



## NOTICE OF TERMINATION OF RULEMAKING

Office of the Secretary of State  
Campaign and Political Finance Rules  
8 CCR 1505-6

(Amendment 54)

August 5, 2009

In accordance with section 24-4-103(4)(d), C.R.S., notice is hereby given that the rulemaking on the subject of revisions and amendments to the Secretary of State's "Rules Concerning Campaign and Political Finance," 8 CCR 1505-6, concerning the definition of "sole source government contract" for purposes of Amendment 54, is terminated.

On July 17, 2009, Denver District Court Judge Catherine A. Lemon issued a written "Findings of Fact, Conclusions of Law and Order Entering Preliminary Injunction" in *Dallman et al. v. Ritter and Gonzales*, case #09cv1188 (consolidated with *Ritchie et al. v. Ritter and Gonzales*, case #09cv1200), concerning the enforcement of certain provisions of Amendment 54. The Order preliminarily enjoins enforcement of Amendment 54, with the exception of section 16, which requires the executive director of the department of personnel to maintain a listing of sole source government contracts and grants him authority to promulgate rules for that purpose.<sup>1</sup>

Article XXVIII, section 2, of the Colorado Constitution requires the Secretary of State to promulgate rules to administer and enforce the campaign and political finance provisions of Article XXVIII. However, adoption of any rule would be inappropriate given that the provisions of Amendment 54 currently enjoined by the Order include all campaign and political finance provisions of the Amendment. Moreover, the only provision of Amendment 54 exempted from the Order (section 16, concerning list maintenance of sole source government contracts) has no independent logical relationship to the campaign and political provisions of Article XXVIII, and it contains a specific grant of rulemaking authority to the executive director of the department of personnel, not the secretary of state. Therefore, it is the conclusion of the Secretary of State that the decision of Judge Lemon in preliminarily declaring unconstitutional all of Amendment 54, with the exception of

<sup>1</sup> The Order also states that examples in the Blue Book preclude the interpretation made by the proposed rule. We believe it to be settled law that the Blue Book is persuasive statement of voter intent, but not necessarily dispositive on the proper interpretation of a constitutional amendment. We expect that this issue may be addressed more fully on appeal.

Section 16, effectively removes the authority of the Secretary of State to promulgate the proposed rule.

For the foregoing reasons, the Secretary of State hereby terminates the rulemaking proceeding.

Dated this 5th Day of August, 2009.



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William A. Hobbs  
Deputy Secretary of State

For

Bernie Buescher  
Colorado Secretary of State