

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-1032.02 Pierce Lively x2059

SENATE BILL 22-237

SENATE SPONSORSHIP

Fenberg and Holbert,

HOUSE SPONSORSHIP

Kennedy and Larson,

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO PROMOTE INCREASED TRANSPARENCY OF
102 FUNDS USED IN BALLOT MEASURE CAMPAIGNS, AND, IN
103 CONNECTION THEREWITH, MAKING 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://leg.colorado.gov>.)

The bill expands the definition of "earmark" for purposes of the "Fair Campaign Practices Act" to include contributions or expenditures greater than \$1,000 to support or oppose a specified ballot issue or ballot question.

Further, the bill modifies the process to determine whether an

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
May 4, 2022

organization is an issue committee to include an examination of the organization's pattern of conduct based upon whether the organization:

- During the combined period of the entire preceding and current calendar years, made either contributions to one or more Colorado issue committees or direct ballot issue or ballot question expenditures, in either support of or opposition to one or more ballot issues or ballot questions, that exceeded 30% of the total expenditures by the organization for any purpose and in any location during the entire preceding and current calendar years;
- During the combined period of the entire preceding and current calendar years, made either contributions to a single Colorado issue committee or direct ballot issue or ballot question expenditures, in either support of or opposition to a single ballot issue or ballot question, that exceeded 20% of the total expenditures by the organization for any purpose and in any location; or
- Acted as an issue committee's funding intermediary by making contributions to an issue committee from funds earmarked for the issue committee.

Further, the bill defines "direct ballot issue or ballot question expenditure" as the spending of over \$5,000 in a calendar year in either support of or opposition to any single ballot issue or ballot question by a person who does not otherwise meet the requirements of an issue committee. Any person who makes a direct ballot issue or ballot question expenditure must report to the secretary of state and must disclose their name in certain communications about a ballot issue or ballot question.

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

2 **SECTION 1.** In Colorado Revised Statutes, 1-45-103, **amend**
3 (7.5) and (12)(b)(II); and **add** (7.2) as follows:

4 **1-45-103. Definitions - repeal.** As used in this article 45, unless
5 the context otherwise requires:

6 (7.2) "DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURE"
7 MEANS DIRECT SPENDING IN SUPPORT OF OR OPPOSITION TO ANY SINGLE
8 BALLOT ISSUE OR BALLOT QUESTION BY A PERSON WHO DOES NOT
9 OTHERWISE MEET THE REQUIREMENTS OF AN ISSUE COMMITTEE.
10 CONTRIBUTIONS TO AN ISSUE COMMITTEE ARE NOT DIRECT BALLOT ISSUE

1 OR BALLOT QUESTION EXPENDITURES.

2 (7.5) "Earmark" means a designation, instruction, or encumbrance
3 that directs the transmission and use by the recipient of all or part of a
4 donation to a third party for the purpose of making: ~~one or more~~
5 ~~independent expenditures or electioneering communications in excess of~~
6 ~~one thousand dollars.~~

7 (a) INDEPENDENT EXPENDITURES GREATER THAN ONE THOUSAND
8 DOLLARS TO SUPPORT OR OPPOSE A SPECIFIED CANDIDATE;

9 (b) ELECTIONEERING COMMUNICATIONS GREATER THAN ONE
10 THOUSAND DOLLARS; OR

11 (c) CONTRIBUTIONS OR EXPENDITURES GREATER THAN ONE
12 THOUSAND DOLLARS TO SUPPORT OR OPPOSE A SPECIFIED BALLOT ISSUE OR
13 BALLOT QUESTION.

14 (12) (b) For purposes of section 2 (10)(a)(I) of article XXVIII of
15 the state constitution, "major purpose" means support of or opposition to
16 a ballot issue or ballot question that is reflected by:

17 (II) An organization's demonstrated pattern of conduct based upon
18 its IT:

19 (A) ~~Annual expenditures in support of or opposition to a ballot~~
20 ~~issue or ballot question; or~~

21 (B) ~~Production or funding, or both, of written or broadcast~~
22 ~~communications, or both, in support of or opposition to a ballot issue or~~
23 ~~ballot question.~~

24 (C) DURING THE COMBINED PERIOD OF THE CURRENT CALENDAR
25 YEAR AND THE PRECEDING TWO CALENDAR YEARS, MAKING EITHER
26 CONTRIBUTIONS TO ONE OR MORE STATEWIDE COLORADO ISSUE
27 COMMITTEES OR DIRECT BALLOT ISSUE OR BALLOT QUESTION

1 EXPENDITURES, IN EITHER SUPPORT OF OR OPPOSITION TO ONE OR MORE
2 STATEWIDE COLORADO BALLOT ISSUES OR BALLOT QUESTIONS, THAT
3 EXCEEDED THIRTY PERCENT OF THE TOTAL DOLLAR AMOUNT OF ALL FUNDS
4 SPENT BY THE ORGANIZATION FOR ANY PURPOSE AND IN ANY LOCATION
5 DURING THE ENTIRE PRECEDING AND CURRENT CALENDAR YEARS;

