

CHAPTER 167

GOVERNMENT - STATE

HOUSE BILL 12-1070

BY REPRESENTATIVE(S) Peniston, Court, Fields, Fischer, Hullinghorst, Labuda, Schafer S., Wilson, Vigil;
also SENATOR(S) Hodge, Steadman.

AN ACT

CONCERNING THE MODIFICATION OF STATUTORY PROVISIONS GOVERNING THE ETHICAL CONDUCT OF PERSONS INVOLVED IN GOVERNMENT FOR THE PURPOSE OF HARMONIZING SUCH PROVISIONS WITH SECTION 3 (5) OF ARTICLE XXIX OF THE STATE CONSTITUTION.

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

SECTION 1. In Colorado Revised Statutes, 24-6-203, **amend** (1) (b) (I), (1) (c), (2), (3), (3.5) (a) introductory portion, (3.5) (b), (3.5) (c), (3.7), and (4); **repeal** (1) (b) (II) (E) and (1) (b) (III); and **add** (8) as follows:

24-6-203. Reporting by incumbents and elected candidates - gifts, honoraria, and other benefits - prohibition on monetary gifts - penalty - definitions. (1) (b) (I) As used in this section, the term "public office" means any office voted for in this state at any election. "PUBLIC OFFICE" INCLUDES, WITHOUT LIMITATION, THE GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, AND STATE TREASURER; A MEMBER OF THE GENERAL ASSEMBLY OR THE STATE BOARD OF EDUCATION; A REGENT OF THE UNIVERSITY OF COLORADO; A JUDGE ON THE COLORADO COURT OF APPEALS OR THE COLORADO SUPREME COURT; A DISTRICT ATTORNEY; OR AN OFFICER OF A COUNTY, MUNICIPALITY, CITY AND COUNTY, SCHOOL DISTRICT, OR ANY ELECTIVE OFFICE WITHIN A SPECIAL DISTRICT FOR WHICH THE ANNUAL COMPENSATION EXCEEDS SIXTEEN HUNDRED DOLLARS.

(II) "Public office" does not include:

~~(E) Any elective office within a special district for which the annual compensation is less than twelve hundred dollars.~~

~~(III) "Public office" includes the office of governor, lieutenant governor, secretary of state, attorney general, state treasurer, state board of education, regents of 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.

~~university of Colorado, the Colorado court of appeals, or the supreme court of Colorado.~~

(c) As used in this section, ~~"statewide elected office"~~ "COVERED STATE OFFICE" means the ~~office of~~ governor, lieutenant governor, secretary of state, attorney general, state treasurer, ~~members~~ A MEMBER of the state board of education, ~~regents~~ A REGENT of the university of Colorado, ~~members~~ A MEMBER of the general assembly, or A district ~~attorneys~~ ATTORNEY.

(2) Every incumbent in or candidate elected to public office who receives from any other person any item described in subsection (3) of this section in connection with the incumbent's or elected candidate's public service shall file with the appropriate officer, on or before January 15, April 15, July 15, and October 15 of each year, a report covering the period since the last report. THE REQUIREMENT OF THIS SUBSECTION (2) PERTAINING TO THE REPORT DUE JANUARY 15 SHALL EXTEND TO AN INCUMBENT LEAVING PUBLIC OFFICE BETWEEN OCTOBER 15 AND JANUARY 15, WHO SHALL FILE WITH THE APPROPRIATE OFFICER BY JANUARY 15 A REPORT THAT COVERS ANY ITEMS RECEIVED DURING THE PERIOD SINCE THE LAST REPORT. Such report shall be on forms prescribed by the secretary of state and shall contain, at a minimum, the name of the person from whom the item was received and the amount or value and the date of receipt. The secretary of state shall furnish such forms to municipal clerks, to county clerk and recorders, and to incumbents and elected candidates for state offices and district offices of districts greater than a county free of charge for use by incumbents and elected candidates required to file such forms. If any incumbent in or candidate elected to public office does not receive any such item, he or she shall not be required to file such report.

