

## CHAPTER 270

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**ELECTIONS**

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**HOUSE BILL 10-1370**

BY REPRESENTATIVE(S) Court, Apuan, Carroll T., Casso, Curry, Ferrandino, Fischer, Frangas, Gagliardi, Hullinghorst, Kagan, Kerr A., King S., Labuda, Levy, Looper, Massey, McCann, McFadyen, Merrifield, Middleton, Miklosi, Murray, Pace, Peniston, Pommer, Primavera, Rice, Roberts, Ryden, Scanlan, Schafer S., Solano, Soper, Todd, Tyler, Vaad, Vigil, Weissmann, Riesberg; also SENATOR(S) Steadman, Newell.

**AN ACT****CONCERNING CERTAIN DISCLOSURE REQUIREMENTS THAT APPLY TO STATEWIDE BALLOT MEASURES.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Because statewide citizen-initiated ballot issues have become as prevalent on recent election ballots as the candidates for office and the consequences of the passage of those ballot issues oftentimes are as significant as the political positions of the candidates who are elected, the financial disclosure of the issue committees supporting or opposing the ballot issues under the campaign finance law should be the same as that for candidates;

(b) During the 2008 general election campaign, the estimated total amount expended by issue committees in support of and in opposition to statewide citizen-initiated ballot issues exceeded seventy million dollars;

(c) A substantial portion of the amount expended by issue committees during the election campaign was for television, radio, and print communications advocating the passage or defeat of a statewide ballot issue on the election ballot;

(d) The issue committees that expended substantial sums of money during the campaign to broadcast, print, mail, and deliver communications urging voters to support or oppose the statewide ballot issues on the election ballot were under no requirement of Colorado law to disclose to the voters the names of the issue

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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.*

committees paying for the communications;

(e) The absence of any disclosure or disclaimer requirement in connection with communications supporting or opposing statewide ballot issues leads to a perception of purposefully anonymous interests attempting to influence the outcome of the election on measures amending the state constitution or the Colorado Revised Statutes through the expenditure of large sums of money;

(f) The lack of a mandatory disclosure or disclaimer by issue committees expending moneys on these communications deprived the voters of information on the sources of election-related spending and calls into doubt the integrity of the statewide ballot issue election process;

(g) There is no evidence that requiring a disclosure or disclaimer in an issue committee communication as provided in section 1-45-108.3, Colorado Revised Statutes, as contained in section 6 of House Bill 10-1370, enacted in 2010, will subject issue committees to threats, harassment, or reprisals from either government officials or other persons.

**SECTION 2.** 1-40-113 (1), Colorado Revised Statutes, is amended to read:

**1-40-113. Form - representatives of signers.** (1) (a) Each section of a petition shall be printed on a form as prescribed by the secretary of state. No petition shall be printed, published, or otherwise circulated unless the form and the first printer's proof of the petition have been approved by the secretary of state. Each petition section shall designate by name and mailing address two persons who shall represent the signers thereof in all matters affecting the same. The secretary of state shall assure that the petition contains only the matters required by this article and contains no extraneous material. All sections of any petition shall be prenumbered serially, and the circulation of any petition section described by this article other than personally by a circulator is prohibited. Any petition section circulated in whole or in part by anyone other than the person who signs the affidavit attached to the petition section shall be invalid. Any petition section that fails to conform to the requirements of this article or is circulated in a manner other than that permitted in this article shall be invalid.

(b) THE SECRETARY OF STATE SHALL NOTIFY THE PROPONENTS AT THE TIME A PETITION IS APPROVED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) THAT THE PROPONENTS MUST REGISTER AN ISSUE COMMITTEE PURSUANT TO SECTION 1-45-108 (3.3) IF TWO HUNDRED OR MORE PETITION SECTIONS ARE PRINTED OR ACCEPTED IN CONNECTION WITH CIRCULATION OF THE PETITION.

**SECTION 3.** 1-40-124.5 (1.7), Colorado Revised Statutes, is amended to read:

**1-40-124.5. Ballot information booklet.** (1.7) (a) After receiving written comments from the public in accordance with section 1 (7.5) (a) (II) of article V of the state constitution, but before the draft of the ballot information booklet is finalized, the director of research of the legislative council of the general assembly shall conduct a public meeting at which the director and other members of the legislative staff have the opportunity to ask questions that arise in response to the written comments. The director may modify the draft of the booklet in response to

comments made at the hearing. The legislative council may modify the draft of the booklet upon the two-thirds affirmative vote of the members of the legislative council.

(b) (I) EACH PERSON SUBMITTING WRITTEN COMMENTS IN ACCORDANCE WITH SECTION 1 (7.5) (a) (II) OF ARTICLE V OF THE STATE CONSTITUTION SHALL PROVIDE HIS OR HER NAME AND THE NAME OF ANY ORGANIZATION THE PERSON REPRESENTS OR IS AFFILIATED WITH FOR PURPOSES OF MAKING THE COMMENTS.

