



NOTICE OF PROPOSED RULEMAKING

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

January 14, 2011

Pursuant to the requirements of section 24-4-103(3)(a), C.R.S., (2010), notice of proposed rulemaking is hereby given by the Secretary of State. A rulemaking hearing will be held on **February 24, 2011 from 1:00 p.m. to 4:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Office of the Secretary of State at 1700 Broadway, Denver, Colorado 80290. All interested persons will be afforded an opportunity to be heard on the subject of revisions and amendments to the Secretary of State's "Rules Concerning Campaign and Political Finance," 8 CCR 1505-6.

Subject of the Proposed Rulemaking

The Secretary of State will consider amendments and revisions to the Colorado Secretary of State "Rules Concerning Campaign and Political Finance" as may be necessary or appropriate to administer the provisions of Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes. Specifically, the Secretary of State shall consider rules to comply with the requirement that campaign contribution limits be adjusted every four years, as set forth in Article XXVIII, Section 2(13) of the Colorado Constitution, and such other rule amendments as may be necessary to answer questions arising under Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes.

[Please note that the Denver-Boulder-Greeley consumer price index numbers, required to calculate the contribution limits adjustment due to inflation, are scheduled for release on February 17, 2011. The attached preliminary draft of the proposed rules contains underlined text to indicate pending information. A final copy of the proposed rules, containing specific proposed adjusted contribution limits based on the consumer price index numbers, will be made available to the public prior to the hearing.]

Authority for Proposed Rulemaking

Revisions and amendments to the Secretary of State's "Rules Concerning Campaign and Political Finance" [8 CCR 1505-6] are proposed pursuant to the following statutory and constitutional provisions:


1. Article XXVIII, Section 9(1)(b), Colorado Constitution, which requires the Secretary of State to “[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XXVIII of the Colorado State Constitution].”
2. Section 1-1-107(2)(a), C.R.S., (2010), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
3. Section 1-45-111.5(1), C.R.S., (2010), which requires the Secretary of State to “promulgate such rules in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.]”

Paper or editable electronic copies of the initial draft of the proposed rules may be obtained from the office of the Secretary of State at 1700 Broadway, Suite 200, Denver, Colorado, 80290, or by calling (303) 894-2200, extension 6329. The proposed rules are also posted on the Secretary of State website at www.sos.state.co.us.

A final copy of the proposed rules for consideration at the public rulemaking hearing will be posted on the Secretary of State website and made available to the public no later than **February 18, 2011** in accordance with section 24-4-103(4)(a), C.R.S., (2010), which states 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 rulemaking hearing on **February 24, 2011** will be held in accordance with section 24-4-103, C.R.S., (2010). Written and oral data, comments, and arguments will be received from all interested parties. Written submissions must be filed at or before the commencement of the hearing on **February 24** at 1:00pm in order to be considered. Oral testimony may be limited in order to allow the proceedings to go forward with reasonable promptness and efficiency. The hearing will be audio recorded and broadcast over the Internet. The broadcast may be accessed through the Secretary of State website at www.sos.state.co.us on the “Information Center” page under “Broadcast and Recorded Meetings.” For additional information, please contact Andrea Gyger, Elections Division at andrea.gyger@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 14th Day of January, 2011.



William A. Hobbs
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State



Proposed Statement of Basis, Purpose, and Specific Authority

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

January 14, 2011

1. Basis and Purpose

This proposed statement pertains to the amendments to the Colorado Secretary of State "Rules Concerning Campaign and Political Finance." The amendments and revisions to these rules are proposed to achieve the uniform and proper administration and enforcement of the campaign and political finance laws of the State of Colorado, including Article XXVIII of the Colorado Constitution and Article 45, Title 1 of the Colorado Revised Statutes. In particular, the Secretary of State proposes amendments in accordance with the requirements set forth in Article XXVIII, Section 2(13), concerning adjustments to campaign contribution limits. The Secretary of State shall also consider rule amendments as may be necessary to answer questions arising under Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes.

