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ELECTIONS / LICENSING  
SECRETARY OF STATE

2:00P.m.  
Final  
#21

Be it Enacted by the People of the State of Colorado:

**SECTION 1.** Section 2 of Article XXIX of the Colorado Constitution is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**Section 2. Definitions.** (3.5) "OFFICIAL ACT" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-18-102 (7), COLORADO REVISED STATUTES, OR ANY SUCCESSOR PROVISION.

(4.5) "PRIVATE GAIN" OR "PERSONAL FINANCIAL GAIN" MEANS ANY MONEY, FORBEARANCE, FORGIVENESS OF INDEBTEDNESS, GIFT, OR OTHER THING OF VALUE GIVEN OR OFFERED BY A PERSON SEEKING TO INFLUENCE AN OFFICIAL ACT THAT IS PERFORMED IN THE COURSE AND SCOPE OF THE PUBLIC DUTIES OF A PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE.

**SECTION 2.** Section 3 of Article XXIX of the Colorado Constitution is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTION to read:

**Section 3. Gift ban.** (3.5) THE PROHIBITIONS IN SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL APPLY ONLY TO A PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE WHOSE SOLICITATION, ACCEPTANCE, OR RECEIPT OF A GIFT, THING OF VALUE, MONEY, FORBEARANCE, OR FORGIVENESS OF INDEBTEDNESS IS A BREACH OF THE PUBLIC TRUST FOR PRIVATE GAIN AS SET FORTH IN SECTIONS 1 AND 6 OF THIS ARTICLE.

**SECTION 3.** Section 5 of Article XXIX of the Colorado Constitution is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**Section 5. Independent ethics commission.** (2.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

(a) THE INDEPENDENT ETHICS COMMISSION SHALL BE ESTABLISHED IN THE OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL, OR ANY SUCCESSOR OFFICE, CREATED IN SECTION 24-30-1001, COLORADO REVISED STATUTES.

(b) FOR INDIVIDUALS APPOINTED AFTER JANUARY 1, 2008, THE MEMBER APPOINTED BY THE SENATE SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE, AND THE MEMBER OF THE HOUSE OF REPRESENTATIVES SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE. THE APPOINTMENT OF A COMMISSION MEMBER BY THE SENATE SHALL BE EFFECTIVE UPON THE APPROVAL OF A MAJORITY OF THE MEMBERS ELECTED TO THE SENATE, AND THE APPOINTMENT OF A COMMISSION MEMBER BY THE HOUSE OF REPRESENTATIVES SHALL BE EFFECTIVE UPON THE APPROVAL OF A MAJORITY OF THE MEMBERS ELECTED TO THE HOUSE.

(c) MEMBERS MAY BE BUT SHALL NOT BE REQUIRED TO BE AFFILIATED WITH A MAJOR POLITICAL PARTY, AND THE HOUSE AND SENATE APPOINTEES ARE NOT REQUIRED TO BE MEMBERS OF DIFFERENT POLITICAL PARTIES.

(d) THE COMMISSION MEMBERS APPOINTED BY THE SENATE, THE HOUSE OF REPRESENTATIVES, THE GOVERNOR, AND THE CHIEF JUSTICE SHALL, AS PROVIDED IN SECTION 5(2)(a)(V) OF THIS ARTICLE, APPOINT ANY QUALIFYING INDIVIDUAL TO BE THE MEMBER WHO IS A

LOCAL GOVERNMENT OFFICIAL OR LOCAL GOVERNMENT EMPLOYEE AND SHALL NOT BE LIMITED TO LISTS OF INDIVIDUALS PROVIDED BY MEMBERS OF THE GENERAL ASSEMBLY.

(3.5) THE INDEPENDENT ETHICS COMMISSION SHALL DISMISS AS FRIVOLOUS ANY COMPLAINT FILED UNDER THIS ARTICLE THAT FAILS TO ALLEGE A PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE SOLICITED, ACCEPTED, OR RECEIVED ANY GIFT OR OTHER THING OF VALUE FOR PRIVATE GAIN OR PERSONAL FINANCIAL GAIN.

