

CHAPTER 400

ELECTIONS

SENATE BILL 22-237

BY SENATOR(S) Fenberg and Holbert, Bridges, Buckner, Danielson, Donovan, Fields, Ginal, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Moreno, Pettersen, Priola, Scott, Simpson, Sonnenberg, Story, Winter, Woodward, Zenzinger;
also REPRESENTATIVE(S) Kennedy and Larson, Bacon, Bernett, Bird, Boesenecker, Duran, Froelich, Herod, Hooton, Jodeh, Kipp, Lindsay, McCluskie, Mullica, Ricks, Roberts, Snyder, Titone, Valdez A., Young.

AN ACT

CONCERNING MEASURES TO PROMOTE INCREASED TRANSPARENCY OF FUNDS USED IN BALLOT MEASURE CAMPAIGNS, 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, 1-45-103, **amend** (7.5) and (12)(b)(II); and **add** (7.2) as follows:

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

(7.2) "DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURE" MEANS DIRECT SPENDING IN 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. CONTRIBUTIONS TO AN ISSUE COMMITTEE ARE NOT DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURES.

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

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

(b) ELECTIONEERING COMMUNICATIONS GREATER THAN ONE THOUSAND

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.

DOLLARS; OR

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

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

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

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

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

(C) DURING THE COMBINED PERIOD OF THE CURRENT CALENDAR YEAR AND THE PRECEDING TWO CALENDAR YEARS, MAKING EITHER CONTRIBUTIONS TO ONE OR MORE STATEWIDE COLORADO ISSUE COMMITTEES OR DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURES, IN EITHER SUPPORT OF OR OPPOSITION TO ONE OR MORE STATEWIDE COLORADO BALLOT ISSUES OR BALLOT QUESTIONS, THAT EXCEEDED THIRTY PERCENT OF THE TOTAL DOLLAR AMOUNT OF ALL FUNDS SPENT BY THE ORGANIZATION FOR ANY PURPOSE AND IN ANY LOCATION DURING THE ENTIRE PRECEDING AND CURRENT CALENDAR YEARS;

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

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

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

1-45-108. Disclosure - definitions - repeal. (1) (a) (VI) ANY PERSON, AFTER EXPENDING FIVE THOUSAND DOLLARS IN AGGREGATE IN A CALENDAR YEAR ON DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURES, SHALL, FOR EACH ADDITIONAL EXPENDITURE OF ONE THOUSAND DOLLARS OR MORE, REPORT TO THE SECRETARY OF STATE IN ACCORDANCE WITH THE DISCLOSURE REQUIRED BY THIS SECTION: THE AMOUNT OF THE EXPENDITURE, THE PURPOSE FOR WHICH THE EXPENDITURE WAS MADE, THE DATE OF THE EXPENDITURE, NAME AND ADDRESS OF THE PAYEE, AND THE BALLOT QUESTION OR BALLOT ISSUE SUPPORTED OR OPPOSED. SUCH A REPORT MUST BE FILED WITH THE SECRETARY OF STATE NO LATER THAN FORTY-EIGHT HOURS AFTER THE DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURE WAS MADE.

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

1-45-108.3. Disclaimer statement - committees - electioneering communications - direct ballot issue or ballot question expenditures. (4) ANY PERSON WHO MAKES A DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURE SHALL, PURSUANT TO SECTION 1-45-107.5 (5), STATE THEIR NAME IN ANY COMMUNICATION THAT IS BROADCAST, PRINTED, MAILED, OR DELIVERED; PLACED ON A WEBSITE, STREAMING MEDIA SERVICE, OR ONLINE FORUM FOR A FEE; OR THAT IS OTHERWISE DISTRIBUTED TO PERSONS WHO ARE ELIGIBLE TO VOTE ON THE BALLOT ISSUE OR BALLOT QUESTION AND IS PRODUCED OR FUNDED, EITHER IN WHOLE OR IN PART, BY THE PERSON WHO MADE THE DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURE.

SECTION 4. Appropriation. (1) (a) For the 2021-22 state fiscal year, \$30,000 is appropriated to the department of state for use by the information technology division. 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 for information technology personal services.

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

(2) For the 2022-23 state fiscal year, \$14,309 is appropriated to the department of state for use by the election division. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S., and is based on an assumption that the division will require an additional 0.3 FTE. To implement this act, the department may use this appropriation for personal services.

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

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, or safety.

Approved: June 7, 2022