The adoption of specific amendments to the Campaign and Political Finance Rules is necessary as follows:

- Amendments to Rule 6.3 are necessary to reflect a change in the name of a state agency.
- Amendments to Rule 8.1 would clarify campaign finance filing requirements for candidates in special district elections when such elections are cancelled.
- Amendments to Rule 12 would be made to reflect contribution limits adjusted for inflation over the previous four years as required by section 3(13), Article XXVIII of the Colorado Constitution. (Please note that the preliminary draft proposed rules contains underlined text to indicate adjusted contribution limits pending consumer price index numbers scheduled for release on February 17, 2011.)
- Rule 13 would be amended to clarify requirements for filing personal financial disclosures in accordance with section 1-45-110, C.R.S. for incumbents who elect to run for a second office.

2. Rulemaking Authority

Amendments to the Colorado Secretary of State "Rules Concerning Campaign and Political Finance" are adopted pursuant to the following statutory and constitutional provisions:

1. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to:

“Promulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”

2. Section 1-1-107(2)(a), C.R.S., (2010), which authorizes the Secretary of State:

“To promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws”

3. Section 1-45-111.5(1), C.R.S., (2010), which requires the Secretary of State to:

“[P]romulgate such rules in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.].”

COLORADO SECRETARY OF STATE

[8 CCR 1505-6]

RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE

Preliminary Draft of Proposed Rules

January 14, 2011

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 **February 18, 2011**, 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."*

Proposed additions to the current rules are reflected in SMALL CAPS. Proposed deletions from current rules are shown in ~~stricken type~~. Underlined text indicates adjusted contribution limits pending updated consumer price index numbers scheduled for release on February 17, 2011. Annotations may be included.

1 Rule 6.3 would be amended as follows:

2 6.3 A written complaint filed with the ~~secretary of state~~ SECRETARY OF STATE pursuant to
3 Article XXVIII, Section 9(2)-(a) shall include the following: the name, address, and
4 signature of the complainant (if the complainant is represented by counsel, such counsel's
5 name, address, and signature shall be included along with the name, address, and
6 signature of the complainant); the name and address of each respondent alleged to have
7 committed a violation; and the particulars of the violation. A complaint may be
8 submitted by fax or electronic mail if a signed original is received by the ~~secretary of~~
9 ~~state~~ SECRETARY OF STATE no later than five calendar days thereafter. If the complaint is
10 complete, the ~~secretary of state~~ SECRETARY OF STATE shall promptly transmit the
11 complaint to the ~~Division of Administrative Hearings~~ OFFICE OF ADMINISTRATIVE
12 COURTS in the Department of Personnel and Administration for the consideration by an
13 administrative law judge, which will notify the respondents of the filing of the complaint
14 and which will issue all other appropriate notices to the parties. [Article XXVIII, Section
15 9(2)(a)]

16 Rule 8.1 would be amended as follows:

1 8.1 The special district designated election official or, as applicable, the presiding officer or
2 the secretary of the board of directors, under section 32-1-804.3(5), C.R.S., shall provide
3 to the Secretary of State the self-nomination and acceptance forms and letters, and
4 affidavits of intent to be a write-in candidate no later than the date established for
5 certification of the special district's ballot pursuant to section 1-5-203(3)(a), C.R.S. THIS
6 RULE SHALL NOT APPLY IF THE SPECIAL DISTRICT CANCELS THE ELECTION.

7 Rule 12 would be amended as follows:

8 12.1 Calculation of adjustments.

9 ~~12.1.1~~A. In accordance with sections 3(13) and 4(7) of Article XXVIII of the Colorado
10 Constitution, limits on contributions set forth in section 2(14) and subsections (1),
11 (2), (3), and (5) of section 3, and the voluntary limits on spending set forth in
12 section 4(1), are adjusted ~~in the first quarter of 2007 and shall be adjusted~~ every
13 four years ~~thereafter~~, based on the percentage change in the consumer price index
14 for the Denver-Boulder-Greeley area, over the four year period immediately
15 preceding the adjustment.

16 ~~12.1.2~~B. In determining the adjusted amount, the percentage change in the consumer
17 price index is rounded to the nearest whole percentage point. In accordance with
18 sections 3(13) and 4(7), Article XXVIII of the Colorado Constitution, the adjusted
19 limits are rounded to the nearest, lowest ~~twenty five dollars (\$25)~~.

