

## CHAPTER 339

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**ELECTIONS**


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**HOUSE BILL 03-1132**

BY REPRESENTATIVE(S) Fairbank, Lee, Brophy, Clapp, Hoppe, King, Lundberg, Schultheis, Stafford, Stengel, Crane, and May M.;  
also SENATOR(S) Hillman, Andrews, May R., and Teck.

**AN ACT**

**CONCERNING MODIFICATIONS TO THE "FAIR CAMPAIGN PRACTICES ACT" IN FURTHERANCE OF CONSTITUTIONAL PROVISIONS ADDRESSING CAMPAIGN FINANCE ENACTED AS ARTICLE XXVIII OF THE STATE CONSTITUTION BY A VOTE OF THE PEOPLE AT THE 2002 GENERAL ELECTION.**

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

**SECTION 1.** 1-45-103, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

**1-45-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPROPRIATE OFFICER" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (1) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(2) "CANDIDATE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (2) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(3) "CANDIDATE COMMITTEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (3) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(4) "CANDIDATE COMMITTEE ACCOUNT" SHALL MEAN THE ACCOUNT ESTABLISHED BY A CANDIDATE COMMITTEE WITH A FINANCIAL INSTITUTION PURSUANT TO SECTION 3 (9) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(5) "CONDUIT" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (4) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

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

(6) (a) "CONTRIBUTION" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (5) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(b) "CONTRIBUTION" INCLUDES, WITH REGARD TO A CONTRIBUTION FOR WHICH THE CONTRIBUTOR RECEIVES COMPENSATION OR CONSIDERATION OF LESS THAN EQUIVALENT VALUE TO SUCH CONTRIBUTION, INCLUDING, BUT NOT LIMITED TO, ITEMS OF PERISHABLE OR NONPERMANENT VALUE, GOODS, SUPPLIES, SERVICES, OR PARTICIPATION IN A CAMPAIGN-RELATED EVENT, AN AMOUNT EQUAL TO THE VALUE IN EXCESS OF SUCH COMPENSATION OR CONSIDERATION AS DETERMINED BY THE CANDIDATE COMMITTEE.

(7) "CORPORATION" MEANS A DOMESTIC CORPORATION INCORPORATED UNDER AND SUBJECT TO THE "COLORADO BUSINESS CORPORATION ACT", ARTICLES 101 TO 117 OF TITLE 7, C.R.S.

(8) "ELECTION CYCLE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (6) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(9) "ELECTIONEERING COMMUNICATION" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (7) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(10) "EXPENDITURE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (8) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(11) "INDEPENDENT EXPENDITURE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (9) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(12) "ISSUE COMMITTEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (10) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(13) "PERSON" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (11) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(14) "POLITICAL COMMITTEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (12) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(15) "POLITICAL PARTY" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (13) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(16) "SMALL DONOR COMMITTEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (14) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(17) "SUBSIDIARY" MEANS A BUSINESS ENTITY HAVING MORE THAN HALF OF ITS STOCK OWNED BY ANOTHER ENTITY OR PERSON, OR A BUSINESS ENTITY OF WHICH A MAJORITY INTEREST IS CONTROLLED BY ANOTHER PERSON OR ENTITY.

(18) "UNEXPENDED CAMPAIGN CONTRIBUTIONS" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 2 (15) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

**SECTION 2.** The introductory portion to 1-45-106 (1) (a) (I), Colorado Revised Statutes, is amended, and the said 1-45-106 is further amended BY THE ADDITION

OF A NEW SUBSECTION, to read:

**1-45-106. Unexpended campaign contributions.** (1) (a) (I) SUBJECT TO THE REQUIREMENTS OF SECTION 3 (3) (e) OF ARTICLE XXVIII OF THE STATE CONSTITUTION, unexpended campaign contributions to a candidate committee may be:

(5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY UNEXPENDED CAMPAIGN CONTRIBUTIONS RETAINED BY A CANDIDATE COMMITTEE FOR USE IN A SUBSEQUENT ELECTION CYCLE SHALL BE COUNTED AND REPORTED AS CONTRIBUTIONS FROM A POLITICAL PARTY IN ANY SUBSEQUENT ELECTION IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 3 (3) (e) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

**SECTION 3.** 1-45-108 (1) (a), (1) (b), (2.3) (a), and (2.5), the introductory portion to 1-45-108 (3), and 1-45-108 (3) (f), Colorado Revised Statutes, are amended, and the said 1-45-108 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**1-45-108. Disclosure - repeal.** (1) (a) (I) All candidate committees, political committees, issue committees, SMALL DONOR COMMITTEES, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.

