

D 2011-005

EXECUTIVE ORDER

Establishing a Policy to Enhance the Relationship between State and Local Government

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order directing state agencies to take specific steps to enhance relations with local government.

I. Background and Purpose

For many years state government has imposed an ever-increasing number of legal requirements on local governments, without regard to the costs such requirements impose on already-strained local budgets, and without providing additional funding to enable local governments to comply. Local governments continue to face difficulties such as funding, complexity, and delay in securing flexibility and approvals regarding state requirements.

Local governments should have more flexibility to design solutions to problems without excessive interference or oversight, or unnecessary regulation, from state government. In addition, local governments should not be expected to implement laws and regulations without the funding necessary to do so. In order to assist local governments in effectively complying with such requirements, this Executive Order gives direction to state agencies on consulting and working with local governments before imposing new regulations or other obligations.

II. Directive and Scope

A. To the extent authorized by law, no state agency shall promulgate any regulation creating a mandate on local governments unless:

1. The mandate is specifically required by federal or state law;
2. The agency consults with local governments prior to promulgation of the regulation; and
3. The state government provides the funding necessary to pay for the direct costs incurred by local governments in complying with the mandate.

B. Each agency, prior to the formal promulgation of regulations containing the proposed mandate, shall provide to the Director of the Governor's Office of State Planning and Budgeting a description of the nature and extent of the agency's consultation with representatives of the local governments that would be affected by the proposed mandate, the nature of their concerns, any written communications or comments submitted to the agency by such units of local government, and the agency's reasoning supporting the need to issue the regulation containing the mandate.

C. Each agency shall develop a process to actively solicit the meaningful and timely input of elected officials and other representatives of local governments into the development of regulatory proposals affecting local government. Each agency shall implement its process as soon as practicable and post the process on its website.

D. Each agency that is permitted by law to grant temporary or permanent waivers of statutory or regulatory requirements shall adopt rules for granting waivers if a local government can demonstrate that the requirements conflict with other regulations or statutes, or are unduly burdensome. Each State agency shall prepare and publish on its website a policy describing the circumstances in which temporary or permanent waivers will be granted, and the criteria required for obtaining a waiver.

E. Each agency shall consider any application by a local government for a waiver of statutory or regulatory requirements in light of the goal of increasing opportunities for local governments to exercise flexibility in seeking to comply with statutory or regulatory requirements.

F. To the fullest extent practicable and as permitted by law, each agency shall render a decision on an application for waiver within 90 days of receipt of such application by the agency. If the application for waiver is not granted, the agency shall provide the applicant local government with timely written notice of its decision and the reasons for its decision.

G. The executive director of each agency shall be responsible for ensuring implementation of, and compliance with, this Executive Order.

H. Executive agency means any authority of the State of Colorado that is an “agency” pursuant to C.R.S. § 24-3-101.

III. No Creation of Rights

This Executive Order is intended only to improve intergovernmental operations, and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by any party against the State of Colorado, its agencies, officers, employees, or any other person. This Executive Order shall not be used as a basis for legal challenge to statutes, regulations, or other actions or to any inaction of any state agency subject to it.

IV. Duration

This Executive Order shall remain in full force and effect until modified or rescinded by future Executive Order of the Governor. This Executive Order supersedes Executive Order D 0007 94.

GIVEN under my hand and the
Executive Seal of the State of
Colorado this eleventh day of
January, 2011.

John W. Hickenlooper
Governor