

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0625.01 Bob Lackner x4350

SENATE BILL 16-106

SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

Salazar,

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO FACILITATE THE EFFICIENT**
102 **ADMINISTRATION OF COLORADO LAWS GOVERNING CAMPAIGN**
103 **FINANCE, AND, IN CONNECTION THEREWITH, MAKING AND**
104 **REDUCING AN APPROPRIATION.**

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 does the following to facilitate the administration of Colorado laws governing campaign finance:

! **Section 1** modifies the definition of "limited liability

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.

company" in the "Fair Campaign Practices Act".

! **Section 2** authorizes the secretary of state to appoint and designate persons to serve as administrative law judges (ALJ) in connection with any complaint alleging a violation of the campaign finance laws that is referred to such ALJ, and specifies procedures by which ALJ appointments are to be made. The bill further specifies minimum requirements and powers and duties for a person appointed to be an ALJ. Not later than January 1, 2017, the secretary is required to establish and maintain a program to train these ALJs to undertake their powers and duties.

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

2

3 SECTION 1. In Colorado Revised Statutes, 1-45-111.5, **add** (5)
4 as follows:

5 **1-45-111.5. Duties of the secretary of state - enforcement -**
6 **sanctions - appointment of administrative law judges to hear**
7 **campaign finance complaints.** (5) THE SECRETARY OF STATE SHALL
8 APPOINT AND DESIGNATE PERSONS TO SERVE AS ADMINISTRATIVE LAW
9 JUDGES WITH RESPECT TO ANY COMPLAINT THAT IS FILED ALLEGING A
10 VIOLATION OF ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS
11 ARTICLE. THE SECRETARY OF STATE SHALL APPOINT THE ADMINISTRATIVE
12 LAW JUDGES IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN
13 SECTION 24-30-1004, C.R.S.

14 SECTION 2. In Colorado Revised Statutes, **add** 24-30-1004 as
15 follows:

16 24-30-1004. Appointment by secretary of state of
17 **administrative law judges to hear campaign finance complaints.**
18 (1) (a) THE SECRETARY OF STATE SHALL APPOINT AND DESIGNATE
19 PERSONS, IN ACCORDANCE WITH THIS SUBSECTION (1), TO SERVE AS

1 ADMINISTRATIVE LAW JUDGES WITH RESPECT TO ANY COMPLAINT THAT IS
2 FILED ALLEGING A VIOLATION OF ARTICLE XXVIII OF THE STATE
3 CONSTITUTION OR ARTICLE 45 OF TITLE 1, C.R.S. THE SECRETARY OF
4 STATE SHALL APPOINT THE ADMINISTRATIVE LAW JUDGES IN THE
5 FOLLOWING MANNER:

6 (I) NOT LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF
7 THIS SUBSECTION (1), THE SECRETARY OF STATE SHALL APPOINT TWO
8 PERSONS WHO WILL COMPRISE A RECOMMENDATIONS COMMITTEE TO
9 ASSIST HIM OR HER IN APPOINTING PERSONS AS ADMINISTRATIVE LAW
10 JUDGES UNDER THIS SUBSECTION (1). EACH APPOINTEE TO THE
11 RECOMMENDATIONS COMMITTEE MUST HAVE BEEN AFFILIATED FOR AT
12 LEAST FIVE YEARS WITH A MAJOR POLITICAL PARTY. THE TWO MEMBERS
13 OF THE RECOMMENDATIONS COMMITTEE SHALL NOT BE AFFILIATED WITH
14 THE SAME MAJOR POLITICAL PARTY.

15 (II) NOT LATER THAN THIRTY DAYS AFTER THEIR APPOINTMENT BY
16 THE SECRETARY OF STATE, THE MEMBERS OF THE RECOMMENDATIONS
17 COMMITTEE SHALL SOLICIT, BY MEANS OF A NOTICE PLACED ON THE
18 WEBSITE OF THE SECRETARY, A LIST OF CANDIDATES TO BE CONSIDERED
19 FOR APPOINTMENT AS AN ADMINISTRATIVE LAW JUDGE.

20 (III) NOT LATER THAN THIRTY DAYS AFTER THE POSTING OF THE
21 NOTICE REQUIRED BY SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE
22 RECOMMENDATIONS COMMITTEE SHALL POST ON THE WEBSITE OF THE
23 SECRETARY OF STATE A LIST OF THE CANDIDATES TO BE CONSIDERED FOR
24 APPOINTMENT AS AN ADMINISTRATIVE LAW JUDGE. BY ADDITIONAL
25 NOTICE PLACED ON THE WEBSITE, THE RECOMMENDATIONS COMMITTEE
26 SHALL ALSO REQUEST PUBLIC COMMENTS ON THE CANDIDATES LISTED.
27 THE SECRETARY SHALL POST PUBLIC COMMENTS ON THE SECRETARY'S

1 WEBSITE.

2 (IV) NOT LATER THAN THIRTY DAYS AFTER THE POSTING OF THE
3 NOTICE REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH (a)
4 REQUESTING PUBLIC COMMENTS, THE RECOMMENDATIONS COMMITTEE
5 SHALL RECOMMEND TO THE SECRETARY OF STATE TWO CANDIDATES FOR
6 EACH OPENING FOR APPOINTMENT AS AN ADMINISTRATIVE LAW JUDGE
7 EXCEPT THAT, FOR THE INITIAL APPOINTMENT, THE COMMITTEE SHALL
8 RECOMMEND FIVE CANDIDATES FOR APPOINTMENT.

