

CHAPTER 338

ELECTIONS

HOUSE BILL 24-1283

BY REPRESENTATIVE(S) Willford and Marvin, Bacon, Brown, Clifford, Epps, Froelich, Garcia, Jodeh, Joseph, Kipp, Lindsay, Mabrey, Ortiz, Parenti, Ricks, Rutinel, Vigil, Weissman;
also SENATOR(S) Mullica, Cutter, Exum, Hansen, Hinrichsen, Priola, Winter F.

AN ACT

CONCERNING A REQUIREMENT THAT THE SECRETARY OF STATE REVIEW A CAMPAIGN FINANCE COMPLAINT THAT ARISES OUT OF A MUNICIPAL CAMPAIGN FINANCE MATTER UNDER CERTAIN CIRCUMSTANCES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 1-45-111.7, **repeal** (9)(b); and **add** (10) as follows:

1-45-111.7. Campaign finance complaints - initial review - curing violations - investigation and enforcement - hearings - advisory opinions - document review - collection of debts resulting from campaign finance penalties - definitions. (9) **Debt collection.** (b) ~~Any complaint arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the applicable municipality.~~

(10) **Municipal complaints.** (a) A COMPLAINT ALLEGING THAT A VIOLATION OF ARTICLE XXVIII OF THE STATE CONSTITUTION, THIS ARTICLE 45, OR THE RULES HAS OCCURRED IN CONNECTION WITH A MUNICIPAL CAMPAIGN FINANCE MATTER MUST BE FILED WITH THE CLERK OF THE APPLICABLE MUNICIPALITY. UNLESS OTHERWISE PROVIDED BY LOCAL LAW, A COMPLAINANT MUST FILE THE COMPLAINT IN WRITING, SIGN THE COMPLAINT, AND IDENTIFY ONE OR MORE RESPONDENTS. THE COMPLAINT SHALL BE FILED AND PROCESSED IN ACCORDANCE WITH LOCAL LAW UNLESS REFERRED TO THE SECRETARY AS SPECIFIED IN SUBSECTION (10)(c)(I) OR (10)(c)(II) OF THIS SECTION.

(b) THE CLERK SHALL CONDUCT AN INITIAL REVIEW OF A CAMPAIGN FINANCE COMPLAINT WITHIN TEN BUSINESS DAYS OF RECEIVING THE COMPLAINT OR WITHIN

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

THE TIME SPECIFIED IN LOCAL LAW TO DETERMINE WHETHER THE COMPLAINT SATISFIES THE REQUIREMENTS OF SUBSECTION (10)(a) OF THIS SECTION OR THE REQUIREMENTS OF LOCAL LAW, AS APPLICABLE. IF, AFTER INITIALLY REVIEWING A COMPLAINT PURSUANT TO THIS SUBSECTION (10)(b), THE CLERK DETERMINES THAT A COMPLAINT DOES NOT SATISFY THE REQUIREMENTS OF SUBSECTION (10)(a) OF THIS SECTION, THE CLERK SHALL DISMISS THE COMPLAINT.

(c) (I) IF, AFTER INITIALLY REVIEWING A CAMPAIGN FINANCE COMPLAINT PURSUANT TO SUBSECTION (10)(b) OF THIS SECTION, THE CLERK DETERMINES THAT THE COMPLAINT SATISFIES THE REQUIREMENTS OF SUBSECTION (10)(a) OF THIS SECTION AND LOCAL LAW, AS APPLICABLE, BUT PRESENTS AN ACTUAL OR POTENTIAL CONFLICT FOR THE CLERK OR THE CLERK'S STAFF, THE CLERK SHALL REFER THE COMPLAINT TO THE SECRETARY, IN A FORM AND MANNER DETERMINED BY THE SECRETARY, WITHIN FOURTEEN BUSINESS DAYS OF RECEIVING THE COMPLAINT IF THE MUNICIPALITY HAS ADOPTED AN ORDINANCE THAT AUTHORIZES THE MUNICIPALITY TO REFER A CAMPAIGN FINANCE COMPLAINT TO THE SECRETARY BASED ON AN ACTUAL OR POTENTIAL CONFLICT OF THE CLERK OR THE CLERK'S STAFF, AS DETERMINED IN WRITING BY THE CLERK.

