

CHAPTER 63

GOVERNMENT - STATE

SENATE BILL 01-021

BY SENATOR(S) Anderson, Andrews, Hagedorn, Hernandez, Owen, Pascoe, Tate, Thiebaut, Chlouber, Dennis, Dyer (Durango), Evans, Fitz-Gerald, Gordon, Hanna, Matsunaka, Nichol, Phillips, Reeves, Takis, Taylor, Teck, Tupa, and Windels; also REPRESENTATIVE(S) Dean, Coleman, King, Smith, Williams T., Lawrence, Mace, Marshall, Stengel, Weddig, White, and Young.

AN ACT

CONCERNING DISCLOSURE OF INFORMATION RELATING TO THE REGULATION OF LOBBYISTS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 24-6-302 (3) (b), (6) (a), and (6) (b) (III), Colorado Revised Statutes, are amended to read:

24-6-302. Disclosure statements - required. (3) (b) A cumulative disclosure statement for the entire ~~calendar~~ STATE FISCAL year shall be filed on or before ~~January 15 of the next year~~ JULY 15 COVERING THE PERIOD FROM THE PREVIOUS JULY 1 THROUGH THE SUBSEQUENT JUNE 30 IMMEDIATELY PRECEDING THE DATE ON WHICH THE CUMULATIVE DISCLOSURE STATEMENT IS DUE. Such disclosure statement shall contain the name of and total gross income for lobbying received from each person for the previous ~~calendar~~ STATE FISCAL year. ~~The total gross income for lobbying received from a person named in the disclosure statement shall be verified in a statement signed by that person and shall contain or be accompanied by a written declaration that such verification is made under the penalties of perjury in the second degree, as defined in section 18-8-503, C.R.S.~~ IF A FIRM ORGANIZED FOR PROFESSIONAL LOBBYING PURPOSES SUBCONTRACTS LOBBYING BUSINESS TO ANOTHER SUCH FIRM OR LOBBYIST, OR IF A REGISTERED PROFESSIONAL LOBBYIST SUBCONTRACTS LOBBYING BUSINESS TO ANOTHER SUCH FIRM OR LOBBYIST, ONLY THE FIRM OR LOBBYIST THAT RECEIVES THE BUSINESS ON A SUBCONTRACT SHALL REPORT THE INFORMATION REQUIRED TO BE DISCLOSED PURSUANT TO THIS SUBSECTION (3). THE FIRM OR LOBBYIST THAT SUBCONTRACTED THE BUSINESS TO ANOTHER FIRM OR LOBBYIST SHALL DESCRIBE IN AN ADDENDUM OR SUPPLEMENT TO THE REPORT REQUIRED TO BE FILED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (3) THE

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

TOTAL GROSS INCOME RECEIVED FROM LOBBYING THAT IS BEING CONTEMPORANEOUSLY REPORTED BY ANOTHER FIRM OR LOBBYIST.

(6) (a) DURING THE PERIOD THAT THE GENERAL ASSEMBLY IS NOT IN SESSION, a registered professional lobbyist shall notify the secretary of state in writing within five working days ~~of~~ AFTER an oral or written agreement to engage in lobbying for any person not disclosed in the registration statement filed pursuant to section 24-6-303 (1). DURING THE PERIOD THAT THE GENERAL ASSEMBLY IS IN SESSION, A REGISTERED PROFESSIONAL LOBBYIST SHALL NOTIFY THE SECRETARY OF STATE AFTER AN AGREEMENT TO ENGAGE IN LOBBYING FOR ANY PERSON NOT DISCLOSED IN THE REGISTRATION STATEMENT FILED PURSUANT TO SECTION 24-6-303 (1), EITHER BY MEANS OF THE ELECTRONIC FILING SYSTEM CREATED IN SECTION 24-6-303 (6.3) OR BY FACSIMILE TRANSMISSION IN ACCORDANCE WITH THE FOLLOWING:

(I) IN THE CASE OF A WRITTEN AGREEMENT TO ENGAGE THE LOBBYIST, DISCLOSURE SHALL BE MADE WITHIN TWENTY-FOUR HOURS AFTER THE DATE OF THE AGREEMENT; AND

(II) IN THE CASE OF AN ORAL AGREEMENT TO ENGAGE THE LOBBYIST, THE DISCLOSURE SHALL BE MADE WITHIN TWENTY-FOUR HOURS AFTER THE DATE OF A SUBSEQUENT WRITTEN AGREEMENT BETWEEN THE PARTIES, THE COMMENCING OF LOBBYING ACTIVITIES, OR THE DATE THE LOBBYIST RECEIVES ANY PAYMENT ON THE AGREEMENT, WHICHEVER OCCURS FIRST.

