

SECRETARY OF STATE

[8 CCR 1505-6]

RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE

Preliminary Draft of Proposed Rules

October 31, 2007

Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rulemaking hearing may be different than the proposed changes in this draft. This draft is submitted to the Department of Regulatory Agencies for the purpose of complying with section 24-4-103(2.5), C.R.S., which requires that a draft be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

A final copy of the proposed rule changes will be available to the public no later than November 21, 2007 and a copy will be posted on the Department of State’s web site, in compliance with the requirement of section 24-4-103(4)(a), C.R.S., that “[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing.”

The Secretary of State is seeking comment on two proposed alternatives as outlined below. Proposed additions to the current rules are reflected in SMALL CAPS or underlined. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations may be included.

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General Rules and Technical Revisions

Rule 1.1 would be amended as follows:

1.1 “Business Activities”. For the purposes of Article XXVIII, Section 3(4)(b)(I) and Rule ~~4.13~~ 4.12 of these rules:

- a. “Business activities” means any commercial activity involving the sale or exchange of goods or services, whether or not for profit, and any activity conducted for the production of revenue, other than the solicitation of voluntary donations.
- b. “Cannot engage in business activities,” means that the articles of incorporation and by-laws, either expressly or implicitly, prohibits the corporation from engaging in any business activities.

Rule 2.4 would be amended as follows:

1 2.4 The purpose or nature of interest of the committee or party shall be included. A
2 candidate committee shall identify the specific elective office sought upon registration. A
3 political committee or small donor committee shall identify the candidates being
4 supported or opposed, OR THE TYPES OF CANDIDATES BEING SUPPORTED OR OPPOSED.

5 Rule 2.11 would be amended as follows:

6 2.11 The “appropriate filing officer” for a political committee whose purpose is to support OR
7 OPPOSE school board candidates or an issue committee whose purpose is to support or
8 oppose a ballot issue, question, or measure for a school district not wholly contained
9 within a single county shall be the county clerk and recorder of the county where the
10 school district administrative offices are located.

11 Rule 3.10 would be amended as follows:

12 3.10 Disposition of debt in anticipation of committee termination

13 a. Notwithstanding any negative balance for a prior election cycle, all contributions
14 received by a candidate committee in the current election cycle shall be subject to
15 the limits on contributions FOR THE CURRENT ELECTION CYCLE AND SHALL BE
16 REPORTED AS CONTRIBUTIONS FOR THE CURRENT ELECTION CYCLE. ~~set forth in~~
17 ~~section 3 of Article XXVIII of the Colorado Constitution pursuant to Section~~
18 ~~3(13) of Article XXVIII and shall be reported accordingly.~~

19 b. Any financial obligations incurred by a candidate committee in an election cycle
20 that are not paid within a commercially reasonable period of time, not to exceed
21 six (6) months after the close of that election cycle, shall be treated as
22 “contributions” from the service provider or vendor extending credit.

23 Rule 4.2 would be amended as follows:

24 4.2 When MANUALLY filing an amended report of contributions and expenditures, a new form
25 shall be completed that includes the cover page of the report of contributions and
26 expenditures, the detailed summary page, and any updated schedules listing only the
27 amended information. [C.R.S. 1-45-109(4)(b)]

28 Rule 9.2 would be amended as follows:

29 9.2 All entities must keep a record of all expenditures AND SPENDING made for electioneering
30 communications. All expenditures AND SPENDING of one thousand dollars or more per
31 calendar year including name, address and method of communication, shall be listed
32 individually on the electioneering report. [Article XXVIII, Sec. 6(1)]
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34 ***Rules Concerning Electioneering Communications - Alternative 1***