(II) IF THE CLERK OF A STATUTORY MUNICIPALITY THAT DOES NOT HAVE A CAMPAIGN FINANCE COMPLAINT AND HEARING PROCESS DETERMINES, AFTER INITIALLY REVIEWING A CAMPAIGN FINANCE COMPLAINT PURSUANT TO SUBSECTION (10)(b) OF THIS SECTION, THAT A COMPLAINT SATISFIES THE REQUIREMENTS OF SUBSECTION (10)(a) OF THIS SECTION, THE CLERK SHALL REFER THE COMPLAINT TO THE SECRETARY, IN A FORM AND MANNER DETERMINED BY THE SECRETARY, WITHIN FOURTEEN BUSINESS DAYS OF RECEIVING THE COMPLAINT IF THE MUNICIPALITY HAS ADOPTED AN ORDINANCE THAT AUTHORIZES THE MUNICIPALITY TO REFER A CAMPAIGN FINANCE COMPLAINT TO THE SECRETARY BECAUSE THE MUNICIPALITY DOES NOT HAVE A CAMPAIGN FINANCE COMPLAINT AND HEARING PROCESS.

(d) TO REFER A CAMPAIGN FINANCE COMPLAINT TO THE SECRETARY PURSUANT TO THIS SUBSECTION (10), A MUNICIPALITY MUST HAVE AN ORDINANCE THAT AUTHORIZES THE MUNICIPALITY TO REFER SUCH A COMPLAINT TO THE SECRETARY AND MUST PROVIDE A COPY OF THE ORDINANCE TO THE SECRETARY. A MUNICIPALITY IS NOT AUTHORIZED TO REFER A CAMPAIGN FINANCE COMPLAINT TO THE SECRETARY PURSUANT TO THIS SUBSECTION (10) FOR AN ELECTION THAT IS FEWER THAN ONE HUNDRED AND EIGHTY DAYS AFTER THE ORDINANCE IS PROVIDED TO THE SECRETARY. A MUNICIPAL ORDINANCE THAT AUTHORIZES THE A MUNICIPALITY TO REFER A CAMPAIGN FINANCE COMPLAINT TO THE SECRETARY MUST:

(I) AUTHORIZE THE SECRETARY TO USE THE PROVISIONS OF SUBSECTIONS (3) TO (7) OF THIS SECTION TO PROCESS, INVESTIGATE, AND RESOLVE THE CAMPAIGN FINANCE COMPLAINT; EXCEPT THAT THE DETERMINATION OF WHETHER THE COMPLAINT WAS TIMELY FILED PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION SHALL CONSIDER THE TIME FOR FILING A COMPLAINT UNDER LOCAL LAW;

(II) PERMIT THE FILING OF A CAMPAIGN FINANCE COMPLAINT NO MORE THAN ONE HUNDRED EIGHTY DAYS AFTER THE DATE ON WHICH THE COMPLAINANT EITHER KNEW OR SHOULD HAVE KNOWN, BY THE EXERCISE OF REASONABLE DILIGENCE, OF THE ALLEGED VIOLATION;

(III) REQUIRE THE FILING OF A CAMPAIGN FINANCE COMPLAINT TO BE IN WRITING AND SIGNED BY THE COMPLAINANT ON A FORM PROVIDED BY THE SECRETARY, INCLUDING IDENTIFICATION OF ONE OR MORE RESPONDENTS AND INCLUDING THE INFORMATION REQUIRED TO BE PROVIDED ON THE FORM;

(IV) DIRECT THE MUNICIPALITY TO COOPERATE WITH THE SECRETARY IN THE PROCESSING AND INVESTIGATION OF THE CAMPAIGN FINANCE COMPLAINT; AND

(V) DISCLAIM ANY INTEREST OF THE MUNICIPALITY IN FINES COLLECTED IN CONNECTION WITH A REFERRED CAMPAIGN FINANCE COMPLAINT.

