

CHAPTER 295

ELECTIONS

HOUSE BILL 01-1390

BY REPRESENTATIVE(S) Romanoff, Fairbank, Grossman, Mitchell, Sinclair, Bacon, Garcia, Groff, Plant, and Williams S.;
also SENATOR(S) McElhany.

AN ACT

CONCERNING THE ENFORCEMENT OF THE REPORTING REQUIREMENTS UNDER THE "FAIR CAMPAIGN PRACTICES ACT".

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

SECTION 1. 1-45-113 (4), Colorado Revised Statutes, is amended to read:

1-45-113. Sanctions. (4) (a) The appropriate officer ~~after proper notification by mail,~~ shall impose a penalty of ~~ten~~ FIFTY dollars per day for each day that a statement or other information required to be filed pursuant to section 1-45-107, 1-45-108, 1-45-109, or 1-45-110 is not filed by the close of business on the day due, THE TOTAL AMOUNT OF WHICH SHALL NOT EXCEED ONE THOUSAND DOLLARS (\$1,000) PER REPORTING PERIOD. UPON IMPOSITION OF A PENALTY PURSUANT TO THIS SUBSECTION (4), THE APPROPRIATE OFFICER SHALL SEND THE PERSON AGAINST WHOM THE PENALTY IS BEING IMPOSED PROPER NOTIFICATION BY MAIL OF THE IMPOSITION OF THE PENALTY. If an electronic mail address is on file with the secretary of state, the secretary of state ~~may~~ SHALL also provide such notification by electronic mail. Revenues collected from fees and penalties assessed by the secretary of state OR REVENUES COLLECTED IN THE FORM OF PAYMENT OF THE SECRETARY OF STATE'S ATTORNEY FEES AND COSTS pursuant to this article shall be deposited in the department of state cash fund created in section 24-21-104 (3), C.R.S.

(b) (I) ANY PERSON REQUIRED TO FILE A REPORT WITH THE SECRETARY OF STATE AND AGAINST WHOM A PENALTY HAS BEEN IMPOSED PURSUANT TO THIS SUBSECTION (4) MAY APPEAL SUCH PENALTY BY FILING A WRITTEN APPEAL WITH THE SECRETARY OF STATE NO LATER THAN THIRTY DAYS AFTER THE DATE ON WHICH NOTIFICATION OF THE IMPOSITION OF THE PENALTY WAS MAILED TO SUCH PERSON'S LAST KNOWN ADDRESS IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (4). EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (4), THE SECRETARY SHALL REFER

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

THE APPEAL TO AN ADMINISTRATIVE LAW JUDGE. ANY HEARING CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS SUBSECTION (4) SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-4-105, C.R.S. THE ADMINISTRATIVE LAW JUDGE SHALL SET ASIDE OR REDUCE THE PENALTY UPON A SHOWING OF GOOD CAUSE, AND THE PERSON FILING THE APPEAL SHALL BEAR THE BURDEN OF PROOF. THE DECISION OF THE ADMINISTRATIVE LAW JUDGE SHALL BE FINAL AND SUBJECT TO REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S.

(II) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE FILING OF AN APPEAL BROUGHT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) WAS FRIVOLOUS, GROUNDLESS, OR VEXATIOUS, THE ADMINISTRATIVE LAW JUDGE SHALL ORDER THE PERSON FILING THE APPEAL TO PAY THE REASONABLE AND NECESSARY ATTORNEY FEES AND COSTS OF THE SECRETARY OF STATE IN CONNECTION WITH SUCH PROCEEDING.

(c) UPON RECEIPT BY THE SECRETARY OF STATE OF AN APPEAL PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), THE SECRETARY SHALL SET ASIDE OR REDUCE THE PENALTY UPON A SHOWING OF GOOD CAUSE.

(d) ANY UNPAID DEBT OWING TO THE STATE RESULTING FROM A PENALTY IMPOSED PURSUANT TO THIS SUBSECTION (4) SHALL BE COLLECTED BY THE STATE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 24-30-202.4, C.R.S.

SECTION 2. 1-45-108 (2.3), Colorado Revised Statutes, is amended to read:

1-45-108. Disclosure. (2.3) (a) A candidate committee, political committee, issue committee, or political party that utilizes the electronic filing system described in section 1-45-109 (6) to file reports with the secretary of state shall have two additional days after each due date prescribed in paragraph (a) of subsection (2) of this section in which to file such reports.

(b) PARAGRAPH (a) OF THIS SUBSECTION (2.3) IS REPEALED, EFFECTIVE JANUARY 1, 2007.

SECTION 3. 1-45-109 (6) (b), Colorado Revised Statutes, is amended to read:

1-45-109. Filing - where to file - timeliness. (6) (b) In addition to any other method of filing, any person may use the electronic filing system described in paragraph (a) of this subsection (6) in order to meet the filing requirements of this article. WHERE A PERSON USES SUCH ELECTRONIC FILING SYSTEM TO MEET THE FILING REQUIREMENTS OF THIS ARTICLE, THE SECRETARY OF STATE SHALL ACKNOWLEDGE BY ELECTRONIC MEANS THE RECEIPT OF SUCH FILING.

SECTION 4. Effective date - applicability. (1) This act shall take effect September 1, 2001, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on April 1, 2003.

(2) The provisions of this act shall apply to any penalty imposed on or after the applicable effective date of this act.

Approved: June 5, 2001