(3) The reports required by subsection (2) of this section shall include the following:

(a) IN THE CASE OF A CANDIDATE ELECTED TO PUBLIC OFFICE WHO IS NOT AN INCUMBENT AND HAS NOT YET BEEN SWORN INTO SUCH OFFICE AND subject to the requirements of subsection (3.5) of this section, any money, including but not limited to a loan, pledge, or advance of money or a guarantee of a loan of money, OR ANY FORBEARANCE OR FORGIVENESS OF INDEBTEDNESS FROM ANY PERSON, with a value ~~of twenty-five~~ GREATER THAN FIFTY-THREE dollars; ~~or more;~~

(b) IN THE CASE OF A CANDIDATE ELECTED TO PUBLIC OFFICE WHO IS NOT AN INCUMBENT AND HAS NOT YET BEEN SWORN INTO SUCH OFFICE AND subject to the requirements of subsection (3.5) of this section, any gift of any item of real or personal property, other than money, with a value ~~of fifty~~ GREATER THAN FIFTY-THREE dollars; ~~or more;~~

(c) IN THE CASE OF A CANDIDATE ELECTED TO PUBLIC OFFICE WHO IS NOT AN INCUMBENT AND HAS NOT YET BEEN SWORN INTO SUCH OFFICE, any loan of any item of real or personal property, other than money, if the value of the loan is ~~fifty~~ GREATER THAN FIFTY-THREE dollars. ~~or more.~~ For such purpose, the "value of the loan" means the cost saved or avoided by the ~~incumbent or~~ elected candidate by not borrowing, leasing, or purchasing comparable property from a source available to the general public.

(d) Any payment for a speech, appearance, or publication;

(e) IN THE CASE OF A CANDIDATE ELECTED TO PUBLIC OFFICE WHO IS NOT AN INCUMBENT AND HAS NOT YET BEEN SWORN INTO SUCH OFFICE, tickets to sporting, recreational, educational, or cultural events with a value ~~of fifty~~ GREATER THAN FIFTY-THREE dollars ~~or more~~ for any single event; ~~or a series of tickets to sporting events of a specific team scheduled during a season with a total value of one hundred dollars or more, or a series of tickets to cultural events of a specific performing company or organization with a total value of one hundred dollars or more;~~

(f) Payment of or reimbursement for actual and necessary expenditures for travel and lodging for attendance at a convention, ~~or other meeting at which the incumbent or elected candidate is scheduled to participate~~ FACT-FINDING MISSION OR TRIP, OR OTHER MEETING THAT THE INCUMBENT OR ELECTED CANDIDATE WHO HAS BEEN SWORN INTO PUBLIC OFFICE IS PERMITTED TO ACCEPT OR RECEIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION, unless the payment of or reimbursement for such expenditures is made from public funds OF A STATE OR LOCAL GOVERNMENT IN THE CASE OF AN INCUMBENT OR ELECTED CANDIDATE SUBJECT TO THE PROVISIONS OF SAID ARTICLE or from the funds of any association of public officials or public entities whose membership includes the incumbent's or elected candidate's office or the governmental entity in which such office is held;

(g) SUBJECT TO THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION, any gift of a meal to a fund-raising event of a political party;

(h) Payment of or reimbursement for actual and necessary expenses for travel ~~board~~ and lodging ~~from an~~ FOR ATTENDANCE AT A CONVENTION, FACT-FINDING MISSION OR TRIP, OR OTHER MEETING THAT IS FROM AN organization declared to be a joint governmental agency by section 2-3-311, C.R.S.

(3.5) (a) Each incumbent in or candidate elected to ~~statewide-elected~~ COVERED STATE office is prohibited from knowingly receiving or accepting from any other person, in connection with the public service of the incumbent or elected candidate:

(b) Nothing in paragraph (a) of this subsection (3.5) shall be construed to prohibit an incumbent or elected candidate from receiving a salary or other compensation paid to the incumbent or elected candidate in connection with the performance of his or her official duties, including, without limitation, payment for a speech, appearance, or publication or payment of or reimbursement for actual and necessary expenditures for travel and lodging ~~as provided by law, including scholarships for conferences~~ TO THE EXTENT THE INCUMBENT OR ELECTED CANDIDATE WHO HAS BEEN SWORN INTO COVERED STATE OFFICE IS PERMITTED TO ACCEPT OR RECEIVE SUCH ITEMS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION.

(c) For purposes of this subsection (3.5), an "in-kind gift" means any gift of equipment, goods, supplies, property, services, or anything else, the value of which exceeds fifty dollars in the aggregate in any one calendar year, given, directly or indirectly, to an incumbent in or candidate elected to ~~statewide-elected~~ COVERED

STATE office for the purpose of defraying any expenses related to the official duties undertaken by the incumbent or elected candidate.

(3.7) Notwithstanding any other provision of this section, no incumbent in or candidate elected to ~~statewide-elected~~ COVERED STATE office shall accept a gift of any money from any person who is a professional or volunteer lobbyist or from a corporation or labor organization.

