

CHAPTER 304

**ELECTIONS**

**HOUSE BILL 94-1341**

BY REPRESENTATIVES Berry, Williams, Foster, Allen, Armstrong, Blue, Epps, Greenwood, Hagedorn, Kerns, Knox, Lawrence, Linkhart, Lyle, May, Owen, Pfflner, Snyder, Adkins, Grampsas, Martin, Moellenberg, Morrison, Pankey, and Pierson; also SENATORS Cassidy, Norton, Wells, Bishop, Hopper, Johnson, Mares, Rizzuto, Ruddick, and Tebedo.

**AN ACT**

**CONCERNING REPORTING BY PUBLIC OFFICIALS SERVING IN ELECTIVE OFFICE OF BENEFITS RECEIVED IN CONNECTION WITH THEIR PUBLIC SERVICE.**

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

**SECTION 1.** 1-45-103 (4) and (5), Colorado Revised Statutes, 1980 Repl. Vol., are amended to read:

**1-45-103. Definitions.** As used in this article, unless the context otherwise requires:

(4) "Contribution" means a gift, loan, pledge, or advance of money or a guarantee of a loan made to or for any candidate or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election, or defeat of any candidate. "Contribution" includes a transfer of any money between one political committee and another; ~~a gift of money to or for any incumbent in public office from any other person, the purpose of which is to compensate him for his public service or to help defray his expenses incident thereto but which are not covered by official compensation;~~ the payment of any money by any person, other than a political committee working on a candidate's behalf, for political services rendered to the candidate or political committee; any payment made to third parties at the request of or with the prior knowledge of a candidate, political committee, or agent of either; and any payment made after an election to meet any deficit or debt incurred during the course of the campaign. "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate or political committee. Any transfer of money between political committees is an expenditure by the political committee which dispenses the money and is a

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

contribution to the political committee which receives the money.

(5) "Contribution in kind" means a gift or loan of any item of real or personal property, other than money, made to or for any candidate or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election, or defeat of any candidate. ~~"Contribution in kind" includes a gift or loan of any item of real or personal property, other than money, to or for any incumbent in public office from any other person, the purpose of which is to compensate him for his public service or to help him defray his expenses incident thereto but which are not covered by official compensation.~~ Personal services are a contribution in kind by the person paying compensation therefor; volunteer services are not included. "Contribution in kind" does not include an endorsement of candidacy or issue by any person. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used.

**SECTION 2.** 1-45-108 (2), Colorado Revised Statutes, 1980 Repl. Vol., is amended, and the said 1-45-108, as amended, is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**1-45-108. Reports - certification and filing.** (2) ~~Any incumbent in, or elected candidate to, as defined in section 1-45-103 (3), public office who receives any contribution or contribution in kind from any other person, the purpose of which is to compensate him for his public services or to help him defray his expenses incident thereto but which are not covered by official compensation, shall file with the appropriate officer, on or before January 15 of each year, a supplemental report for the preceding calendar year. Such report shall be on forms prescribed by the secretary of state and shall contain substantially the same information as prescribed in subsection (4) of this section.~~ IN ADDITION TO THE REQUIREMENTS OF THIS ARTICLE, EVERY INCUMBENT IN PUBLIC OFFICE AND EVERY CANDIDATE ELECTED TO PUBLIC OFFICE IS SUBJECT TO THE REPORTING REQUIREMENTS OF SECTION 24-6-203, C.R.S.

(8) THE SECRETARY OF STATE SHALL CONDUCT A STUDY OF THE FEASIBILITY AND COST OF IMPLEMENTING A COMPUTER INFORMATION SYSTEM THAT WOULD ALLOW COMPUTER USERS TO CROSS-REFERENCE AND REVIEW, USING THE NAME OF A CANDIDATE, INCUMBENT, LOBBYIST, OR ANY OTHER PERSON, ANY REPORT FILED PURSUANT TO THIS ARTICLE, ANY REPORT FILED BY AN INCUMBENT OR ELECTED CANDIDATE PURSUANT TO SECTION 24-6-203, C.R.S., OR ANY DISCLOSURE STATEMENT FILED BY A LOBBYIST PURSUANT TO SECTION 24-6-302, C.R.S. THE SECRETARY OF STATE SHALL REPORT TO THE GENERAL ASSEMBLY ON THE FEASIBILITY AND COST OF SUCH A SYSTEM BY JANUARY 1, 1995.

**SECTION 3.** Part 2 of article 6 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**24-6-203. Reporting by incumbents and elected candidates - gifts, honoraria, and other benefits - penalty.** (1) AS USED IN THIS SECTION, THE TERMS "APPROPRIATE OFFICER", "CANDIDATE", AND "PUBLIC OFFICE" SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN SECTION 1-45-103, C.R.S., OF THE "CAMPAIGN REFORM ACT OF 1974".

