

**First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 11-0149.01 Bob Lackner

**HOUSE BILL 11-1229**

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**A BILL FOR AN ACT**

101     **CONCERNING REQUIREMENTS AFFECTING THE CREATION OF ISSUE**  
102             **COMMITTEES UNDER COLORADO LAW GOVERNING CAMPAIGN**  
103             **FINANCE.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill excludes from the definitions of "ballot issue" and "ballot question" under the "Uniform Election Code of 1992" and the "Fair Campaign Practices Act" (FCPA) the nomination or election of a candidate, including the retention of a candidate.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

In the 2010 decision of the United States tenth circuit court of appeals titled *Sampson v. Buescher*, the court struck down as unconstitutional under the first amendment to the United States constitution the threshold amount of contributions raised or expenditures made (\$200) that constitutes part of the determination of whether an issue committee has been formed under the campaign finance provisions of the state constitution. Upon formation, an issue committee is subject to various record-keeping, registration, and disclosure requirements. The bill raises this threshold amount in the FCPA to \$1,000.

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

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

4 (a) Under article XXVIII of the state constitution, which was  
5 passed by the people of the state as a citizens' initiative in 2002, an issue  
6 committee is formed upon the satisfaction of specified requirements,  
7 including a requirement, specified in section 2 (10) (a) (II) of said article,  
8 that an issue committee "has accepted or made contributions or  
9 expenditures in excess of two hundred dollars to support or oppose any  
10 ballot issue or ballot question.";

11 (b) Once an issue committee is established, it is subject to a  
12 number of record-keeping, registration, and disclosure requirements, the  
13 violation of which may result in the imposition of civil penalties;

14 (c) In the case of *Sampson v. Buescher*, 625 F.3d 1247 (10th Cir.  
15 2010), the United States tenth circuit court of appeals held that:

16 (I) The two hundred dollar threshold requirement under Colorado  
17 law unconstitutionally burdens the first amendment rights of association  
18 of those citizens desirous of supporting or opposing ballot issues or ballot  
19 questions who raise and expend relatively de minimus amounts of money  
20 as the financial burden of such regulation on freedom of association

1 approaches or exceeds the value of these citizens' financial contributions  
2 to their political effort;

3 (II) The court would not attempt to draw a bright line below  
4 which an issue committee may not be required to report contributions and  
5 expenditures except to state only that the contributions and expenditures  
6 at issue in the case fell well below such a line;

7 (d) As a result of the *Sampson* decision, the existing threshold  
8 amount in section 2 (10) (a) (II) of article XXVIII of the state constitution  
9 has now been struck down, at least with respect to the factual  
10 circumstances presented in the case, leading to a situation in which there  
11 is widespread uncertainty across the state as to the amount of  
12 contributions or expenditures that must be reported;

13 (e) In the absence of legislation addressing questions raised by the  
14 *Sampson* case, citizen groups may be uncertain as to the amount that  
15 requires reporting; and

16 (f) In accordance with its plenary power to take all such action  
17 unless prohibited by the federal or state constitution, the general assembly  
18 elects to impose a new threshold amount of one thousand dollars as the  
19 amount of contributions raised or expenditures made that is to be used  
20 under section 2 (10) (a) (II) of article XXVIII of the state constitution for  
21 assisting in the determination of whether an issue committee exists. This  
22 amount is set at a level that protects the citizens' rights to freely  
23 coordinate their efforts in contributing to issue campaigns without the  
24 burden imposed by regulation while ensuring meaningful disclosure of  
25 large contributions to issue campaigns where justified by the public  
26 interest.

27 **SECTION 2.** 1-1-104 (2.3) and (2.7), Colorado Revised Statutes,

1 are amended to read:

2 **1-1-104. Definitions.** As used in this code, unless the context  
3 otherwise requires:

4 (2.3) "Ballot issue" means a state or local government matter  
5 arising under section 20 of article X of the state constitution, as defined  
6 in sections 1-41-102 (4) and 1-41-103 (4), respectively. "BALLOT ISSUE"  
7 SHALL EXCLUDE THE NOMINATION OR ELECTION OF A CANDIDATE,  
8 INCLUDING THE RETENTION OF A CANDIDATE.

9 (2.7) "Ballot question" means a state or local government matter  
10 involving a citizen petition or referred measure, other than a ballot issue.  
11 "BALLOT QUESTION" SHALL EXCLUDE THE NOMINATION OR ELECTION OF  
12 A CANDIDATE, INCLUDING THE RETENTION OF A CANDIDATE.

13 **SECTION 3.** 1-45-103 (12) (a), Colorado Revised Statutes, is  
14 amended to read:

15 **1-45-103. Definitions.** As used in this article, unless the context  
16 otherwise requires:

17 (12) (a) "Issue committee" shall have the same meaning as set  
18 forth in section 2 (10) of article XXVIII of the state constitution; EXCEPT  
19 THAT, IN ACCORDANCE WITH THE DECISION OF THE UNITED STATES TENTH  
20 CIRCUIT COURT OF APPEALS IN *SAMPSON V. BUESCHER*, 625 F.3d 1247  
21 (10TH CIR. 2010), THE THRESHOLD AMOUNT OF CONTRIBUTIONS OR  
22 EXPENDITURES THAT CONSTITUTES PART OF THE DETERMINATION OF  
23 WHETHER AN ISSUE COMMITTEE HAS BEEN FORMED UNDER SECTION 2 (10)  
24 (a) (II) OF ARTICLE XXVIII OF THE STATE CONSTITUTION AND IS,  
25 THEREFORE, SUBJECT TO ALL LEGAL REQUIREMENTS THEREUNDER, SHALL  
26 BE ONE THOUSAND DOLLARS.

27 **SECTION 4. Effective date - applicability.** This act shall take

1 effect July 1, 2011, and shall apply to the portion of any election cycle or  
2 for the portion of the calendar year remaining after such date and for any  
3 election cycle or calendar year commencing after such date, whichever  
4 is applicable.

5 **SECTION 5. Safety clause.** The general assembly hereby finds,  
6 determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, and safety.