35 New Rule 9.6 would be adopted as follows:

36 9.5 SUBMISSION OF ELECTIONEERING COMMUNICATION DISCLOSURE REPORTS

1 9.5.1 CANDIDATE COMMITTEES, POLITICAL COMMITTEES, POLITICAL PARTY COMMITTEES,
2 SMALL DONOR COMMITTEES, AND POLITICAL ORGANIZATIONS SHALL NOT BE
3 REQUIRED TO FILE ELECTIONEERING COMMUNICATION REPORTS SEPARATE FROM
4 THE COMMITTEE’S REGULARLY FILED DISCLOSURE REPORTS SO LONG AS ANY
5 EXPENDITURE OR SPENDING SUBJECT TO SECTION 6, ARTICLE XXVIII OF THE
6 COLORADO CONSTITUTION AND RULE 9.4 IS IDENTIFIED AS AN ELECTIONEERING
7 COMMUNICATION. THE DISCLOSURE OF SUCH EXPENDITURES OR SPENDING ON A
8 REGULARLY FILED REPORT SHALL INCLUDE THE NAME OF THE CANDIDATE
9 REFERRED TO IN THE ELECTIONEERING COMMUNICATION.
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11 ***Rules Concerning Electioneering Communications - Alternative 2***

12 New Rule 9.6 would be adopted as follows:

13 9.5 SUBMISSION OF ELECTIONEERING COMMUNICATION DISCLOSURE REPORTS

14 9.5.1 CANDIDATE COMMITTEES, POLITICAL COMMITTEES, POLITICAL PARTY COMMITTEES,
15 SMALL DONOR COMMITTEES, AND POLITICAL ORGANIZATIONS SHALL NOT BE
16 REQUIRED TO FILE ELECTIONEERING COMMUNICATION REPORTS SEPARATE FROM
17 THE COMMITTEE’S REGULARLY FILED DISCLOSURE REPORTS.

18 ***Rules Concerning Electioneering Communications - Alternative 3***

19 Rule 9.3 would be repealed as follows:

20 ~~9.3 The name of the candidate(s) unambiguously referred to in the electioneering~~
21 ~~communication shall be included in the electioneering report. [Article XXVIII, Sec.~~
22 ~~2(7)(I)]~~
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24 ***Rules Concerning Federal PACs:***

25 Rule 2.8 would be amended as follows:

26 2.8 A political committee that is subject to reporting pursuant to both section 1-45-108,
27 C.R.S., and the “Federal Election Commission Act of 1971” may file with the appropriate
28 officer a copy of the registration filed with the federal election commission and, insofar
29 as such registration contains substantially the same information required by subsection
30 (3) of section 1-45-108, C.R.S., the political committee shall be considered to have
31 registered with the appropriate officer for purposes of subsection (3) of section ~~1-45-~~
32 ~~1031-~~45-108, C.R.S. The political committee shall not be required to file disclosure
33 reports if copies of the reports required to be filed with the Federal Election Commission
34 (FEC) pursuant to the “Federal Election Commission Act of 1971”, as amended, are filed
35 with the appropriate officer or are electronically available in the office of the appropriate
36 officer and if such reports include the information required by section 1-45-108, C.R.S.
37 PURSUANT TO THE REQUIREMENT OF SECTION 1-45-108 (3.5) THAT SUCH COMMITTEES ARE
38 SUBJECT TO “ALL OTHER LEGAL REQUIREMENTS”, COMMITTEES FILING REPORTS WITH THE
39 FEC IN ACCORDANCE WITH THIS RULE ARE SUBJECT TO THE FOLLOWING:

- 1 A. ITEMIZATION OF ALL CONTRIBUTIONS AND EXPENDITURES OF TWENTY DOLLARS
2 (\$20) OR MORE ON REPORTS FILED WITH THE FEC.
- 3 B. THE OCCUPATION AND EMPLOYER OF ANY PERSON WHO HAS MADE A
4 CONTRIBUTION OF ONE HUNDRED DOLLARS OR MORE MUST BE DISCLOSED ON
5 REPORTS FILED WITH THE FEC.
- 6 C. ONLY CONTRIBUTIONS RECEIVED BY THE COMMITTEE THAT ARE WITHIN
7 CONTRIBUTION LIMITS ESTABLISHED BY COLORADO LAW SHALL BE USED TO
8 SUPPORT OR OPPOSE STATE OR LOCAL CANDIDATES IN COLORADO.
- 9 D. THE COMMITTEE SHALL DEPOSIT FUNDS INTO A SEPARATE ACCOUNT IN
10 ACCORDANCE WITH ARTICLE XXVIII, SECTION 3(9) AND RULE 4.18 AND MAY, BUT
11 SHALL NOT BE REQUIRED TO, SEGREGATE FUNDS INTENDED TO SUPPORT OR OPPOSE
12 STATE OR LOCAL CANDIDATES IN COLORADO.