(b) A registered professional lobbyist who provides the notification under paragraph (a) of this subsection (6) shall file, concurrently with the next disclosure statement due after such notification, a signed written statement that contains:

(III) ~~An estimate of the gross income for lobbying that will be received by the registered professional lobbyist from such person during the calendar year in which the written statement is filed.~~

SECTION 2. The introductory portion to 24-6-303 (1) and 24-6-303 (1) (d), (1.5), and (3), Colorado Revised Statutes, are amended, and the said 24-6-303 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-6-303. Registration as professional lobbyist - filing of disclosure statements - certificate of registration. (1) Any professional lobbyist, before engaging in lobbying, shall register with the secretary of state, PAY A FEE IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (1.3) OF THIS SECTION, and file a written OR ELECTRONIC registration statement ~~which~~ THAT shall contain:

(d) The name, address, and telephone number of any person by whom the professional lobbyist or firm organized for professional lobbying is paid or is to be paid for such lobbying, ~~and an estimate of the gross income for lobbying to be received from such person for the ensuing calendar year.~~

(1.3) (a) AT THE TIME A PROFESSIONAL LOBBYIST FILES A REGISTRATION STATEMENT IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION PRIOR TO ENGAGING IN LOBBYING, AND EACH TIME SUCH LOBBYIST FILES AN UPDATED

REGISTRATION STATEMENT IN ACCORDANCE WITH SUBSECTION (1.5) OF THIS SECTION, SUCH INDIVIDUAL SHALL PAY A REGISTRATION FEE NOT TO EXCEED FIFTY DOLLARS. THE ACTUAL FEE TO BE CHARGED SHALL BE SET BY THE SECRETARY OF STATE BY RULE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE AND SHALL BE SET AT A LEVEL THAT OFFSETS THE COSTS TO THE SECRETARY OF STATE OF PROVIDING ELECTRONIC ACCESS TO INFORMATION PURSUANT TO SECTION 24-6-304 (2) AND IN PROCESSING AND MAINTAINING THE DISCLOSURE INFORMATION REQUIRED BY THIS PART 3. THE SECRETARY OF STATE SHALL CHARGE A REDUCED FEE TO A PROFESSIONAL LOBBYIST THAT FILES HIS OR HER REGISTRATION STATEMENT PURSUANT TO PARAGRAPH (b) OF SUBSECTION (6.3) OF THIS SECTION. THE SECRETARY OF STATE MAY WAIVE THE FEE OF A REGISTERED PROFESSIONAL LOBBYIST FOR A NOT-FOR-PROFIT ORGANIZATION WHO DERIVES HIS OR HER COMPENSATION SOLELY FROM THE ORGANIZATION. A VOLUNTEER LOBBYIST AS DEFINED IN SECTION 24-6-301 (7) SHALL BE EXEMPT FROM THE REQUIREMENT TO PAY THE REGISTRATION FEE MANDATED BY THIS PARAGRAPH (a).

(b) ALL FEES COLLECTED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (1.3) SHALL BE CREDITED TO THE DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b).

(1.5) A professional lobbyist shall file an updated registration statement on or before ~~January 15~~ JULY 15 of each year unless at that time he OR SHE is no longer a professional lobbyist. Registration under this subsection (1.5) shall be effective until ~~January 15~~ JULY 1 of the next year.

(3) CONSISTENT WITH THE REQUIREMENTS OF SUBSECTION (6.3) OF THIS SECTION, A HARD COPY OF all registration statements and disclosure statements of professional lobbyists shall be compiled by the secretary of state within thirty days after the end of the calendar month for which such information is filed and shall be organized alphabetically according to the names of the professional lobbyists.

(6.3) (a) NO LATER THAN JANUARY 1, 2002, THE SECRETARY OF STATE SHALL ESTABLISH, OPERATE, AND MAINTAIN A SYSTEM THAT ENABLES ELECTRONIC FILING OF THE REPORTS REQUIRED BY THIS PART 3 BY UTILIZING THE INTERNET. RULES CONCERNING THE MANNER IN WHICH REPORTS REQUIRED BY THIS PART 3 MAY BE FILED ELECTRONICALLY, INCLUDING BUT NOT LIMITED TO THE INFORMATION TO BE CONTAINED IN SUCH REPORTS, THE PROCEDURE FOR AMENDING SUCH REPORTS, AND PUBLIC ACCESS TO THE ELECTRONIC FILING SYSTEM, SHALL BE PROMULGATED BY THE SECRETARY OF STATE IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE.

(b) IN ADDITION TO ANY OTHER METHOD OF FILING, ANY PERSON SUBJECT TO THE FILING REQUIREMENTS OF THIS PART 3 OR HIS OR HER DULY AUTHORIZED AGENT MAY USE THE ELECTRONIC FILING SYSTEM DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6.3) IN ORDER TO MEET SUCH FILING REQUIREMENTS.

SECTION 3. 24-6-304 (2), Colorado Revised Statutes, is amended to read:

24-6-304. Records - preservation - public inspection - electronic access.

(2) (a) Any statement required by this part 3 to be filed with the secretary of state shall be preserved by the secretary of state for a period of five years after the date of filing, shall constitute part of the public records of that office, and shall be open and

readily accessible for public inspection. The secretary of state shall implement a computer information system that will allow computer users to cross-reference and review, using the name of a registered professional lobbyist or any other person, any disclosure statement or other written statement filed pursuant to section 24-6-302 and registration statement filed pursuant to section 24-6-303 on which the name of such lobbyist or other person appears.