(II) IN THE CASE OF CONTRIBUTIONS MADE TO A CANDIDATE COMMITTEE, POLITICAL COMMITTEE, ISSUE COMMITTEE, AND POLITICAL PARTY, THE DISCLOSURE REQUIRED BY THIS SECTION SHALL ALSO INCLUDE THE OCCUPATION AND EMPLOYER OF EACH PERSON WHO HAS MADE A CONTRIBUTION OF ONE HUNDRED DOLLARS OR MORE TO SUCH COMMITTEE OR PARTY.

(III) ANY PERSON WHO EXPENDS ONE THOUSAND DOLLARS OR MORE PER CALENDAR YEAR ON ELECTIONEERING COMMUNICATIONS SHALL REPORT TO THE SECRETARY OF STATE, IN ACCORDANCE WITH THE DISCLOSURE REQUIRED BY THIS SECTION, THE AMOUNT EXPENDED ON THE COMMUNICATIONS AND THE NAME AND ADDRESS OF ANY PERSON THAT CONTRIBUTES MORE THAN TWO HUNDRED FIFTY DOLLARS PER YEAR TO THE PERSON EXPENDING ONE THOUSAND DOLLARS OR MORE ON THE COMMUNICATIONS. IF THE PERSON MAKING SUCH CONTRIBUTION OF TWO HUNDRED FIFTY DOLLARS OR MORE IS A NATURAL PERSON, THE DISCLOSURE REQUIRED BY THIS SECTION SHALL ALSO INCLUDE THE PERSON'S OCCUPATION AND EMPLOYER.

~~(b) For purposes of complying with the requirements of this subsection (1), an issue committee that is described in section 1-45-103 (8) (a) (II) but not in section 1-45-103 (8) (a) (I) shall report only those contributions accepted, expenditures made, and obligations entered into for the purpose of supporting or opposing a ballot issue or ballot question. Such issue committee shall not be required to report donations, membership dues, or any other payments received unless such amounts are used or to be used for the purpose of supporting or opposing a ballot issue or ballot question.~~

(d) FOR PURPOSES OF THIS SECTION, A POLITICAL PARTY SHALL BE TREATED AS A SEPARATE ENTITY AT THE STATE, COUNTY, DISTRICT, AND LOCAL LEVELS.

(2.3) (a) A candidate committee, political committee, issue committee, ~~OR SMALL DONOR COMMITTEE~~, political party, ~~OR ANY OTHER PERSON~~ 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.

(2.5) In addition to any report required to be filed with the secretary of state under this section, all candidate committees, political committees, issue committees, and political parties shall file a report with the secretary of state of any contribution ~~OR contribution in kind~~ of one thousand dollars or more at any time within thirty days preceding the date of the primary election or general election. This report shall be filed with the secretary of state no later than twenty-four hours after receipt of said contribution. ~~OR contribution in kind.~~

(3) All candidate committees, political committees, issue committees, SMALL DONOR COMMITTEES, and political parties shall register with the appropriate officer before accepting or making any contributions. Registration shall include a statement listing:

(f) Any intent of the candidate committee, political committee, issue committee, SMALL DONOR COMMITTEE, or political party to electronically file reports required by this article that may be filed electronically on a web site operated and maintained by the secretary of state pursuant to section 1-45-109.

**SECTION 4.** 1-45-109 (1) and (7) (b), Colorado Revised Statutes, are amended to read:

**1-45-109. Filing - where to file - timeliness.** (1) For the purpose of meeting the filing and reporting requirements of this article, candidates for state wide office, the general assembly, district attorney, district court judge, or any office representing more than one county, except candidates for school district director; the candidate committees for such candidates; political committees in support of or in opposition to such candidates; ~~and~~ issue committees in support of or in opposition to an issue on the ballot in more than one county; SMALL DONOR COMMITTEES MAKING CONTRIBUTIONS TO SUCH CANDIDATES; AND PERSONS EXPENDING ONE THOUSAND DOLLARS OR MORE PER CALENDAR YEAR ON ELECTIONEERING COMMUNICATIONS shall file with the secretary of state. Candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, ~~and~~ an issue committee supporting or opposing a municipal ballot issue, AND SMALL DONOR COMMITTEES MAKING CONTRIBUTIONS TO SUCH CANDIDATES shall file with the municipal clerk. Candidates in special district elections, except candidates for director of the regional transportation district; the candidate committees of such candidates; political committees in support of or in opposition to such candidates; ~~and~~ issue committees supporting or opposing a special district ballot issue; AND SMALL DONOR COMMITTEES MAKING CONTRIBUTIONS TO SUCH CANDIDATE shall file with the clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303, C.R.S., is located. All other candidates, candidate committees, issue committees, ~~and~~ political committees, AND SMALL DONOR COMMITTEES shall file with the county clerk and recorder of the county of their residence. However, a report required to be filed with a county clerk and recorder shall be deemed properly filed if filed electronically pursuant to subsection

(8) of this section.