(2) EVERY INCUMBENT IN OR CANDIDATE ELECTED TO PUBLIC OFFICE WHO RECEIVES FROM ANY OTHER PERSON ANY ITEM DESCRIBED IN SUBSECTION (3) OF THIS SECTION IN CONNECTION WITH THE INCUMBENT'S OR ELECTED CANDIDATE'S PUBLIC SERVICE SHALL FILE WITH THE APPROPRIATE OFFICER, ON OR BEFORE JANUARY 15 OF EACH YEAR, A REPORT FOR THE PRECEDING CALENDAR YEAR. SUCH REPORT SHALL BE ON FORMS PRESCRIBED BY THE SECRETARY OF STATE, AND SHALL CONTAIN AT A MINIMUM, THE NAME OF THE PERSON FROM WHOM THE ITEM WAS RECEIVED AND THE AMOUNT OR VALUE AND THE DATE OF RECEIPT. THE SECRETARY OF STATE SHALL FURNISH SUCH FORMS TO MUNICIPAL CLERKS, TO COUNTY CLERK AND RECORDERS, AND TO INCUMBENTS AND ELECTED CANDIDATES FOR STATE OFFICES AND DISTRICT OFFICES OF DISTRICTS GREATER THAN A COUNTY FREE OF CHARGE FOR USE BY INCUMBENTS AND ELECTED CANDIDATES REQUIRED TO FILE SUCH FORMS. IF ANY INCUMBENT IN OR CANDIDATE ELECTED TO PUBLIC OFFICE DOES NOT RECEIVE ANY SUCH ITEM, HE SHALL NOT BE REQUIRED TO FILE SUCH REPORT.

(3) THE REPORT REQUIRED BY SUBSECTION (2) OF THIS SECTION SHALL INCLUDE THE FOLLOWING:

(a) ANY MONEY, INCLUDING BUT NOT LIMITED TO A LOAN, PLEDGE, OR ADVANCE OF MONEY OR A GUARANTEE OF A LOAN OF MONEY, WITH A VALUE OF TWENTY-FIVE DOLLARS OR MORE;

(b) ANY GIFT OF ANY ITEM OF REAL OR PERSONAL PROPERTY, OTHER THAN MONEY, WITH A VALUE OF FIFTY DOLLARS OR MORE;

(c) ANY LOAN OF ANY ITEM OF REAL OR PERSONAL PROPERTY, OTHER THAN MONEY, IF THE VALUE OF THE LOAN IS FIFTY DOLLARS OR MORE. FOR SUCH PURPOSE, THE "VALUE OF THE LOAN" MEANS THE COST SAVED OR AVOIDED BY THE INCUMBENT OR ELECTED CANDIDATE BY NOT BORROWING, LEASING, OR PURCHASING COMPARABLE PROPERTY FROM A SOURCE AVAILABLE TO THE GENERAL PUBLIC;

(d) ANY PAYMENT FOR A SPEECH, APPEARANCE, OR PUBLICATION;

(e) TICKETS TO SPORTING, RECREATIONAL, EDUCATIONAL, OR CULTURAL EVENTS WITH A VALUE OF FIFTY DOLLARS OR MORE FOR ANY SINGLE EVENT, OR A SERIES OF TICKETS TO SPORTING EVENTS OF A SPECIFIC TEAM SCHEDULED DURING A SEASON WITH A TOTAL VALUE OF ONE HUNDRED DOLLARS OR MORE, OR A SERIES OF TICKETS TO CULTURAL EVENTS OF A SPECIFIC PERFORMING COMPANY OR ORGANIZATION WITH A TOTAL VALUE OF ONE HUNDRED DOLLARS OR MORE;

(f) PAYMENT OF OR REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENDITURES FOR TRAVEL AND LODGING FOR ATTENDANCE AT A CONVENTION OR OTHER MEETING AT WHICH THE INCUMBENT OR ELECTED CANDIDATE IS SCHEDULED TO PARTICIPATE, UNLESS THE PAYMENT OF OR REIMBURSEMENT FOR SUCH EXPENDITURES IS MADE FROM PUBLIC FUNDS, FROM THE FUNDS OF AN ORGANIZATION DECLARED TO BE A JOINT GOVERNMENTAL AGENCY BY SECTION 2-3-311, C.R.S., OR FROM THE FUNDS OF ANY ASSOCIATION OF PUBLIC OFFICIALS OR PUBLIC ENTITIES WHOSE MEMBERSHIP INCLUDES THE INCUMBENT'S OR ELECTED CANDIDATE'S OFFICE OR THE GOVERNMENTAL ENTITY IN WHICH SUCH OFFICE IS HELD.

