# Second Regular Session Sixty-eighth General Assembly STATE OF COLORADO

# **INTRODUCED**

LLS NO. 12-0579.01 Kate Meyer x4348

**HOUSE BILL 12-1175** 

### **HOUSE SPONSORSHIP**

Stephens,

### SENATE SPONSORSHIP

Cadman,

#### **House Committees**

#### **Senate Committees**

**Economic and Business Development** 

|     | A BILL FOR AN ACT  |
|-----|--|
| 101 | CONCERNING THE ENCOURAGEMENT OF A STATE AGENCY TO PURSUE |
| 102 | COLORADO-SPECIFIC SOLUTIONS IN LIEU OF FEDERAL           |
| 103 | REGULATION WHENEVER POSSIBLE, AND, IN CONNECTION         |
| 104 | THEREWITH, REQUIRING A STATE AGENCY TO REPORT            |
| 105 | ANNUALLY REGARDING OPPORTUNITIES FOR WAIVER FROM         |
| 106 | NEWLY ADOPTED FEDERAL REGULATIONS.                       |

## **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.)

For newly adopted federal laws, rules, and regulations (regulations) that expressly or implicitly allow a state to opt out of the regulations, the bill encourages a Colorado state agency (agency) that is potentially impacted by, subject to, or charged with administering the rule to seek such waiver. An agency is required to report annually to the general assembly regarding the agency's opportunities for and attempts at obtaining such waivers.

| 1  | Be it enacted by the General Assembly of the State of Colorado: |
|----|---|
| 2  | SECTION 1. In Colorado Revised Statutes, add article 78.1 to    |
| 3  | title 24 as follows:  |
| 4  | ARTICLE 78.1  |
| 5  | Waiver from Federal Regulation                                  |
| 6  | 24-78.1-101. Legislative declaration. (1) THE GENERAL           |
| 7  | ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:           |
| 8  | (a) COLORADO IS A UNIQUE STATE, CHARACTERIZED BY ITS PROUD      |
| 9  | HISTORY, SPECTACULAR AND LUCRATIVE NATURAL RESOURCES, AND       |
| 10 | STRONG PEOPLE;  |
| 11 | (b) FEDERAL GOVERNMENTAL REGULATIONS NECESSARILY                |
| 12 | EMPLOY A ONE-SIZE-FITS-ALL APPROACH THAT DO NOT, AND CANNOT     |
| 13 | ACCOUNT FOR ANY STATE'S IDIOSYNCRACIES;                         |
| 14 | (c) FEDERAL REGULATIONS OFTEN GIVE A STATE AN OPPORTUNITY       |
| 15 | TO CRAFT ITS OWN REGULATIONS IN LIEU OF THOSE FEDERAL           |
| 16 | REGULATIONS;  |
| 17 | (d) RATHER THAN ENGAGE IN REFLEXIVE SUBMISSION TO FEDERAL       |
| 18 | REGULATION, COLORADO STATE AGENCIES SHOULD STRIVE TO IMPLEMENT  |
| 19 | COLORADO-SPECIFIC SOLUTIONS IN LIEU OF FEDERAL REGULATIONS      |
| 20 | WHENEVER POSSIBLE; AND  |
| 21 | (e) Colorado-specific solutions in lieu of federal              |
| 22 | REGULATIONS WILL PRODUCE GREATER GOVERNMENTAL                   |

