

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 10-0268.01 Dan Cartin

SENATE BILL 10-114

SENATE SPONSORSHIP

Carroll M.,

HOUSE SPONSORSHIP

Weissmann,

Senate Committees
Judiciary

House Committees
State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING THE "COLORADO TAXPAYER TRANSPARENCY ACT OF**
102 **2010".**

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 extends the application of the "Colorado Open Records Act" (CORA) to all writings made, maintained, or kept by any entity that receives public moneys or performs a governmental or other public function and that relate to the receipt of the public moneys or the performance of that function.

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.*

HOUSE
Am ended 2nd Reading
May 5, 2010

SENATE
3rd Reading Unam ended
February 24, 2010

SENATE
Am ended 2nd Reading
February 19, 2010

Each contract for the performance of a governmental or other public function entered into on or after the effective date of the bill shall specify that the records and files relating to the costs or any performance measures under the contract that are made, maintained, or kept by any entity that is a party to the contract shall be open for public inspection in accordance with CORA. This does not require a private entity to make any materials available for inspection that do not relate to the contract for the performance of a governmental or other public function.

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

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Colorado Taxpayer Transparency Act of 2010".

4 **SECTION 2.** 24-51-412 (2), Colorado Revised Statutes, is
5 amended to read:

6 **24-51-412. Denver public schools district - contributions and**
7 **disbursements - legislative declaration.** (2) Due to the circumstances
8 specified in subsection (1) of this section, contributions required to be
9 made by employers in the Denver public schools division pursuant to
10 section 24-51-401 (1.7) (a) and disbursements required to be made
11 pursuant to section 24-51-411 shall be reduced by an amount in each year
12 equal to the obligations of the Denver public schools with respect to
13 outstanding PCOPS, or any obligations incurred to refinance the PCOPS,
14 at a fixed effective annual interest rate of eight and one-half percent and
15 with principal maturities as they exist on January 1, 2010, or on the date
16 of issuance of any obligations to refinance the PCOPS, recognizing that
17 it is not the intention to increase substantially the offset by accelerating
18 principal maturities through refinancing. The annual offset may be
19 applied by the Denver public schools in installments as it determines so
20 long as there are sufficient monthly contributions to fund the DPS health
21 care trust fund and the annual increase reserve required pursuant to

1 section 24-51-1009, taking into account the true-up provisions in section
2 24-51-401, and the calculation of the offset shall be included in the
3 contribution reports required by section 24-51-401 (1.7) (a). Since, as
4 stated in paragraph (b) of subsection (1) of this section, the funded ratio
5 of the Denver public schools retirement system trust fund presently
6 exceeds that of the school division of the association, the anticipated
7 equalization of the funded ratios over a thirty-year period of the two
8 divisions provided in section 24-51-401 (2) may necessarily result in a
9 decline in the funded ratio of the Denver public schools division trust
10 fund. Denver public schools shall annually submit to the association
11 audited financial statements showing the actual debt service experience
12 related to the PCOPS. SUCH FINANCIAL STATEMENTS SHALL BE PUBLIC
13 RECORDS SUBJECT TO DISCLOSURE PURSUANT TO THE "COLORADO OPEN
14 RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE.

15 **SECTION 3.** 24-72-202 (1.6), Colorado Revised Statutes, is
16 amended to read:

17 **24-72-202. Definitions.** As used in this part 2, unless the context
18 otherwise requires:

19 (1.6) "Institutionally related foundation" means a nonprofit
20 corporation, foundation, institute, or similar entity that is organized for
21 the benefit of one or more institutions OR FOR THE BENEFIT OF A PRINCIPAL
22 DEPARTMENT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT and that
23 has as its principal purpose receiving or using private donations to be held
24 or used for the benefit of an institution OR DEPARTMENT. An
25 institutionally related foundation shall be deemed not to be a
26 governmental body, agency, or other public body for any purpose.