20 12.2 ADJUSTED LIMITS MADE IN THE FIRST QUARTER OF 2007 AND EFFECTIVE THROUGH THE
21 FIRST QUARTER OF 2011:

22 ~~12.2~~A. There is no adjustment to the contribution limits on individual donations to small
23 donor committees outlined in section 2(14), Article XXVIII of the Colorado
24 Constitution.

25 ~~12.3~~B. The aggregate limits on contributions from any person for a primary or a general
26 election, described in section 3(1), Article XXVIII of the Colorado Constitution,
27 are adjusted as follows:

28 a. ~~(I)~~ ~~Five hundred twenty five dollars (\$525)~~ to any one:

29 ~~(I)~~ 1. Governor candidate committee for the primary election, and
30 governor and lieutenant governor candidate committee, as joint
31 candidates under SECTION 1-1-104, C.R.S., or any successor
32 section, for the general election;

33 ~~(II)~~ 2. Secretary of state, state treasurer, or attorney general candidate
34 committee.

35 ~~b.~~ ~~(II)~~ There is no adjustment to the limits on contributions to any one state
36 senate, state house of representatives, state board of education, regent of
37 the university of Colorado, or any district attorney candidate committee.

- 1 ~~12.4~~—C. The aggregate limits on contributions from a small donor committee for a primary
2 or a general election, described in section 3(2), Article XXVIII of the Colorado
3 Constitution, are adjusted as follows:
- 4 a.—(I) ~~Five thousand three hundred dollars (\$5,300)~~ to any one:
- 5 (I)—1. Governor candidate committee for the primary election, and
6 governor and lieutenant governor candidate committee, as joint
7 candidates under SECTION 1-1-104, C.R.S., or any successor
8 section, for the general election;
- 9 (II)—2. Secretary of state, state treasurer, or attorney general candidate
10 committee; and
- 11 b.—(II) ~~Two thousand one hundred, twenty five dollars (\$2,125)~~ to any one state
12 senate, state house of representatives, state board of education, regent of
13 the university of Colorado, or any district attorney candidate committee.
- 14 ~~12.5~~—D. The aggregate limits on contributions from any person to a political party,
15 described in section 3(3)(a), Article XXVIII of the Colorado Constitution, are
16 adjusted as follows:
- 17 a.—(I) ~~Three thousand one hundred seventy five dollars (\$3,175)~~ per year at the
18 state, county, district, and local level combined; and
- 19 b.—(II) Of such, no more than ~~two thousand six hundred fifty dollars (\$2,650)~~ at
20 the state level.
- 21 ~~12.6~~—E. The aggregate limits on contributions from a small donor committee to a political
22 party, described in section 3(3)(b), Article XXVIII of the Colorado Constitution,
23 are adjusted as follows:
- 24 a.—(I) ~~Fifteen thousand nine hundred dollars (\$15,900)~~ per year at the state,
25 county, district, and local level combined; and
- 26 b.—(II) Of such, no more than ~~thirteen thousand two hundred fifty dollars~~
27 ~~(\$13,250)~~ at the state level.
- 28 ~~12.7~~—F. The aggregate limits on pro-rata contributions or dues made to political
29 committees, described in section 3(5), Article XXVIII of the Colorado
30 Constitution, are adjusted to ~~five hundred twenty five dollars (\$525)~~ per house of
31 representatives election cycle.
- 32 ~~12.8~~—G. The voluntary spending limits for a candidate described in section 4(1), Article
33 XXVIII of the Colorado Constitution are adjusted as follows:
- 34 a.—(I) The spending limit for governor, and governor and lieutenant governor as
35 joint candidates under SECTION 1-1-104, C.R.S., or any successor section

1 shall be adjusted to ~~two million six hundred fifty thousand dollars~~
2 (\$2,650,000).

3 b.——(II) The spending limit for a candidate for secretary of state, attorney general,
4 or treasurer shall be adjusted to ~~five hundred thirty thousand dollars~~
5 (\$530,000).