(4) The reports required by subsection (2) of this section need not include the following:

(a) A contribution or contribution in kind that has already been reported pursuant to section 1-45-108, C.R.S.;

(b) ~~Any item of perishable or nonpermanent value, including but not limited to meals, unless such item is required to be reported under paragraph (c) or (g) of subsection (3) of this section~~ UNSOLICITED ITEM OF TRIVIAL VALUE AS DESCRIBED IN SECTION 3 (3) (b) OF ARTICLE XXIX OF THE STATE CONSTITUTION;

(c) ~~A nonpecuniary award publicly presented by an organization in recognition of public service~~ AN UNSOLICITED TOKEN OR AWARD OF APPRECIATION AS DESCRIBED IN SECTION 3 (3) (c) OF ARTICLE XXIX OF THE STATE CONSTITUTION;

(d) ~~Payment of or reimbursement for actual and necessary expenditures for travel and lodging for attendance at a convention, or other meeting at which the incumbent or elected candidate is scheduled to participate~~ FACT-FINDING MISSION OR TRIP, OR OTHER MEETING THAT THE INCUMBENT OR ELECTED CANDIDATE IS PERMITTED TO ACCEPT OR RECEIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION, if the payment of or reimbursement for such expenditures is made from public funds OF A STATE OR LOCAL GOVERNMENT IN THE CASE OF AN INCUMBENT OR ELECTED CANDIDATE SUBJECT TO THE PROVISIONS OF SAID ARTICLE or from the funds of any association of public officials or public entities whose membership includes the incumbent's or elected candidate's office or the governmental entity in which such office is held;

(e) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office;

(f) EXCEPT AS OTHERWISE DESCRIBED IN THIS SUBSECTION (4), ANY OTHER GIFT OR THING OF VALUE AN INCUMBENT OR ELECTED CANDIDATE WHO HAS BEEN SWORN INTO PUBLIC OFFICE IS PERMITTED TO SOLICIT, ACCEPT, OR RECEIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION.

(8) THE AMOUNT OF THE GIFT LIMIT SPECIFIED IN SUBSECTION (3) OF THIS SECTION, SET AT FIFTY-THREE DOLLARS AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (8), SHALL BE IDENTICAL TO THE AMOUNT OF THE GIFT LIMIT UNDER SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION, AND SHALL BE ADJUSTED FOR INFLATION CONTEMPORANEOUSLY WITH ANY ADJUSTMENT OF THE CONSTITUTIONAL GIFT LIMIT PURSUANT TO SECTION 3 (6) OF ARTICLE XXIX.

SECTION 2. In Colorado Revised Statutes, 24-6-301, **amend** (1.9) (a) (IV) and (1.9) (a) (V) as follows:

24-6-301. Definitions - legislative declaration. As used in this part 3, unless the context otherwise requires:

(1.9) (a) "Disclosure statement" means a written statement that contains:

(IV) The name of ~~any~~ THE covered official to or for whom SUCH expenditures of ~~fifty~~ MORE THAN FIFTY-THREE dollars ~~or more~~ have been made by or on behalf of the disclosing person for gift or entertainment purposes in connection with lobbying or for whom an expenditure was made by or on behalf of the disclosing person for a gift of a meal at a fund-raising event of a political party described in section 1-45-105.5 (1) (c) (IV), C.R.S., during either the first six months or the second six months of a STATE fiscal year and the amount, date, and principal purpose of the gift or entertainment, if the covered official or a member of his or her family actually received such gift or entertainment, but expenditures of one dollar or less shall be reported under subparagraph (V) of this paragraph (a). All amounts ~~spent by~~ THAT a professional lobbyist SPENDS on a covered official for which the lobbyist is reimbursed, or the source of which is a contribution, shall be deemed to be for gift or entertainment purposes.

(V) The total sum of all SUCH expenditures made by or on behalf of the disclosing person to covered officials for gift or entertainment purposes in connection with lobbying since the last disclosure statement ~~which~~ THAT are not stated under subparagraph (IV) of this paragraph (a);

SECTION 3. In Colorado Revised Statutes, 24-6-302, **amend** (2) as follows:

24-6-302. Disclosure statements - required. (2) Any person who makes expenditures for gifts or entertainment purposes for the benefit of covered officials in the aggregate amount of two hundred dollars in a STATE fiscal year shall file disclosure statements with the secretary of state in accordance with this section. Such disclosure statements shall not include actual and reasonable expenses incurred for personal needs, such as meals, travel, lodging, and parking.