(b) NO LATER THAN JANUARY 1, 2002, THE SECRETARY OF STATE SHALL ESTABLISH, OPERATE, AND MAINTAIN A WEB SITE ON THE INTERNET, OR MODIFY AN EXISTING SITE, THAT WILL ALLOW COMPUTER USERS ELECTRONIC READ-ONLY ACCESS TO THE INFORMATION REQUIRED TO BE FILED BY THIS PART 3 FREE OF CHARGE. ALL INFORMATION REQUIRED TO BE FILED BY THIS PART 3 THAT IS FILED ELECTRONICALLY SHALL BE MADE AVAILABLE:

(I) ON THE WEB SITE WITHIN TWENTY-FOUR HOURS AFTER FILING; AND

(II) IN A FORM THAT ALLOWS A COMPUTER USER TO CROSS-REFERENCE AND REVIEW, USING THE NAME OF A REGISTERED PROFESSIONAL LOBBYIST OR ANY OTHER PERSON, ANY DISCLOSURE STATEMENT OR OTHER WRITTEN STATEMENT FILED PURSUANT TO SECTION 24-6-302 AND REGISTRATION STATEMENT FILED PURSUANT TO SECTION 24-6-303 ON WHICH THE NAME OF SUCH LOBBYIST OR OTHER PERSON APPEARS.

SECTION 4. 24-6-305 (3), Colorado Revised Statutes, is amended, and the said 24-6-305 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-6-305. Powers of the secretary of state - granting and revoking of certificates - barring from registration - imposition of fine - notification of substantial violation. (3) If the secretary of state has reasonable grounds to believe that any person is in violation of section 24-6-302 or section 24-6-303, ~~(4)~~; the secretary of state may, after notice has been given and a hearing held in accordance with the provisions of article 4 of this title, issue a cease and desist order. Such order shall set forth the provisions of this part 3 found to be violated and the facts found to be the violation. Any person subject to a cease and desist order shall be entitled, upon request, to judicial review in accordance with the provisions of article 4 of this title.

(4) THE SECRETARY OF STATE SHALL TIMELY INFORM THE PRESIDENT OF THE STATE SENATE AND THE SPEAKER OF THE STATE HOUSE OF REPRESENTATIVES WHENEVER THE SECRETARY OF STATE HAS REASONABLE GROUNDS TO BELIEVE THAT A VIOLATION OF SECTION 24-6-302 OR 24-6-303 HAS OCCURRED THAT THE SECRETARY OF STATE DEEMS SUBSTANTIAL.

SECTION 5. 24-6-402 (3) (a) (III), Colorado Revised Statutes, is amended to read:

24-6-402. Meetings - open to public. (3) (a) The members of a state public body subject to this part 4, upon the announcement by the state public body to the public of the topic for discussion in the executive session and the affirmative vote of two-thirds of the entire membership of the body after such announcement, may hold

an executive session only at a regular or special meeting and for the sole purpose of considering any of the matters enumerated in paragraph (b) of this subsection (3) or the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur at any executive session that is not open to the public:

(III) Matters required to be kept confidential by federal law or rules, or state statutes, OR IN ACCORDANCE WITH THE REQUIREMENTS OF ANY JOINT RULE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES PERTAINING TO LOBBYING PRACTICES;

SECTION 6. 24-72-204 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal.

(1) The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds or as provided in subsection (2) or (3) of this section:

(d) SUCH INSPECTION WOULD BE CONTRARY TO THE REQUIREMENTS OF ANY JOINT RULE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES PERTAINING TO LOBBYING PRACTICES.

SECTION 7. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2001, the sum of twenty-one thousand four hundred dollars (\$21,400), or so much thereof as may be necessary, for the implementation of this act.

SECTION 8. Effective date. (1) That portion of section 2 of this act creating a new section 24-6-303 (6.3), Colorado Revised Statutes, and section 3 of this act shall take effect January 1, 2002.

(2) Section 5 of this act shall take effect upon passage.

(3) All other sections of this act shall take effect July 1, 2001; except that, with respect to that portion of sections 1 and 2 of this act amending the registration requirements contained in sections 24-6-302 and 24-6-303, Colorado Revised Statutes, the only statements required to be filed by July 15, 2001, shall be the updated registration statement in conformity with the provisions of section 24-6-303 (1.5), Colorado Revised Statutes, and a cumulative disclosure statement in conformity with the provisions of section 24-6-302 (3) (b), Colorado Revised Statutes, which, for the 2001 calendar year only, shall cover the period January 1, 2001, through June 30, 2001. Thereafter, cumulative disclosure statements shall be filed covering the entire state fiscal year in conformity with the provisions of section 24-6-302 (3) (b), Colorado Revised Statutes.

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

Approved: March 27, 2001