EX OFFICIO NONVOTING
12 MEMBERS OF THE ADVISORY BOARD.

13 (c) THE MEMBERS OF THE ADVISORY BOARD SERVE:

14 (I) FOUR-YEAR TERMS;

15 (II) WITHOUT COMPENSATION AND WITHOUT REIMBURSEMENT FOR
16 EXPENSES; AND

17 (III) AT THE WILL OF THE GOVERNOR. IF A VACANCY ARISES
18 DURING A MEMBER'S TERM, THE GOVERNOR SHALL APPOINT A PERSON
19 MEETING THE SAME QUALIFICATIONS TO SERVE THE REMAINDER OF THE
20 TERM.

21 (d) THE ADVISORY BOARD SHALL ELECT A MEMBER TO SERVE AS
22 CHAIRPERSON AND MAY MEET AS OFTEN AS NECESSARY.

23 (e) THE ADVISORY BOARD HAS THE FOLLOWING DUTIES:

24 (I) TO ANALYZE THE FEASIBILITY OF ESTABLISHING AN ECONOMIC
25 IMPACT RATING SYSTEM; AND

26 (II) IF APPROPRIATE:

27 (A) TO ASSIST THE OFFICE IN THE DEVELOPMENT OF THE ECONOMIC

1 IMPACT RATING SYSTEM;

2 (B) TO ADVISE THE OFFICE REGARDING THE ONGOING
3 MAINTENANCE OF THE ECONOMIC IMPACT RATING SYSTEM; AND

4 (C) TO MONITOR THE SUCCESS OF THE SYSTEM AFTER
5 IMPLEMENTATION.

6 (f) THE OFFICE SHALL PROVIDE TECHNICAL ASSISTANCE AND
7 SUPPORT TO ASSIST THE ADVISORY BOARD IN THE COMPLETION OF ITS
8 DUTIES.

9 (g) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2016.
10 PRIOR TO SUCH REPEAL, THE ADVISORY BOARD SHALL BE REVIEWED IN
11 ACCORDANCE WITH SECTION 2-3-1203, C.R.S.

12 (4) **Rating system.** (a) IF THE ADVISORY BOARD ADVISES THE
13 OFFICE THAT AN ECONOMIC IMPACT RATING SYSTEM IS FEASIBLE, THE
14 OFFICE SHALL DEVELOP SUCH A RATING SYSTEM. THE RATING SYSTEM
15 MUST BE DESIGNED TO ALLOW A COMPANY TO INPUT INFORMATION ABOUT
16 ITS OPERATIONS AND CONNECTIONS TO THE STATE, AND THE INFORMATION
17 WILL BE USED TO GENERATE A STATE ECONOMIC IMPACT RATING.

18 (b) TO THE EXTENT POSSIBLE, THE OFFICE SHALL DESIGN THE
19 ECONOMIC IMPACT RATING SYSTEM SO THAT A COMPANY MAY ACCESS IT
20 ON-LINE.

21 (5) **Economic impact rating system cash fund.** (a) THE OFFICE
22 IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM
23 PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION; EXCEPT
24 THAT THE OFFICE MAY NOT ACCEPT A GIFT, GRANT, OR DONATION THAT IS
25 SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS SECTION OR
26 ANY OTHER LAW OF THE STATE. THE OFFICE SHALL TRANSMIT ALL PRIVATE
27 AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS

1 TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE
2 ECONOMIC IMPACT RATING SYSTEM CASH FUND, WHICH FUND IS HEREBY
3 CREATED. THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED
4 TO THE OFFICE FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH
5 IMPLEMENTING THIS SECTION.

6 (b) (I) IN SEEKING OR ACCEPTING A GIFT, GRANT, OR DONATION,
7 THE OFFICE SHALL NOTIFY THE LEGISLATIVE COUNCIL STAFF WHEN IT HAS
8 RECEIVED ADEQUATE FUNDING THROUGH GIFTS, GRANTS, OR DONATIONS
9 TO ESTABLISH AN ECONOMIC IMPACT RATING SYSTEM AND SHALL INCLUDE
10 IN THE NOTIFICATION THE INFORMATION SPECIFIED IN SECTION 24-75-1303
11 (3).

12 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE SEPTEMBER 1,
13 2015.