SECTION 4. In Colorado Revised Statutes, 24-18-104, **amend** (3); and **add** (5) as follows:

24-18-104. Rules of conduct for all public officers, members of the general assembly, local government officials, and employees. (3) The following ~~shall not be considered~~ ARE NOT gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:

(a) Campaign contributions and contributions in kind reported as required by section 1-45-108, C.R.S.;

(b) An ~~occasional nonpecuniary gift, insignificant in value~~ UNSOLICITED ITEM OF TRIVIAL VALUE;

(b.5) A GIFT WITH A FAIR MARKET VALUE OF FIFTY-THREE DOLLARS OR LESS THAT

IS GIVEN TO THE PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE BY A PERSON OTHER THAN A PROFESSIONAL LOBBYIST.

~~(c) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service~~ AN UNSOLICITED TOKEN OR AWARD OF APPRECIATION AS DESCRIBED IN SECTION 3 (3) (c) OF ARTICLE XXIX OF THE STATE CONSTITUTION;

(c.5) UNSOLICITED INFORMATIONAL MATERIAL, PUBLICATIONS, OR SUBSCRIPTIONS RELATED TO THE PERFORMANCE OF OFFICIAL DUTIES ON THE PART OF THE PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE;

~~(d) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public officer, member of the general assembly, local government official, or employee is scheduled to participate~~ REASONABLE EXPENSES PAID BY A NONPROFIT ORGANIZATION OR STATE AND LOCAL GOVERNMENT IN CONNECTION WITH ATTENDANCE AT A CONVENTION, FACT-FINDING MISSION OR TRIP, OR OTHER MEETING AS PERMITTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 (3) (f) OF ARTICLE XXIX OF THE STATE CONSTITUTION;

~~(e) PAYMENT OF OR reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such public officer, member of the general assembly, local government official, or employee which is not extraordinary when viewed in light of the position held by such public officer, member of the general assembly, local government official, or employee~~ ADMISSION TO, AND THE COST OF FOOD OR BEVERAGES CONSUMED AT, A RECEPTION, MEAL, OR MEETING THAT MAY BE ACCEPTED OR RECEIVED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 (3) (e) OF ARTICLE XXIX OF THE STATE CONSTITUTION;

~~(f) Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, recreational, educational, or cultural events~~ A GIFT GIVEN BY AN INDIVIDUAL WHO IS A RELATIVE OR PERSONAL FRIEND OF THE PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE ON A SPECIAL OCCASION.

(g) Payment for speeches, appearances, or publications THAT MAY BE ACCEPTED OR RECEIVED BY THE PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION THAT ARE reported pursuant to ~~section 24-6-203~~ SECTION 24-6-203 (3) (d);

(h) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office;

(i) A COMPONENT OF THE COMPENSATION PAID OR OTHER INCENTIVE GIVEN TO THE PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE IN THE NORMAL COURSE OF EMPLOYMENT; AND

(j) ANY OTHER GIFT OR THING OF VALUE A PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE IS PERMITTED TO SOLICIT, ACCEPT, OR RECEIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION, THE ACCEPTANCE OF WHICH IS NOT OTHERWISE PROHIBITED BY LAW.

(5) THE AMOUNT OF THE GIFT LIMIT SPECIFIED IN PARAGRAPH (b.5) OF SUBSECTION (3) OF THIS SECTION, SET AT FIFTY-THREE DOLLARS AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (5), SHALL BE IDENTICAL TO THE AMOUNT OF THE GIFT LIMIT UNDER SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION, AND SHALL BE ADJUSTED FOR INFLATION CONTEMPORANEOUSLY WITH ANY ADJUSTMENT OF THE CONSTITUTIONAL GIFT LIMIT PURSUANT TO SECTION 3 (6) OF ARTICLE XXIX.

SECTION 5. In Colorado Revised Statutes, 1-45-105.5, **amend** (1) (c) (IV) introductory portion and (1) (c) (IV) (B) as follows:

1-45-105.5. Contributions to members of general assembly and governor during consideration of legislation. (1) (c) (IV) A gift of a meal described in subparagraph (III) of this paragraph (c) by a lobbyist or a principal of a lobbyist to ~~an incumbent in or~~ a candidate elected to any office described in paragraph (a) of this subsection (1) BUT WHO HAS NOT YET BEEN SWORN INTO SUCH OFFICE shall be reported as follows:

(B) The ~~incumbent or~~ ELECTED candidate WHO HAS NOT YET BEEN SWORN INTO OFFICE shall report the value of the meal in the public official disclosure statement filed pursuant to section 24-6-203, C.R.S.

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); 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 such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 9, 2012