-2- HB12-1175

| 2  | THOUGHTFUL CONSIDERATION REGARDING THE MOST PRACTICAL,  |
|--|---|
| 3  | EFFECTIVE, AND ECONOMICAL WAY TO PROVIDE FOR COLORADO AND ITS   |
| 4  | CITIZENS.   |
| 5  | <b>24-78.1-102. Definitions.</b> As used in this article, unless the  |
| 6  | CONTEXT OTHERWISE REQUIRES:   |
| 7  | (1) "AGENCY" HAS THE SAME MEANING AS SET FORTH IN SECTION   |
| 8  | 24-4-102 (3).   |
| 9  | (2) "FEDERAL REGULATION" MEANS ANY FEDERAL LAW, RULE, OR  |
| 10   | REGULATION.   |
| 11   | (3) "WAIVER" MEANS EXPRESS AND IMPLIED WAIVER, INCLUDING  |
| 12   | PROVISIONS THAT ALLOW A STATE TO IMPLEMENT REGULATIONS THAT ARE   |
| 13   | AT LEAST AS PROTECTIVE OR STRINGENT AS THE PREDICATE FEDERAL  |
| 14   | REGULATION.   |
|  |   |
| 15   | 24-78.1-103. Waiver from federal regulations encouraged -   |
|  | 24-78.1-103. Waiver from federal regulations encouraged - report. (1) (a) AN AGENCY THAT IS ACTUALLY OR POTENTIALLY   |
| 15<br>16<br>17                                     |   |
| 16   | report. (1) (a) An agency that is actually or potentially   |
| 16<br>17   | report. (1) (a) AN AGENCY THAT IS ACTUALLY OR POTENTIALLY AFFECTED BY, SUBJECT TO, OR CHARGED WITH IMPLEMENTING A FEDERAL   |
| 16<br>17<br>18                                     | report. (1) (a) An agency that is actually or potentially affected by, subject to, or charged with implementing a federal regulation is encouraged to seek waiver from the federal  |
| 16<br>17<br>18<br>19                               | report. (1) (a) An agency that is actually or potentially affected by, subject to, or charged with implementing a federal regulation is encouraged to seek waiver from the federal regulation and instead promulgate its own rules whenever:  |
| 16<br>17<br>18<br>19<br>20                         | report. (1) (a) An agency that is actually or potentially affected by, subject to, or charged with implementing a federal regulation is encouraged to seek waiver from the federal regulation and instead promulgate its own rules whenever:  (I) Waiver is permitted under federal law; and  |
| 16<br>17<br>18<br>19<br>20<br>21                   | report. (1) (a) An agency that is actually or potentially affected by, subject to, or charged with implementing a federal regulation is encouraged to seek waiver from the federal regulation and instead promulgate its own rules whenever:  (I) Waiver is permitted under federal law; and  (II) It would not be administratively impractical or  |
| 16<br>17<br>18<br>19<br>20<br>21<br>22             | report. (1) (a) An agency that is actually or potentially affected by, subject to, or charged with implementing a federal regulation is encouraged to seek waiver from the federal regulation and instead promulgate its own rules whenever:  (I) Waiver is permitted under federal law; and  (II) It would not be administratively impractical or economically unsound to so waive.  |
| 16<br>17<br>18<br>19<br>20<br>21<br>22<br>23       | report. (1) (a) An agency that is actually or potentially affected by, subject to, or charged with implementing a federal regulation is encouraged to seek waiver from the federal regulation and instead promulgate its own rules whenever:  (I) Waiver is permitted under federal law; and  (II) It would not be administratively impractical or economically unsound to so waive.  (b) Nothing in paragraph (a) of this subsection (1) permits   |
| 16<br>17<br>18<br>19<br>20<br>21<br>22<br>23<br>24 | report. (1) (a) An agency that is actually or potentially affected by, subject to, or charged with implementing a federal regulation is encouraged to seek waiver from the federal regulation and instead promulgate its own rules whenever:  (I) Waiver is permitted under federal law; and  (II) It would not be administratively impractical or economically unsound to so waive.  (b) Nothing in paragraph (a) of this subsection (1) permits or empowers an agency to operate outside the scope of its |

ACCOUNTABILITY, RESPONSIVENESS, AND EFFICIENCY AND PROMOTE

-3- HB12-1175

| 1  | (I) FEDERAL REGULATIONS DIRECTLY AFFECTING THE AGENCY                     |
|----|---|
| 2  | THAT WERE PROMULGATED IN THE PRIOR TWELVE MONTHS AND FROM                 |
| 3  | WHICH A STATE COULD WAIVE; AND  |
| 4  | (II) WHETHER THE AGENCY APPLIED FOR OR OTHERWISE SOUGHT                   |
| 5  | WAIVER FROM THE REGULATIONS DESCRIBED UNDER SUBPARAGRAPH (I)              |
| 6  | OF THIS PARAGRAPH (a), THE AGENCY'S REASONING FOR SEEKING WAIVER          |
| 7  | OR NOT, AND THE RESULTS OF ANY EFFORTS TO OBTAIN WAIVER.                  |
| 8  | (b) Notwithstanding section $24-1-136(11)(a)(I)$ , the report             |
| 9  | REQUIRED UNDER THIS SUBSECTION (2) SHALL BE SUBMITTED BY                  |
| 10 | DECEMBER 15, 2012, AND BY DECEMBER 15 OF EACH YEAR THEREAFTER,            |
| 11 | TO THE STANDING COMMITTEES OF REFERENCE IN EACH HOUSE OF THE              |
| 12 | GENERAL ASSEMBLY WITH OVERSIGHT RESPONSIBILITIES OVER THE                 |
| 13 | AGENCY'S AFFAIRS. THE REPORT MAY BE SUBMITTED ELECTRONICALLY.             |
| 14 | SECTION 2. Applicability. The provisions of this act apply to             |
| 15 | federal regulations promulgated on or after the applicable effective date |
| 16 | of this act.  |
| 17 | SECTION 3. Safety clause. The general assembly hereby finds,              |
| 18 | determines, and declares that this act is necessary for the immediate     |
| 19 | preservation of the public peace, health, and safety.                     |
|    |   |

-4- HB12-1175