6 (D) DURING THE COMBINED PERIOD OF THE CURRENT CALENDAR
7 YEAR AND THE PRECEDING TWO CALENDAR YEARS, MAKING EITHER
8 CONTRIBUTIONS TO A SINGLE STATEWIDE COLORADO ISSUE COMMITTEE OR
9 DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURES, IN EITHER
10 SUPPORT OF OR OPPOSITION TO A SINGLE STATEWIDE COLORADO BALLOT
11 ISSUE OR BALLOT QUESTION, THAT EXCEEDED TWENTY PERCENT OF THE
12 TOTAL DOLLAR AMOUNT OF ALL FUNDS SPENT BY THE ORGANIZATION FOR
13 ANY PURPOSE AND IN ANY LOCATION; OR

14 (E) ACTING AS AN ISSUE COMMITTEE'S FUNDING INTERMEDIARY BY
15 MAKING CONTRIBUTIONS TO AN ISSUE COMMITTEE FROM FUNDS
16 EARMARKED FOR THE ISSUE COMMITTEE.

17 **SECTION 2.** In Colorado Revised Statutes, 1-45-108, **add**
18 (1)(a)(VI) as follows:

19 **1-45-108. Disclosure - definitions - repeal.** (1) (a) (VI) ANY
20 PERSON, AFTER EXPENDING FIVE THOUSAND DOLLARS IN AGGREGATE IN A
21 CALENDAR YEAR ON DIRECT BALLOT ISSUE OR BALLOT QUESTION
22 EXPENDITURES, SHALL, FOR EACH ADDITIONAL EXPENDITURE OF ONE
23 THOUSAND DOLLARS OR MORE, REPORT TO THE SECRETARY OF STATE IN
24 ACCORDANCE WITH THE DISCLOSURE REQUIRED BY THIS SECTION: THE
25 AMOUNT OF THE EXPENDITURE, THE PURPOSE FOR WHICH THE
26 EXPENDITURE WAS MADE, THE DATE OF THE EXPENDITURE, NAME AND
27 ADDRESS OF THE PAYEE, AND THE BALLOT QUESTION OR BALLOT ISSUE

1 SUPPORTED OR OPPOSED. SUCH A REPORT MUST BE FILED WITH THE
2 SECRETARY OF STATE NO LATER THAN FORTY-EIGHT HOURS AFTER THE
3 DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURE WAS MADE.

4 **SECTION 3.** In Colorado Revised Statutes, 1-45-108.3, **add** (4)
5 as follows:

6 **1-45-108.3. Disclaimer statement - committees - electioneering**
7 **communications - direct ballot issue or ballot question expenditures.**

8 (4) ANY PERSON WHO MAKES A DIRECT BALLOT ISSUE OR BALLOT
9 QUESTION EXPENDITURE SHALL, PURSUANT TO SECTION 1-45-107.5 (5),
10 STATE THEIR NAME IN ANY COMMUNICATION THAT IS BROADCAST,
11 PRINTED, MAILED, OR DELIVERED; PLACED ON A WEBSITE, STREAMING
12 MEDIA SERVICE, OR ONLINE FORUM FOR A FEE; OR THAT IS OTHERWISE
13 DISTRIBUTED TO PERSONS WHO ARE ELIGIBLE TO VOTE ON THE BALLOT
14 ISSUE OR BALLOT QUESTION AND IS PRODUCED OR FUNDED, EITHER IN
15 WHOLE OR IN PART, BY THE PERSON WHO MADE THE DIRECT BALLOT ISSUE
16 OR BALLOT QUESTION EXPENDITURE.

17 **SECTION 4. Appropriation. (1)(a) For the 2021-22 state fiscal**
18 **year, \$30,000 is appropriated to the department of state for use by the**
19 **information technology division. This appropriation is from the**
20 **department of state cash fund created in section 24-21-104 (3)(b) C.R.S.**
21 **To implement this act, the department may use this appropriation for**
22 **information technology personal services.**

23 **(b) Any money appropriated in this subsection (1)(a) not expended**
24 **prior to July 1, 2022 is further appropriated to the department for the**
25 **2022-23 state fiscal year for the same purpose.**

26 **(2) For the 2022-23 state fiscal year, \$14,309 is appropriated to**
27 **the department of state for use by the election division. This appropriation**

1 is from the department of state cash fund created in section 24-21-104
2 (3)(b) C.R.S., and is based on an assumption that the division will require
3 an additional 0.3 FTE. To implement this act, the department may use this
4 appropriation for personal services.

5 **SECTION 5. Effective date - applicability.** This act takes effect
6 upon passage; except that section 2 of this act takes effect September 1,
7 2022.

8 **SECTION 6. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.