14 (c) THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE ANY STATE
15 MONEYS OTHER THAN THE MONEYS IN THE FUND TO THE OFFICE FOR THE
16 PURPOSE ADMINISTERING THE RATING SYSTEM CREATED BY THIS SECTION.

17 (6) **Reporting.** (a) NO LATER THAN JANUARY 31, 2013, AND
18 JANUARY 31 OF EACH YEAR THEREAFTER, THE ADVISORY BOARD AND THE
19 OFFICE SHALL REPORT TO THE ECONOMIC AND BUSINESS DEVELOPMENT
20 COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE BUSINESS,
21 LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR THEIR
22 SUCCESSOR COMMITTEES, ON THE STATUS OF THE ECONOMIC IMPACT
23 RATING SYSTEM.

24 (b) THE OFFICE SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE
25 DEPARTMENT OF PERSONNEL WHEN AN OPERATIONAL ECONOMIC IMPACT
26 RATING SYSTEM HAS BEEN DEVELOPED AND, TO THE EXTENT NECESSARY,
27 ASSIST THE DEPARTMENT IN IMPLEMENTING SECTION 24-103-210.

1 (c) THIS SUBSECTION (6) IS EXEMPT FROM THE PROVISIONS OF
2 SECTION 24-1-136 (11), AND THE PERIODIC REPORTING REQUIREMENT OF
3 THIS SECTION REMAINS IN EFFECT UNTIL CHANGED BY THE GENERAL
4 ASSEMBLY ACTING BY BILL.

5 **SECTION 4.** In Colorado Revised Statutes, 24-103-203, **amend**
6 (7) and (8); and **add** (9) and (10) as follows:

7 **24-103-203. Competitive sealed proposals - state economic**
8 **impact rating - definitions.** (7) The award shall be made to the
9 responsible offeror whose proposal is determined in writing to be the
10 most advantageous to the state, taking into consideration the price and the
11 evaluation factors set forth in the request for proposals, INCLUDING, IF
12 APPLICABLE, THE STATE ECONOMIC IMPACT RATING. No other factors or
13 criteria shall be used in the evaluation. The contract file shall contain the
14 basis on which the award is made. A contract resulting from a
15 competitive sealed proposal is not awarded until any protest made in
16 connection with the proposal has been resolved pursuant to 24-109-102.
17 No property interest of any nature shall accrue until the contract is
18 awarded and signed by both parties.

19 (8) The procurement officer shall negotiate, in the case of
20 procurement of professional services, with the highest qualified offerors
21 and in that negotiation shall take into account, in the following order of
22 importance, the professional competence of the offerors, the technical
23 merits of the offers, ~~and~~ the price for which the services are to be
24 rendered, AND, IF APPLICABLE, THE OFFEROR'S STATE ECONOMIC IMPACT
25 RATING.

26 (9) (a) BEGINNING SIX MONTHS AFTER THE DATE THAT THE
27 EXECUTIVE DIRECTOR RECEIVES NOTICE FROM THE COLORADO OFFICE OF

1 ECONOMIC DEVELOPMENT PURSUANT TO SECTION 24-48.5-114 (6) (b)
2 THAT AN OPERATIONAL ECONOMIC IMPACT RATING SYSTEM HAS BEEN
3 DEVELOPED, THE STATE PURCHASING DIRECTOR OR THE HEAD OF THE
4 PURCHASING AGENCY SHALL CONSIDER THE STATE ECONOMIC IMPACT
5 RATING AS AN EVALUATION FACTOR IN DETERMINING WHICH OFFER IS
6 MOST ADVANTAGEOUS TO THE STATE.

7 (b) AN OFFEROR THAT RESPONDS TO A REQUEST FOR PROPOSALS
8 ISSUED BY THE STATE PURCHASING DIRECTOR OR THE HEAD OF THE
9 PURCHASING AGENCY IS NOT REQUIRED TO SUBMIT ITS STATE ECONOMIC
10 IMPACT RATING.

11 (10) AS USED IN THIS SECTION, "STATE ECONOMIC IMPACT RATING"
12 MEANS THE RATING FOR A COMPANY GENERATED BY THE ECONOMIC
13 IMPACT RATING SYSTEM CREATED PURSUANT TO SECTION 24-48.5-114.

14 **SECTION 5. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.