



Notice of Proposed Rulemaking

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

June 29, 2012

I. Notice of hearing

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. A hearing is scheduled for **July 31, 2012 from 1:00 p.m. to 4:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290.

II. Subject of the proposed rulemaking

The Secretary is considering amendments to the rules concerning campaign and political finance² in order to improve the administration and enforcement of Colorado campaign finance law.³ Specifically, the rulemaking includes technical and cross-reference corrections, permanent adoption of temporary amendments, and amendments necessary to implement changes to campaign finance laws made during the 2012 second regular session of the 68th General Assembly. A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory authority for proposed rulemaking

The rule revisions and amendments are proposed in accordance with the following statutory provisions:

1. Article XXVIII, Section 3(13) of the Colorado Constitution, which states that the Secretary of State "shall calculate...an adjustment in each [contribution] limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S."
2. Article XXVIII, Section 8 of the Colorado Constitution, which requires the Secretary of State to "promulgate rules related to filing in accordance with article 4 of title 24, C.R.S."
3. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to "[p]romulgate such rules, in accordance with article 4 of title 24,

¹ Section 24-4-103(3)(a), C.R.S. (2011).

² 8 CCR 1505-CCR 6.

³ Article 45 of Title 1, C.R.S. (2011).

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].”

4. Section 1-1-107(2)(a), C.R.S., (2011), 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.”
5. Section 1-45-107.5(5)(c), C.R.S., (2011), which requires the Secretary of State to “by rule, establish size and placement requirements for the disclaimer” required to be included on a nonbroadcast independent expenditure communication.
6. Section 1-45-109(5)(e), C.R.S., (2011), which states that the Secretary of State “may promulgate rules necessary for the implementation of [the mandate to create and maintain an electronic filing system].”
7. Section 1-45-109(6)(a), C.R.S., (2011), which states that “[t]he rules for use of the electronic filing system shall be promulgated by the secretary in accordance with article 4 of title 24, C.R.S.”
8. Section 1-45-111.5(1), C.R.S., (2011), 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.]”

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State’s rules and notices of rulemaking website at:

www.sos.state.co.us/pubs/rule_making/hearings/2012/RulesHearingCPF20120731.html.

You may also contact our office to request a paper or editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by July 26th, 2012.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process, and we would very much like to hear your thoughts on the proposed re-codification. Please review and consider the attached proposed draft rules.

All interested persons will have the opportunity to testify and provide written comment concerning the rule amendments. To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

You may submit written comments by mail, email, or in person to our office anytime before the hearing. If you attend the hearing, you may submit written comments to the hearing panel as

⁴ Section 24-4-103(3)(a), C.R.S. (2011). “Any 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.”

well. Additional opportunity to comment in writing may be announced at the conclusion of the hearing.

All written comments will be posted online at the Secretary of State website www.sos.state.co.us/pubs/rule_making/hearings/2012/RulesHearingCPF20120731.html. Prior to posting online, contact information including home address, email address, and telephone number(s) will be redacted from submissions unless otherwise directed by the contributor.

VI. Broadcast and audio recording of hearing

If you are unable to attend the hearing, you may listen to the live broadcast from the Aspen Conference Room online at www.sos.state.co.us/pubs/info_center/audioBroadcasts.html. After the hearing, visit the same website and click on “archived recordings” to access an audio recording of the hearing.

VII. Office contact

If you have any questions or would like to submit written comments, please email SoS.Rulemaking@sos.state.co.us. You may also contact Andrea Gyger with the Elections Division at andrea.gyger@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 29th Day of June, 2012.



Suzanne Staiert
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State



Proposed Statement of Basis, Purpose, and Specific Statutory Authority

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

June 29, 2011

I. Basis and Purpose

This statement is about proposed amendments to the Colorado Secretary of State Rules Concerning Campaign and Political Finance.¹ The amendments are intended to achieve the uniform and proper administration and enforcement of Colorado campaign and political finance laws.² Specifically, amendments include the following:

- Amendments to Rule 4.3, 5.1.2, and 17.2.4 include technical and cross-reference corrections.
- Amendments to Rules 6, temporarily adopted on May 23, 2012, would be permanently adopted.
- Rule 16.6 is amended to implement changes made by section 1 of House Bill 12-1269. Effective August 8, 2012, the threshold amount of campaign activity by a candidate committee in connection with a special district election that triggers disclosure requirements changes from \$20 to \$200. [Section 1-45-108(1)(c), C.R.S.]

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Article XXVIII, Section 3(13) of the Colorado Constitution, which states that the Secretary of State “shall calculate...an adjustment in each [contribution] limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S.”
2. Article XXVIII, Section 8 of the Colorado Constitution, which requires the Secretary of State to “promulgate rules related to filing in accordance with article 4 of title 24, C.R.S.”
3. Article XXVIII, Section 9(1)(b) of the 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

¹ 8 CCR 1505-6.