(7)(b) Within forty-eight hours after receiving in electronic form from a candidate, candidate committee, issue committee, political committee, SMALL DONOR COMMITTEE, PERSON EXPENDING ONE THOUSAND DOLLARS OR MORE PER CALENDAR YEAR ON ELECTIONEERING COMMUNICATIONS, or county clerk and recorder any report required to be filed with a county clerk and recorder pursuant to this article, the secretary of state shall make the report available on the web site described in paragraph (a) of this subsection (7). The web site shall enable a user to produce summary reports based on search criteria that shall include, but not be limited to, the reporting period, date, name of the person making a contribution or expenditure, candidate, and committee. The secretary of state may promulgate rules necessary for the implementation of this subsection (7). The rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

**SECTION 5.** 1-45-114 (2), Colorado Revised Statutes, is amended to read:

**1-45-114. Expenditures - political advertising - rates and charges.** (2) Any radio or television station, newspaper, or periodical that charges a candidate committee a lower rate for use of space, materials, or services than the rate such station, newspaper, periodical, or supplier charges another candidate committee for the same public office for comparable use of space, materials, or services shall report the difference in such rate as a contribution ~~in kind~~ to the candidate committee that is charged such lower rate pursuant to section 1-45-108.

**SECTION 6.** Article 45 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS, to read:

**1-45-103.7. Contribution limits.** NOTHING IN ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT A CORPORATION OR LABOR ORGANIZATION FROM MAKING A CONTRIBUTION TO A POLITICAL COMMITTEE.

**1-45-111.5. Duties of the secretary of state - enforcement.** (1) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES, IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AS MAY BE NECESSARY TO ENFORCE AND ADMINISTER ANY PROVISION OF THIS ARTICLE.

(2) THE PREVAILING PARTY IN A PRIVATE ACTION BROUGHT TO ENFORCE THE PROVISIONS OF ARTICLE XXVIII OF THE STATE CONSTITUTION OR OF THIS ARTICLE SHALL BE ENTITLED TO THE RECOVERY OF SUCH PARTY'S REASONABLE ATTORNEY FEES AND COSTS.

**1-45-112.5. Immunity from liability for fine or penalty.** (1) ANY INDIVIDUAL VOLUNTEERING HIS OR HER TIME ON BEHALF OF A CANDIDATE OR CANDIDATE COMMITTEE SHALL BE IMMUNE FROM ANY LIABILITY FOR A FINE OR PENALTY IMPOSED PURSUANT TO SECTION 10 (1) OF ARTICLE XXVIII OF THE STATE CONSTITUTION IN ANY PROCEEDING THAT IS BASED ON AN ACT OR OMISSION OF SUCH VOLUNTEER IF:

(a) THE VOLUNTEER WAS ACTING IN GOOD FAITH AND WITHIN THE SCOPE OF SUCH VOLUNTEER'S OFFICIAL FUNCTIONS AND DUTIES FOR THE CANDIDATE OR CANDIDATE

COMMITTEE; AND

(b) THE VIOLATION WAS NOT CAUSED BY WILLFUL AND INTENTIONAL MISCONDUCT BY SUCH VOLUNTEER.

(2) SUBSECTION (1) OF THIS SECTION SHALL BE ADMINISTERED IN A MANNER THAT IS CONSISTENT WITH SECTION 1 OF ARTICLE XXVIII OF THE STATE CONSTITUTION AND WITH THE LEGISLATIVE DECLARATION SET FORTH IN SECTION 1-45-102.

**SECTION 7.** 1-45-116, Colorado Revised Statutes, is amended to read:

**1-45-116. Home rule counties and municipalities.** Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections ~~which~~ THAT are more stringent than any of the provisions contained in this Act. Any home rule county or municipality which adopts such ordinances or charter provisions shall not be entitled to reimbursement pursuant to subsection 1-45-112 (2). THE REQUIREMENTS OF ARTICLE XXVIII OF THE STATE CONSTITUTION AND OF THIS ARTICLE SHALL NOT APPLY TO HOME RULE COUNTIES OR HOME RULE MUNICIPALITIES THAT HAVE ADOPTED CHARTERS, ORDINANCES, OR RESOLUTIONS THAT ADDRESS THE MATTERS COVERED BY ARTICLE XXVIII AND THIS ARTICLE.

**SECTION 8. Effective date - applicability.** This act shall take effect on passage, and its requirements shall apply to the portion of any election cycle or for the portion of the calendar year remaining after such effective date, and for any election cycle or calendar year commencing after such effective date, whichever is applicable.

**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: June 3, 2003