6 e.——(III) The spending limit for a candidate for state senate shall be adjusted to
7 ~~ninety five thousand four hundred dollars~~ (\$95,400).

8 d.——(IV) The spending limit for a candidate for state house of representatives, state
9 board of education, regent of the university of Colorado or district attorney
10 shall be adjusted to ~~sixty eight thousand, nine hundred dollars~~ (\$68,900).

11 12.3 ADJUSTED LIMITS MADE IN THE FIRST QUARTER OF 2011 AND EFFECTIVE UNTIL THE NEXT
12 ADJUSTMENT IS MADE IN 2015:

13 A. THERE IS NO ADJUSTMENT TO THE CONTRIBUTION LIMITS ON INDIVIDUAL
14 DONATIONS TO SMALL DONOR COMMITTEES OUTLINED IN SECTION 2(14), ARTICLE
15 XXVIII OF THE COLORADO CONSTITUTION.

16 B. THE AGGREGATE LIMITS ON CONTRIBUTIONS FROM ANY PERSON FOR A PRIMARY OR
17 A GENERAL ELECTION, DESCRIBED IN SECTION 3(1), ARTICLE XXVIII OF THE
18 COLORADO CONSTITUTION, ARE ADJUSTED AS FOLLOWS:

19 (I) XX TO ANY ONE:

20 1. GOVERNOR CANDIDATE COMMITTEE FOR THE PRIMARY ELECTION,
21 AND GOVERNOR AND LIEUTENANT GOVERNOR CANDIDATE
22 COMMITTEE, AS JOINT CANDIDATES UNDER SECTION 1-1-104, C.R.S.,
23 OR ANY SUCCESSOR SECTION, FOR THE GENERAL ELECTION;

24 2. SECRETARY OF STATE, STATE TREASURER, OR ATTORNEY GENERAL
25 CANDIDATE COMMITTEE.

26 (II) THERE IS NO ADJUSTMENT TO THE LIMITS ON CONTRIBUTIONS TO ANY ONE
27 STATE SENATE, STATE HOUSE OF REPRESENTATIVES, STATE BOARD OF
28 EDUCATION, REGENT OF THE UNIVERSITY OF COLORADO, OR ANY DISTRICT
29 ATTORNEY CANDIDATE COMMITTEE.

30 C. THE AGGREGATE LIMITS ON CONTRIBUTIONS FROM A SMALL DONOR COMMITTEE
31 FOR A PRIMARY OR A GENERAL ELECTION, DESCRIBED IN SECTION 3(2), ARTICLE
32 XXVIII OF THE COLORADO CONSTITUTION, ARE ADJUSTED AS FOLLOWS:

33 (I) XX TO ANY ONE:

