

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0767.01 Dan Cartin

HOUSE BILL 10-1370

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING CERTAIN DISCLOSURE REQUIREMENTS THAT APPLY TO**
102 **STATEWIDE BALLOT MEASURES.**

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/bills/summaries>.)

Section 1 of the bill makes legislative findings and declarations.

Section 2 of the bill requires the secretary of state to notify the proponents of a statewide initiative petition at the time a petition is approved that the proponents must register an issue committee if 200 or more petition sections are printed or accepted in connection with

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.

SENATE
3rd Reading Unam ended
May 10, 2010

SENATE
2nd Reading Unam ended
May 7, 2010

HOUSE
3rd Reading Unam ended
April 22, 2010

HOUSE
Am ended 2nd Reading
April 21, 2010

circulation of the petition.

Section 3 of the bill requires each person who submits written comments to the staff of legislative council for the general assembly in connection with drafting the arguments for and against the initiated or referred measures contained in the ballot information booklet (blue book) to provide certain identifying information. The arguments for and against each measure in the analysis section of the blue book shall be preceded by a phrase referencing the secretary of state's election center web site address containing information on those issue committees that support or oppose the measures at the upcoming election.

Section 4 of the bill clarifies "major purpose" for purposes of the campaign and political finance provisions of the state constitution.

Section 5 of the bill makes a conforming amendment.

Section 6 of the bill requires an issue committee that makes an expenditure in excess of \$1,000 on a communication that is broadcast, printed, mailed, or delivered to disclose, in the communication produced by the expenditure, the name of the issue committee making the expenditure. The bill specifies how the disclaimer must appear in the communication.

Section 7 of the bill specifies that upon a determination by the office of administrative courts that an issue committee knowingly or intentionally failed to file a report required pursuant to the state's campaign finance laws, the administrative law judge shall direct the issue committee to file any such report within 10 days and may, in addition to any other penalty, impose a penalty not to exceed \$20 for each contribution received and expenditure made by the issue committee that was not timely reported.

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 and declares that:

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

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

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

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

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

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

24 (g) There is no evidence that requiring a disclosure or disclaimer
25 in an issue committee communication as provided in section 1-45-108.3,
26 Colorado Revised Statutes, as contained in section 6 of House Bill
27 10-1370, enacted in 2010, will subject issue committees to threats,

1 harassment, or reprisals from either government officials or other persons.

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

4 **1-40-113. Form - representatives of signers.** (1) (a) Each
5 section of a petition shall be printed on a form as prescribed by the
6 secretary of state. No petition shall be printed, published, or otherwise
7 circulated unless the form and the first printer's proof of the petition have
8 been approved by the secretary of state. Each petition section shall
9 designate by name and mailing address two persons who shall represent
10 the signers thereof in all matters affecting the same. The secretary of
11 state shall assure that the petition contains only the matters required by
12 this article and contains no extraneous material. All sections of any
13 petition shall be prenumbered serially, and the circulation of any petition
14 section described by this article other than personally by a circulator is
15 prohibited. Any petition section circulated in whole or in part by anyone
16 other than the person who signs the affidavit attached to the petition
17 section shall be invalid. Any petition section that fails to conform to the
18 requirements of this article or is circulated in a manner other than that
19 permitted in this article shall be invalid.

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

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

1 **1-40-124.5. Ballot information booklet.** (1.7) (a) After
2 receiving written comments from the public in accordance with section
3 1 (7.5) (a) (II) of article V of the state constitution, but before the draft of
4 the ballot information booklet is finalized, the director of research of the
5 legislative council of the general assembly shall conduct a public meeting
6 at which the director and other members of the legislative staff have the
7 opportunity to ask questions that arise in response to the written
8 comments. The director may modify the draft of the booklet in response
9 to comments made at the hearing. The legislative council may modify the
10 draft of the booklet upon the two-thirds affirmative vote of the members
11 of the legislative council.

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

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

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

27 **1-45-103. Definitions.** As used in this article, unless the context

1 otherwise requires:

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

4 (b) FOR PURPOSES OF SECTION 2 (10) (a) (I) OF ARTICLE XXVIII OF
5 THE STATE CONSTITUTION, "MAJOR PURPOSE" MEANS SUPPORT OF OR
6 OPPOSITION TO A BALLOT ISSUE OR BALLOT QUESTION THAT IS REFLECTED
7 BY:

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

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

13 (A) ANNUAL EXPENDITURES IN SUPPORT OF OR OPPOSITION TO A
14 BALLOT ISSUE OR BALLOT QUESTION; OR

15 (B) PRODUCTION OR FUNDING, OR BOTH, OF WRITTEN OR
16 BROADCAST COMMUNICATIONS, OR BOTH, IN SUPPORT OF OR OPPOSITION
17 TO A BALLOT ISSUE OR BALLOT QUESTION.