² Article XXVIII of the Colorado Constitution and Article 45, Title 1 of the Colorado Revised Statutes.

successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”

4. Section 1-1-107(2)(a), C.R.S., (2011), 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.”
5. Section 1-45-107.5(5)(c), C.R.S., (2011), which requires the Secretary of State to “by rule, establish size and placement requirements for the disclaimer” required to be included on a nonbroadcast independent expenditure communication.
6. Section 1-45-109(5)(e), C.R.S., (2011), which states that the Secretary of State “may promulgate rules necessary for the implementation of [the mandate to create and maintain an electronic filing system].”
7. Section 1-45-109(6)(a), C.R.S., (2011), which states that “[t]he rules for use of the electronic filing system shall be promulgated by the secretary in accordance with article 4 of title 24, C.R.S.”
8. Section 1-45-111.5(1), C.R.S., (2011), 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.]”

Preliminary Draft of Proposed Rules

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

June 29, 2012

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the July 31, 2012 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **July 26, 2012**.²

Proposed additions to the current rules are reflected in SMALL CAPS.
Proposed deletions from current rules are shown in ~~stricken type~~.
(*Annotations*) may be included.

1 Amendments to Rule 4.3:

2 4.3 An issue committee ~~shall~~ MUST file on a frequent filing schedule once it has spent money to
3 support or oppose ballot issues or ballot questions, or potential ballot issues or ballot questions on
4 an upcoming ballot. See Rule ~~4.9.3~~ 17.2.3.

5 Amendments to Rule 5.1.2:

6 5.1.2 ~~The~~ THESE requirements of ~~paragraph (a)~~ do not apply to bumper stickers, pins, buttons,
7 pens, and similar small items upon which the disclaimer cannot be reasonably printed.

8 Amendments to Rule 6:

9 6.1 The appropriate filing officer for a state or county political party is the Secretary of State.
10 Therefore, state and county political parties are subject to the requirements of section
11 1-45-109(1)(c), C.R.S., and must file reports with the Secretary of State. [Article XXVIII Section
12 2(1); section 1-45-109(1)(c), C.R.S.]

13 6.1.1 REPEALED.

14 6.2 Transfers of money within a party

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2011). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2011). “[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.”

- 1 6.2.1 A party may transfer money from one level of the organization to another without limit.
- 2 6.2.2 Transfers of money within a party ~~shall~~ MUST be disclosed as “other income” in
3 accordance with Rule 10.12.
- 4 6.3 HOME RULE JURISDICTIONS
- 5 6.3.1 RULE 6.1 DOES NOT APPLY TO A POLITICAL PARTY IN A HOME RULE JURISDICTION THAT
6 REPORTS IN ACCORDANCE WITH RULE 14.4.
- 7 6.3.2 IF A POLITICAL PARTY RECEIVES CONTRIBUTIONS INTO A SEPARATE ACCOUNT IN
8 ACCORDANCE WITH RULE 14.4, THE PARTY MAY NOT TRANSFER FUNDS FROM THAT
9 ACCOUNT TO OTHER COUNTY PARTIES OR TO A STATE PARTY.

10 Amendments to Rule 16.6:

- 11 16.6 A special district candidate is not required to file disclosure reports if:
- 12 16.6.1 The special district candidate affidavit, the filed self-nomination and acceptance form or
13 letter, or the affidavit of intent to be a write-in candidate contains a statement
14 substantially stating, “I will not, in my campaign for this office, receive contributions or
15 make expenditures exceeding \$20-\$200 in the aggregate DURING THE ELECTION CYCLE,
16 however, if I do so, I will thereafter file all disclosure reports required under the fair
17 campaign practices act;” and
- 18 16.6.2 The candidate does not accept contributions or make expenditures exceeding \$20-\$200 in
19 the aggregate DURING THE ELECTION CYCLE.
- 20 [Article XXVIII, Section 2(2) and section 1-45-108(1), C.R.S.]

21 Amendments to Rule 17.2.4:

- 22 17.2.4 An issue committee ~~shall~~ MUST notify the Secretary of State within ten days after deciding that it
23 will support or oppose ballot issues or ballot questions, or potential ballot issues or ballot
24 questions on an upcoming ballot.
- 25 (a) ~~An~~ ONCE AN issue committee ~~who has notified~~ NOTIFIES the Secretary of State of its
26 active status under this Rule, the Secretary will place the committee on a frequent filing
27 calendar.
- 28 (b) Once an issue committee has declared its committee filing status as frequent or infrequent
29 in a particular year, the committee ~~shall~~ MUST follow the appropriate filing schedule for
30 the remainder of that ~~calendar year~~ ELECTION CYCLE, except that an inactive committee
31 may change its status to active at any time.