27 **SECTION 4.** 24-72-204 (3) (a) (IV), Colorado Revised Statutes,

1 is amended to read:

2 **24-72-204. Allowance or denial of inspection - grounds -**
3 **procedure - appeal - definitions.** (3) (a) The custodian shall deny the
4 right of inspection of the following records, unless otherwise provided by
5 law; except that any of the following records, other than letters of
6 reference concerning employment, licensing, or issuance of permits, shall
7 be available to the person in interest under this subsection (3):

8 (IV) Trade secrets, privileged information, and confidential
9 commercial, financial, PRICING, geological, or geophysical data, including
10 a social security number unless disclosure of the number is required,
11 permitted, or authorized by state or federal law, furnished by or obtained
12 from any person;

13

14 **SECTION 5. 24-101-401, Colorado Revised Statutes, is amended**
15 **to read:**

16 **24-101-401. Public access to procurement information.**

17 **(1) Except as provided in section 24-103-202 (4), procurement**
18 **information shall be a public record and shall be available to the public,**
19 **as provided in sections 24-72-203 and 24-72-204.**

20 **(2) (a) EACH CONTRACT ENTERED INTO BY A GOVERNMENTAL**
21 **BODY PURSUANT TO THE PROVISIONS OF THIS CODE SHALL SPECIFY THAT**
22 **THE CONTRACT IS OPEN TO INSPECTION BY THE PUBLIC.**

23 **(b) THE RECORDS RELATING TO THE COSTS OR ANY PERFORMANCE**
24 **MEASURES UNDER THE CONTRACT THAT ARE MADE, MAINTAINED, OR KEPT**
25 **BY ANY PARTY TO THE CONTRACT SHALL BE AVAILABLE TO THE**
26 **GOVERNMENTAL BODY. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS**
27 **(c) AND (d) OF THIS SUBSECTION (2), THOSE RECORDS SHALL BE AVAILABLE**

1 FOR PUBLIC INSPECTION UPON A REQUEST MADE OF THE CUSTODIAN OF
2 RECORDS FOR THE GOVERNMENTAL BODY PURSUANT TO THE "COLORADO
3 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE.

4

5 (c) NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO
6 REQUIRE A GOVERNMENTAL BODY OR A CUSTODIAN TO MAKE ANY PUBLIC
7 RECORDS AVAILABLE FOR INSPECTION OR OTHERWISE ACCESSIBLE TO THE
8 PUBLIC THAT A CUSTODIAN IS OTHERWISE AUTHORIZED OR REQUIRED TO
9 DENY INSPECTION OF PURSUANT TO SECTION 24-72-204.

10 (d) UPON RECEIPT OF ANY RECORDS REQUEST PURSUANT TO THIS
11 SUBSECTION (2), THE GOVERNMENTAL BODY SHALL NOTIFY THE
12 GOVERNMENT CONTRACTOR OF THE REQUEST. NOTWITHSTANDING
13 SECTION 24-72-204 (3) (b), THE GOVERNMENTAL BODY SHALL PROVIDE
14 SUCH RECORDS TO THE APPLICANT UNLESS THE GOVERNMENT
15 CONTRACTOR DESIGNATES AND ATTESTS THAT A PORTION OF ANY
16 CONTRACT OR OTHER RECORD REQUESTED IS EXEMPT FROM DISCLOSURE
17 PURSUANT TO STATE OR FEDERAL STATUTE WITHIN TWENTY-ONE DAYS OF
18 SUCH NOTIFICATION. ANY SUCH RECORD THAT IS DESIGNATED AND
19 ATTESTED TO BE EXEMPT FROM DISCLOSURE SHALL INITIALLY BE
20 WITHHELD FROM PUBLIC INSPECTION BY THE GOVERNMENTAL BODY,
21 PENDING DETERMINATION OF THE APPLICABILITY OF AN EXEMPTION FROM
22 INSPECTION PURSUANT TO SECTION 24-72-204.

23 **SECTION 6. Act subject to petition - effective date.** This act
24 shall take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part shall not take effect
3 unless approved by the people at the general election to be held in
4 November 2010 and shall take effect on the date of the official
5 declaration of the vote thereon by the governor.