18 (c) THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (12)
19 ARE INTENDED TO CLARIFY, BASED ON THE DECISION OF THE COLORADO
20 COURT OF APPEALS IN *INDEPENDENCE INSTITUTE V. COFFMAN*, 209 P.3d
21 1130 (COLO. APP. 2008), CERT. DENIED, SECTION 2 (10) (a) (I) OF ARTICLE
22 XXVIII OF THE STATE CONSTITUTION AND NOT TO MAKE A SUBSTANTIVE
23 CHANGE TO SAID SECTION 2 (10) (a) (I).

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

26 **1-45-108. Disclosure.** (3.3) Subject to the provisions of
27 subsection (7) of this section, each issue committee shall register with the

1 appropriate officer within ten calendar days of accepting or making
2 contributions or expenditures in excess of two hundred dollars to support
3 or oppose any ballot issue or ballot question OR UPON RECEIPT OF THE
4 NOTICE FROM THE SECRETARY OF STATE PURSUANT TO SECTION 1-40-113
5 (1) (b). If required to register under the requirements of this subsection
6 (3.3), the registration of the issue committee shall include a statement
7 containing the items listed in paragraphs (a) to (f) of subsection (3) of this
8 section in connection with other committees and a political party.

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

11 **1-45-108.3. Issue committees - disclaimer.** (1) AN ISSUE
12 COMMITTEE MAKING AN EXPENDITURE IN EXCESS OF ONE THOUSAND
13 DOLLARS ON A COMMUNICATION THAT SUPPORTS OR OPPOSES A
14 STATEWIDE BALLOT ISSUE OR BALLOT QUESTION AND THAT IS BROADCAST
15 BY TELEVISION OR RADIO, PRINTED IN A NEWSPAPER OR ON A BILLBOARD,
16 DIRECTLY MAILED OR DELIVERED BY HAND TO PERSONAL RESIDENCES, OR
17 OTHERWISE DISTRIBUTED SHALL DISCLOSE, IN THE COMMUNICATION
18 PRODUCED BY THE EXPENDITURE, THE NAME OF THE ISSUE COMMITTEE
19 MAKING THE EXPENDITURE.

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

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

26 (c) (I) IF THE COMMUNICATION IS BROADCAST ON TELEVISION, THE
27 DISCLAIMER SHALL BE WRITTEN OR SPOKEN AT THE BEGINNING OR END OF

1 THE COMMUNICATION. IF THE DISCLAIMER IS WRITTEN, IT SHALL APPEAR
2 FOR AT LEAST FOUR SECONDS OF ANY COMMUNICATION BROADCAST ON
3 TELEVISION.

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

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

9 **1-45-111.5. Duties of the secretary of state - enforcement -**
10 **sanctions.** (3) UPON A DETERMINATION BY THE OFFICE OF
11 ADMINISTRATIVE COURTS THAT AN ISSUE COMMITTEE FAILED TO FILE A
12 REPORT REQUIRED PURSUANT TO SECTION 1-45-108, THE ADMINISTRATIVE
13 LAW JUDGE SHALL DIRECT THE ISSUE COMMITTEE TO FILE ANY SUCH
14 REPORT WITHIN TEN DAYS CONTAINING ALL REQUIRED DISCLOSURE OF ANY
15 PREVIOUSLY UNREPORTED CONTRIBUTIONS OR EXPENDITURES AND MAY,
16 IN ADDITION TO ANY OTHER PENALTY, IMPOSE A PENALTY NOT TO EXCEED
17 TWENTY DOLLARS FOR EACH CONTRIBUTION RECEIVED AND EXPENDITURE
18 MADE BY THE ISSUE COMMITTEE THAT WAS NOT TIMELY REPORTED.

19 **SECTION 8. Act subject to petition - specified effective date**
20 **- applicability.** (1) This act shall take effect January 1, 2011; except
21 that, if a referendum petition is filed pursuant to section 1 (3) of article V
22 of the state constitution against this act or an item, section, or part of this
23 act within the ninety-day period after final adjournment of the general
24 assembly, then the act, item, section, or part shall not take effect unless
25 approved by the people at the general election to be held in November
26 2010 and shall take effect on January 1, 2011, or on the date of the
27 official declaration of the vote thereon by the governor, whichever is

1 later.

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