(4) THE REPORT REQUIRED BY SUBSECTION (2) OF THIS SECTION NEED NOT INCLUDE

THE FOLLOWING:

(a) A CONTRIBUTION OR CONTRIBUTION IN KIND THAT HAS ALREADY BEEN REPORTED PURSUANT TO SECTION 1-45-108, C.R.S.;

(b) ANY ITEM OF PERISHABLE OR NONPERMANENT VALUE, INCLUDING BUT NOT LIMITED TO MEALS, UNLESS SUCH ITEM IS REQUIRED TO BE REPORTED UNDER SUBSECTION (3) (e) OF THIS SECTION;

(c) A NONPECUNIARY AWARD PUBLICLY PRESENTED BY AN ORGANIZATION IN RECOGNITION OF PUBLIC SERVICE;

(d) PAYMENT OF OR REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENDITURES FOR TRAVEL AND LODGING FOR ATTENDANCE AT A CONVENTION OR OTHER MEETING AT WHICH THE INCUMBENT OR ELECTED CANDIDATE IS SCHEDULED TO PARTICIPATE, IF THE PAYMENT OF OR REIMBURSEMENT FOR SUCH EXPENDITURES IS MADE FROM PUBLIC FUNDS, FROM THE FUNDS OF AN ORGANIZATION DECLARED TO BE A JOINT GOVERNMENTAL AGENCY BY SECTION 2-3-311, C.R.S., OR FROM THE FUNDS OF ANY ASSOCIATION OF PUBLIC OFFICIALS OR PUBLIC ENTITIES WHOSE MEMBERSHIP INCLUDES THE INCUMBENT'S OR ELECTED CANDIDATE'S OFFICE OR THE GOVERNMENTAL ENTITY IN WHICH SUCH OFFICE IS HELD;

(e) PAYMENT OF SALARY FROM EMPLOYMENT, INCLUDING OTHER GOVERNMENT EMPLOYMENT, IN ADDITION TO THAT EARNED FROM BEING A MEMBER OF THE GENERAL ASSEMBLY OR BY REASON OF SERVICE IN OTHER PUBLIC OFFICE.

(5) ANY PERSON WHO PROVIDES AN INCUMBENT OR ELECTED CANDIDATE WITH ANY ITEM REQUIRED TO BE REPORTED BY THE INCUMBENT OR ELECTED CANDIDATE PURSUANT TO THIS SECTION SHALL, AT THE TIME THE ITEM IS PROVIDED, FURNISH THE RECIPIENT WITH A WRITTEN STATEMENT OF THE DOLLAR VALUE OF THE ITEM.

(6) NOTHING CONTAINED IN THIS SECTION SHALL RELIEVE ANY PERSON FROM THE DISCLOSURE REQUIREMENTS OF PART 3 OF ARTICLE 6 OF THIS TITLE, RELATING TO THE REGULATION OF LOBBYISTS.

(7) ANY PERSON WHO WILLFULLY FILES A FALSE OR INCOMPLETE REPORT PURSUANT TO THIS SECTION, WHO WILLFULLY FAILS TO FILE THE REPORT REQUIRED BY THIS SECTION, OR WHO WILLFULLY FAILS TO PROVIDE THE STATEMENT OF VALUE REQUIRED BY SUBSECTION (5) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS.

**SECTION 4.** 24-18-104 (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended, and the said 24-18-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**24-18-104. Rules of conduct for all public officers, members of the general assembly, local government officials, and employees.** (3) The following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:

(a) Campaign contributions AND CONTRIBUTIONS IN KIND reported as required by section 1-45-108, C.R.S.;

(b) An occasional nonpecuniary gift, insignificant in value;

(c) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;

(d) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public officer, member of the general assembly, local government official, or employee is scheduled to participate;

(e) Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such public officer, member of the general assembly, local government official, or employee which is not extraordinary when viewed in light of the position held by such public officer, member of the general assembly, local government official, or employee;

(f) Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, recreational, educational, or cultural events;

(g) Payment for speeches, appearances, or ~~articles~~ PUBLICATIONS reported as ~~honoraria~~ PURSUANT TO SECTION 24-6-203;

(h) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office.

(4) THE PROVISIONS OF THIS SECTION ARE DISTINCT FROM AND IN ADDITION TO THE REPORTING REQUIREMENTS OF SECTION 1-45-108, C.R.S., AND SECTION 24-6-203, AND DO NOT RELIEVE AN INCUMBENT IN OR ELECTED CANDIDATE TO PUBLIC OFFICE FROM REPORTING AN ITEM DESCRIBED IN SUBSECTION (3) OF THIS SECTION, IF SUCH REPORTING PROVISIONS APPLY.

**SECTION 5. Effective date - applicability.** This act shall take effect January 1, 1995, and shall apply to offenses committed on or after said date.

**SECTION 6. 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.

Approved: June 1, 1994