(e) UPON DISMISSING A COMPLAINT OR REFERRING A COMPLAINT TO THE SECRETARY PURSUANT TO THIS SECTION, THE CLERK SHALL NOTIFY THE COMPLAINANT OF THE CLERK'S ACTION BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE.

(f) A MUNICIPALITY MUST COOPERATE WITH THE SECRETARY IN THE REVIEW, INVESTIGATION, AND DETERMINATION OF ANY CAMPAIGN FINANCE COMPLAINT REFERRED TO THE SECRETARY PURSUANT TO THIS SECTION.

(g) IF THE SECRETARY RECEIVES A CAMPAIGN FINANCE COMPLAINT REFERRED BY A CLERK PURSUANT TO SUBSECTION (10)(c)(I) OR (10)(c)(II) OF THIS SECTION, THE SECRETARY SHALL DEEM THE COMPLAINT FILED PURSUANT TO SUBSECTION (2) OF THIS SECTION ON THE DATE OF RECEIPT FROM THE CLERK, AND THE SECRETARY SHALL ENSURE THAT THE COMPLAINT IS ADDRESSED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. THE DETERMINATION THAT A CONFLICT EXISTS IS NOT REVIEWABLE BY THE SECRETARY.

(h) THE SECRETARY SHALL APPLY THE SUBSTANTIVE PROVISIONS OF A HOME RULE MUNICIPALITY'S LOCAL LAW IN PROCESSING, INVESTIGATING, AND RESOLVING A CAMPAIGN FINANCE COMPLAINT REFERRED TO THE SECRETARY PURSUANT TO THIS SECTION.

(i) ALL FINES COLLECTED IN CONNECTION WITH A REFERRED CAMPAIGN FINANCE COMPLAINT ARE PAYABLE TO THE SECRETARY.

(j) THE ADOPTION OF A LOCAL LAW AUTHORIZING THE REFERRAL OF A CAMPAIGN FINANCE COMPLAINT TO THE SECRETARY PURSUANT TO THIS SECTION IS NOT A WAIVER OF THE APPLICATION OF ANY PROVISIONS OF ARTICLE XX OR XXVIII OF THE STATE CONSTITUTION OR SECTION 1-45-116. NOTHING IN THIS SUBSECTION (10) REQUIRES A MUNICIPALITY TO REPEAL AN ORDINANCE OR RESOLUTION ESTABLISHING A CAMPAIGN FINANCE COMPLAINT AND HEARING PROCESS.

(k) AS USED IN THIS SUBSECTION (10):

(I) "CONFLICT" MEANS THE ACTUAL OR REASONABLY PERCEIVED INABILITY TO PROCESS A CAMPAIGN FINANCE COMPLAINT OR IMPOSE A REMEDY IN A FAIR AND IMPARTIAL MANNER, INCLUDING AN ACTUAL OR REASONABLY PERCEIVED BIAS OR OTHER FACTORS THAT MAY IMPACT THE INDEPENDENCE OF THE DECISION-MAKER REGARDING THE COMPLAINANT OR A CANDIDATE.

(II) "CLERK" MEANS THE CLERK OF A MUNICIPALITY OR THE PERSON OR ENTITY DESIGNATED TO REVIEW CAMPAIGN FINANCE COMPLAINTS UNDER A LOCAL LAW.

(III) "LOCAL LAW" MEANS A MUNICIPAL CHARTER, ORDINANCE, OR RESOLUTION THAT ADDRESS THE MATTERS COVERED BY ARTICLE XXVIII OF THE STATE CONSTITUTION AND THIS ARTICLE 45.

SECTION 2. Appropriation. (1) For the 2024-25 state fiscal year, \$170,723 is appropriated to the department of state. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$27,669 for use by the administration division for personal services, which amount is based on an assumption that the division will require an additional 0.2 FTE;

(b) \$100 for use by the administration division for operating expenses;

(c) \$120,356 for use by the elections division for personal services, which amount is based on an assumption that the division will require an additional 2.0 FTE;

(d) \$15,950 for use by the elections division for operating expenses; and

(e) \$6,648 for use by the information technology division for operating expenses.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to municipal campaign finance complaints filed on or after the applicable effective date of this act.

Approved: June 3, 2024