(II) THE ARGUMENTS FOR AND AGAINST EACH MEASURE IN THE ANALYSIS SECTION OF THE BALLOT INFORMATION BOOKLET SHALL BE PRECEDED BY THE PHRASE: "FOR INFORMATION ON THOSE ISSUE COMMITTEES THAT SUPPORT OR OPPOSE THE MEASURES ON THE BALLOT AT THE (DATE AND YEAR) ELECTION, GO TO THE COLORADO SECRETARY OF STATE'S ELECTIONS CENTER WEB SITE HYPERLINK FOR BALLOT AND INITIATIVE INFORMATION (APPROPRIATE SECRETARY OF STATE WEB SITE ADDRESS)".

**SECTION 4.** 1-45-103 (12), Colorado Revised Statutes, is amended to read:

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

(12) (a) "Issue committee" shall have the same meaning as set forth in section 2 (10) of article XXVIII of the state constitution.

(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:

(I) AN ORGANIZATION'S SPECIFICALLY IDENTIFIED OBJECTIVES IN ITS ORGANIZATIONAL DOCUMENTS AT THE TIME IT IS ESTABLISHED OR AS SUCH DOCUMENTS ARE LATER AMENDED; OR

(II) AN ORGANIZATION'S DEMONSTRATED PATTERN OF CONDUCT BASED UPON ITS:

(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) THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (12) ARE INTENDED TO CLARIFY, BASED ON THE DECISION OF THE COLORADO COURT OF APPEALS IN *INDEPENDENCE INSTITUTE V. COFFMAN*, 209 P.3d 1130 (COLO. APP. 2008), CERT. DENIED, SECTION 2 (10) (a) (I) OF ARTICLE XXVIII OF THE STATE CONSTITUTION AND NOT TO MAKE A SUBSTANTIVE CHANGE TO SAID SECTION 2 (10) (a) (I).

**SECTION 5.** 1-45-108 (3.3), Colorado Revised Statutes, is amended to read:

**1-45-108. Disclosure.** (3.3) Subject to the provisions of subsection (7) of this

section, each issue committee shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question OR UPON RECEIPT OF THE NOTICE FROM THE SECRETARY OF STATE PURSUANT TO SECTION 1-40-113 (1) (b). If required to register under the requirements of this subsection (3.3), the registration of the issue committee shall include a statement containing the items listed in paragraphs (a) to (f) of subsection (3) of this section in connection with other committees and a political party.

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

**1-45-108.3. Issue committees - disclaimer.** (1) AN ISSUE COMMITTEE MAKING AN EXPENDITURE IN EXCESS OF ONE THOUSAND DOLLARS ON A COMMUNICATION THAT SUPPORTS OR OPPOSES A STATEWIDE BALLOT ISSUE OR BALLOT QUESTION AND THAT IS BROADCAST BY TELEVISION OR RADIO, PRINTED IN A NEWSPAPER OR ON A BILLBOARD, DIRECTLY MAILED OR DELIVERED BY HAND TO PERSONAL RESIDENCES, OR OTHERWISE DISTRIBUTED SHALL DISCLOSE, IN THE COMMUNICATION PRODUCED BY THE EXPENDITURE, THE NAME OF THE ISSUE COMMITTEE MAKING THE EXPENDITURE.

(2)(a) THE DISCLAIMER REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL BE PRINTED ON THE COMMUNICATION CLEARLY AND LEGIBLY IN A CONSPICUOUS MANNER.

(b) IF THE COMMUNICATION IS BROADCAST ON RADIO, THE DISCLAIMER SHALL BE SPOKEN AT THE BEGINNING OR END OF THE COMMUNICATION.

(c) (I) IF THE COMMUNICATION IS BROADCAST ON TELEVISION, THE DISCLAIMER SHALL BE WRITTEN OR SPOKEN AT THE BEGINNING OR END OF THE COMMUNICATION. IF THE DISCLAIMER IS WRITTEN, IT SHALL APPEAR FOR AT LEAST FOUR SECONDS OF ANY COMMUNICATION BROADCAST ON TELEVISION.

(II) THE WRITTEN DISCLAIMER REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL APPEAR IN THE COMMUNICATION IN A CONSPICUOUS MANNER.

**SECTION 7.** 1-45-111.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**1-45-111.5. Duties of the secretary of state - enforcement - sanctions.** (3) UPON A DETERMINATION BY THE OFFICE OF ADMINISTRATIVE COURTS THAT AN ISSUE COMMITTEE FAILED TO FILE A REPORT REQUIRED PURSUANT TO SECTION 1-45-108, THE ADMINISTRATIVE LAW JUDGE SHALL DIRECT THE ISSUE COMMITTEE TO FILE ANY SUCH REPORT WITHIN TEN DAYS CONTAINING ALL REQUIRED DISCLOSURE OF ANY PREVIOUSLY UNREPORTED CONTRIBUTIONS OR EXPENDITURES AND MAY, IN ADDITION TO ANY OTHER PENALTY, IMPOSE A PENALTY NOT TO EXCEED TWENTY DOLLARS FOR EACH CONTRIBUTION RECEIVED AND EXPENDITURE MADE BY THE ISSUE COMMITTEE THAT WAS NOT TIMELY REPORTED.

**SECTION 8. Act subject to petition - specified effective date - applicability.** (1) This act shall take effect January 1, 2011; except that, if a referendum petition

is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on January 1, 2011, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

(2) The provisions of this act shall apply to any ballot issue petition that has a ballot title fixed by the title board on or after the applicable effective date of this act.

Approved: May 25, 2010