9 (V) NOT LATER THAN THIRTY DAYS AFTER THE
10 RECOMMENDATIONS COMMITTEE SUBMITS ITS RECOMMENDATIONS TO THE
11 SECRETARY OF STATE PURSUANT TO SUBPARAGRAPH (IV) OF THIS
12 PARAGRAPH (a), THE SECRETARY SHALL APPOINT THREE PERSONS FROM
13 THE LIST OF CANDIDATES SUBMITTED BY THE RECOMMENDATIONS
14 COMMITTEE TO SERVE AS AN ADMINISTRATIVE LAW JUDGE. OF THE THREE
15 PERSONS APPOINTED INITIALLY, THE TERM OF OFFICE OF ONE PERSON
16 APPOINTED WILL BE TWO YEARS, THE TERM OF OFFICE OF ONE PERSON
17 APPOINTED WILL BE THREE YEARS, AND THE TERM OF OFFICE OF ONE
18 PERSON APPOINTED WILL BE FOUR YEARS. AFTER THE INITIAL THREE
19 APPOINTMENTS ARE MADE, THE TERM OF OFFICE OF PERSONS APPOINTED
20 AS AN ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS SUBSECTION (1) IS
21 THREE YEARS.

22 (b) EACH ADMINISTRATIVE LAW JUDGE APPOINTED IN
23 ACCORDANCE WITH THE PROCEDURES SPECIFIED IN PARAGRAPH (a) OF THIS
24 SUBSECTION (1) MUST BE AN ATTORNEY WITH AT LEAST FIVE YEARS OF
25 EXPERIENCE IN THE PRACTICE OF LAW.

26 (c) IF AT ANY TIME THE TWO MEMBERS OF THE RECOMMENDATIONS
27 COMMITTEE ARE NOT ABLE TO AGREE ON A LIST OF THREE CANDIDATES TO

1 RECOMMEND TO THE SECRETARY OF STATE AS REQUIRED BY
2 SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (1). THE
3 SECRETARY SHALL DISCHARGE THE EXISTING RECOMMENDATIONS
4 COMMITTEE AND APPOINT A NEW RECOMMENDATIONS COMMITTEE
5 FOLLOWING THE SAME PROCEDURES AS SPECIFIED IN SUBPARAGRAPH (I) OF
6 PARAGRAPH (a) OF THIS SUBSECTION (1).

7 (d) EACH ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO
8 THIS SUBSECTION (1) IS AUTHORIZED TO ADMINISTER OATHS, EXAMINE
9 WITNESSES, ISSUE SUBPOENAS, RECEIVE EVIDENCE, CONDUCT HEARINGS,
10 AND EXERCISE ANY OTHER POWERS AND DUTIES THAT ARE DELEGATED TO
11 ADMINISTRATIVE LAW JUDGES UNDER ARTICLE XXVIII OF THE STATE
12 CONSTITUTION OR THIS ARTICLE.

13 (e) NOT LATER THAN JANUARY 1, 2017, THE SECRETARY OF STATE
14 SHALL ESTABLISH AND MAINTAIN A PROGRAM TO TRAIN ADMINISTRATIVE
15 LAW JUDGES APPOINTED PURSUANT TO PARAGRAPH (a) OF THIS
16 SUBSECTION (1) TO UNDERTAKE THEIR POWERS AND DUTIES AS PROVIDED
17 BY LAW. THE TRAINING PROGRAM MUST BE APPROVED BY THE
18 RECOMMENDATIONS COMMITTEE.

19 **SECTION 3.** In Colorado Revised Statutes, 24-30-1003, **amend**
20 (1) as follows:

21 **24-30-1003. Administrative law judges - appointment -**
22 **qualifications - standards of conduct.** (1) The executive director of the
23 department of personnel may appoint such administrative law judges
24 except those employed pursuant to ~~sections 24-50-103 (7) and 40-2-104~~
25 SECTIONS 24-10-1004, 24-50-103 (7), AND 40-2-104, C.R.S., as may be
26 necessary to provide services to each state agency, except the
27 DEPARTMENT OF STATE, THE state personnel board, and the public utilities

1 commission, entitled to use administrative law judges. Administrative law
2 judges shall be appointed in accordance with the provisions of section 13
3 of article XII of the state constitution and the laws and rules governing
4 the state personnel system.

5 **SECTION 4. Appropriation - adjustments to 2016 long bill.**

6 (1) To implement this act, the cash funds appropriation made in the
7 annual general appropriation act for the 2016-17 state fiscal year to the
8 department of state for administrative law judge services is decreased by
9 \$122,805. This appropriation is from the department of state cash fund
10 created in section 24-21-104 (3) (b), C.R.S.

11 (2) For the 2016-17 state fiscal year, \$122,765 is appropriated to
12 the department of state for use by the administration division. This
13 appropriation is from the department of state cash fund created in section
14 24-21-104 (3) (b), C.R.S. To implement this act, the division may use this
15 appropriation as follows:

16 (a) \$116,387 for personal services, which amount is based on an
17 assumption that the division will require an additional 0.5 FTE; and

18 (b) \$6,378 for operating expenses.

19 **SECTION 5. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2016 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.