(3.7) ANY FINAL AGENCY ACTION OF THE INDEPENDENT ETHICS COMMISSION CONCERNING A COMPLAINT SHALL BE SUBJECT TO JUDICIAL REVIEW BY THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER.

(4.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SUBPOENA COMPELLING THE ATTENDANCE OF A WITNESS OR THE PRODUCTION OF DOCUMENTS SHALL BE ISSUED BY THE INDEPENDENT ETHICS COMMISSION ONLY IF A MOTION TO ISSUE ANY SUCH SUBPOENA HAS BEEN MADE BY ONE MEMBER OF THE COMMISSION AND APPROVED BY A MAJORITY OF THE COMMISSION'S MEMBERS.

(5.5)(a) THE INDEPENDENT ETHICS COMMISSION SHALL PREPARE A RESPONSE TO A REQUEST FOR AN ADVISORY OPINION FROM A PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE AS TO WHETHER PARTICULAR ACTION BY SUCH OFFICER, MEMBER, OFFICIAL, OR EMPLOYEE SATISFIES THE REQUIREMENTS OF THIS ARTICLE NOT MORE THAN TWENTY BUSINESS DAYS AFTER THE REQUEST IS MADE TO THE COMMISSION.

(b) ANY PERSON WHO IS NOT A PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE MAY SUBMIT A REQUEST TO THE INDEPENDENT ETHICS COMMISSION FOR A LETTER RULING CONCERNING WHETHER POTENTIAL CONDUCT OF THE PERSON MAKING THE REQUEST SATISFIES THE REQUIREMENTS OF THIS ARTICLE. IN SUCH CASE, THE COMMISSION SHALL ISSUE A RESPONSE TO THE REQUEST AS SOON AS PRACTICABLE.

(c) EACH ADVISORY OPINION OR LETTER RULING, AS APPLICABLE, ISSUED BY THE INDEPENDENT ETHICS COMMISSION SHALL BE WRITTEN WITH THE ASSISTANCE OF APPROPRIATE STAFF IN THE ATTORNEY GENERAL'S OFFICE, SHALL BE A PUBLIC DOCUMENT, AND SHALL BE PROMPTLY POSTED ON A WEBSITE THAT SHALL BE MAINTAINED BY THE COMMISSION; EXCEPT THAT, IN THE CASE OF A LETTER RULING, THE COMMISSION SHALL REDACT THE NAME OF THE PERSON REQUESTING THE RULING OR OTHER IDENTIFYING INFORMATION BEFORE IT IS POSTED ON THE WEBSITE.

**SECTION 4.** Article XXIX of the Colorado Constitution is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**SECTION 10. Occupational tax on professional lobbyists.**

(1) IN ORDER TO SUPPLEMENT THE STATE'S GENERAL FUND FOR REVENUES EXPENDED ON THE INDEPENDENT ETHICS COMMISSION'S INTERPRETATION AND ENFORCEMENT OF THIS ARTICLE, AN OCCUPATIONAL TAX OF TWENTY-FIVE DOLLARS PER YEAR IS IMPOSED ON EACH

PROFESSIONAL LOBBYIST. FOR THE FISCAL YEAR ENDING JUNE 30, 2008, THE FULL AMOUNT OF SUCH OCCUPATIONAL TAX SHALL BE IMPOSED ON ANY INDIVIDUAL WHO ACTS AS A PROFESSIONAL LOBBYIST ON OR AFTER JANUARY 1, 2008. SUBJECT TO SUBSECTION (2) OF THIS SECTION, A PROFESSIONAL LOBBYIST SHALL PAY THE OCCUPATIONAL TAX IN ANY SUBSEQUENT FISCAL YEAR IN WHICH HE OR SHE LOBBIES ONE OR MORE PUBLIC OFFICERS, MEMBERS OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIALS, OR GOVERNMENT EMPLOYEES.