34 1. GOVERNOR CANDIDATE COMMITTEE FOR THE PRIMARY ELECTION,
35 AND GOVERNOR AND LIEUTENANT GOVERNOR CANDIDATE

- 1 COMMITTEE, AS JOINT CANDIDATES UNDER SECTION 1-1-104, C.R.S.,
2 OR ANY SUCCESSOR SECTION, FOR THE GENERAL ELECTION;
- 3 2. SECRETARY OF STATE, STATE TREASURER, OR ATTORNEY GENERAL
4 CANDIDATE COMMITTEE; AND
- 5 (II) XX TO ANY ONE STATE SENATE, STATE HOUSE OF REPRESENTATIVES, STATE
6 BOARD OF EDUCATION, REGENT OF THE UNIVERSITY OF COLORADO, OR ANY
7 DISTRICT ATTORNEY CANDIDATE COMMITTEE.
- 8 D. THE AGGREGATE LIMITS ON CONTRIBUTIONS FROM ANY PERSON TO A POLITICAL
9 PARTY, DESCRIBED IN SECTION 3(3)(A), ARTICLE XXVIII OF THE COLORADO
10 CONSTITUTION, ARE ADJUSTED AS FOLLOWS:
- 11 (I) XX PER YEAR AT THE STATE, COUNTY, DISTRICT, AND LOCAL LEVEL
12 COMBINED; AND
- 13 (II) OF SUCH, NO MORE THAN XX AT THE STATE LEVEL.
- 14 E. THE AGGREGATE LIMITS ON CONTRIBUTIONS FROM A SMALL DONOR COMMITTEE TO
15 A POLITICAL PARTY, DESCRIBED IN SECTION 3(3)(B), ARTICLE XXVIII OF THE
16 COLORADO CONSTITUTION, ARE ADJUSTED AS FOLLOWS:
- 17 (I) XX PER YEAR AT THE STATE, COUNTY, DISTRICT, AND LOCAL LEVEL
18 COMBINED; AND
- 19 (II) OF SUCH, NO MORE THAN XX AT THE STATE LEVEL.
- 20 F. THE AGGREGATE LIMITS ON PRO-RATA CONTRIBUTIONS OR DUES MADE TO
21 POLITICAL COMMITTEES, DESCRIBED IN SECTION 3(5), ARTICLE XXVIII OF THE
22 COLORADO CONSTITUTION, ARE ADJUSTED TO XX PER HOUSE OF REPRESENTATIVES
23 ELECTION CYCLE.
- 24 G. THE VOLUNTARY SPENDING LIMITS FOR A CANDIDATE DESCRIBED IN SECTION 4(1),
25 ARTICLE XXVIII OF THE COLORADO CONSTITUTION ARE ADJUSTED AS FOLLOWS:
- 26 (I) THE SPENDING LIMIT FOR GOVERNOR, AND GOVERNOR AND LIEUTENANT
27 GOVERNOR AS JOINT CANDIDATES UNDER SECTION 1-1-104, C.R.S., OR ANY
28 SUCCESSOR SECTION SHALL BE ADJUSTED TO XX.
- 29 (II) THE SPENDING LIMIT FOR A CANDIDATE FOR SECRETARY OF STATE,
30 ATTORNEY GENERAL, OR TREASURER SHALL BE ADJUSTED TO XX.
- 31 C. (III) THE SPENDING LIMIT FOR A CANDIDATE FOR STATE SENATE SHALL BE
32 ADJUSTED TO XX.
- 33 (IV) THE SPENDING LIMIT FOR A CANDIDATE FOR STATE HOUSE OF
34 REPRESENTATIVES, STATE BOARD OF EDUCATION, REGENT OF THE

1 UNIVERSITY OF COLORADO OR DISTRICT ATTORNEY SHALL BE ADJUSTED TO
2 XX.

3 Rule 13 would be amended as follows:

4 13. Personal Financial Disclosures [~~C.R.S. 1-45-110, C.R.S. 24-6-202~~ SECTIONS 1-45-110
5 AND 24-6-202, C.R.S., Colorado Constitution Article XXVIII, Section 10-(2)]

6 ~~13.1~~ A. In accordance with the disclosure requirements set forth in section 1-45-110-(2)(a)
7 and (b), C.R.S., a candidate shall not be required to file a disclosure statement if
8 the candidate filed either a complete or amended disclosure statement less than
9 ~~ninety~~ 90 days prior to filing a candidate affidavit.

10 ~~13.2~~ B. If a candidate affidavit is filed ~~ninety~~ 90 days or more after filing a disclosure
11 statement, an amended disclosure statement shall satisfy the disclosure
12 requirements. AN AMENDED DISCLOSURE STATEMENT SHALL ALSO SATISFY THE
13 DISCLOSURE REQUIREMENTS IF AN INDIVIDUAL FILES A CANDIDATE AFFIDAVIT FOR
14 A SECOND OFFICE, AS LONG AS ALL NECESSARY AMENDED STATEMENTS HAVE BEEN
15 FILED SINCE THE FILING OF THE ORIGINAL DISCLOSURE STATEMENT.

16 ~~13.3~~ C. If a candidate withdraws from candidacy by submitting appropriate
17 documentation before filing the disclosure statement required in section 1-45-110
18 (2)(a), C.R.S., such candidate shall not be required to file a disclosure statement,
19 but any fines that the candidate accrued, for failure to file a disclosure statement
20 prior to withdrawing shall remain in effect.