(2) FOR ANY FISCAL YEAR COMMENCING AFTER JUNE 30, 2008, THE GENERAL ASSEMBLY MAY INCREASE OR DECREASE THE RATE OF THE OCCUPATIONAL TAX IMPOSED UNDER SUBSECTION (1) OF THIS SECTION, SO LONG AS REVENUE FROM SUCH TAX DOES NOT EXCEED NINETY PERCENT OF GENERAL FUND EXPENDITURES ASSOCIATED WITH THE INDEPENDENT ETHICS COMMISSION IN THE FISCAL YEAR IN WHICH THE TAX IS TO BE PAID. REGARDING ANY INCREASE IN THE RATE OF THE OCCUPATIONAL TAX ENACTED PURSUANT TO THIS SUBSECTION 2, VOTER APPROVAL OF THIS SECTION AT THE 2007 GENERAL ELECTION SHALL SATISFY THE REQUIREMENTS FOR VOTER APPROVAL UNDER SECTION 20 OF ARTICLE X OF THIS CONSTITUTION.

(3) THE DEPARTMENT OF REVENUE SHALL COLLECT ALL OCCUPATIONAL TAXES IMPOSED UNDER THIS SECTION AND SHALL REMIT THE REVENUES FROM SUCH TAX TO THE STATE'S GENERAL FUND.

(4) ALL REVENUES GENERATED BY THE OCCUPATIONAL TAX ON PROFESSIONAL LOBBYISTS SHALL BE EXEMPT FROM ANY RESTRICTIONS ON SPENDING, REVENUES, OR APPROPRIATIONS, INCLUDING WITHOUT LIMITATION, THE RESTRICTIONS IN SECTION 20 OF ARTICLE X OF THIS CONSTITUTION.

**SECTION 11. Applicability.** IN APPROVING AMENDMENTS TO THIS ARTICLE AT THE 2007 ODD-YEAR ELECTION, IT IS THE VOTERS' INTENT THAT SECTIONS 2(3.5), (4.5) AND 3(3.5) OF THIS ARTICLE CLARIFY THE LAW IN EXISTENCE ON AND BEFORE THE EFFECTIVE DATE OF SUCH AMENDMENTS. SECTIONS 2(3.5), (4.5) AND 3(3.5) IMPLEMENT THE OVERRIDING LEGAL STANDARD USED IN SECTIONS 1 AND 6 OF THIS ARTICLE: VIOLATION OF THE PUBLIC TRUST FOR PRIVATE GAIN. AS SUCH, SECTIONS 2(3.5), (4.5) AND 3(3.5) ARE INTENDED TO BE USED IN INTERPRETING AND APPLYING THIS ARTICLE IN COMPLAINTS BEFORE THE INDEPENDENT ETHICS COMMISSION, ADVISORY OPINIONS AND LETTER RULINGS, LITIGATION IN WHICH ONE OR MORE PARTIES SEEKS TO DECLARE ANY PORTION OF THIS ARTICLE UNCONSTITUTIONAL OR ENJOIN OR SUSPEND ITS EFFECT, IN WHOLE OR IN PART, AND APPELLATE PROCEEDINGS OF ANY COMMISSION OR COURT DECISION INCLUDING THOSE INITIATED PRIOR TO THE 2007 GENERAL ELECTION. FURTHER, VOTER APPROVAL OF AMENDMENTS TO THIS ARTICLE AT THE 2007 GENERAL ELECTION SHALL BE DEEMED TO CONSTITUTE REENACTMENT OF SECTIONS 1, 2, 3, 5, AND 6 OF THIS ARTICLE, IN THE EVENT A STATE OR FEDERAL COURT DECLARES ALL OR PART OF SUCH SECTIONS TO BE UNCONSTITUTIONAL OR ENJOINS OR SUSPENDS THEIR EFFECT, IN WHOLE OR IN PART, BEFORE THESE CLARIFYING AMENDMENTS ARE ADOPTED.

**SECTION 12. Effective date.** THE AMENDMENTS TO THIS ARTICLE, APPROVED BY THE VOTERS AT THE 2007 GENERAL ELECTION, SHALL TAKE EFFECT EITHER ON JANUARY 1, 2008 OR AS PROVIDED BY SECTION 1(4) OF ARTICLE V OF THE COLORADO CONSTITUTION, WHICHEVER DATE OCCURS EARLIER.

**Proposed Initiative #21 Amendment 41 Modifications/Lobbyist Tax**

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