

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-1032.02 Pierce Lively x2059

SENATE BILL 22-237

SENATE SPONSORSHIP

Fenberg and Holbert,

HOUSE SPONSORSHIP

Kennedy and Larson,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO PROMOTE INCREASED TRANSPARENCY OF
102 FUNDS USED IN BALLOT MEASURE CAMPAIGNS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill expands the definition of "earmark" for purposes of the "Fair Campaign Practices Act" to include contributions or expenditures greater than \$1,000 to support or oppose a specified ballot issue or ballot question.

Further, the bill modifies the process to determine whether an organization is an issue committee to include an examination of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

organization's pattern of conduct based upon whether the organization:

- During the combined period of the entire preceding and current calendar years, made either contributions to one or more Colorado issue committees or direct ballot issue or ballot question expenditures, in either support of or opposition to one or more ballot issues or ballot questions, that exceeded 30% of the total expenditures by the organization for any purpose and in any location during the entire preceding and current calendar years;
- During the combined period of the entire preceding and current calendar years, made either contributions to a single Colorado issue committee or direct ballot issue or ballot question expenditures, in either support of or opposition to a single ballot issue or ballot question, that exceeded 20% of the total expenditures by the organization for any purpose and in any location; or
- Acted as an issue committee's funding intermediary by making contributions to an issue committee from funds earmarked for the issue committee.

Further, the bill defines "direct ballot issue or ballot question expenditure" as the spending of over \$5,000 in a calendar year in either support of or opposition to any single ballot issue or ballot question by a person who does not otherwise meet the requirements of an issue committee. Any person who makes a direct ballot issue or ballot question expenditure must report to the secretary of state and must disclose their name in certain communications about a ballot issue or ballot question.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 1-45-103, **amend**
3 (7.5) and (12)(b)(II); and **add** (7.2) as follows:

4 **1-45-103. Definitions - repeal.** As used in this article 45, unless
5 the context otherwise requires:

6 (7.2) "DIRECT BALLOT ISSUE OR BALLOT QUESTION EXPENDITURE"
7 MEANS THE SPENDING OF OVER FIVE THOUSAND DOLLARS IN A CALENDAR
8 YEAR IN EITHER SUPPORT OF OR OPPOSITION TO ANY SINGLE BALLOT ISSUE
9 OR BALLOT QUESTION BY A PERSON WHO DOES NOT OTHERWISE MEET THE
10 REQUIREMENTS OF AN ISSUE COMMITTEE.

1 (7.5) "Earmark" means a designation, instruction, or encumbrance
2 that directs the transmission and use by the recipient of all or part of a
3 donation to a third party for the purpose of making: ~~one or more~~
4 ~~independent expenditures or electioneering communications in excess of~~
5 ~~one thousand dollars.~~

6 (a) INDEPENDENT EXPENDITURES GREATER THAN ONE THOUSAND
7 DOLLARS TO SUPPORT OR OPPOSE A SPECIFIED CANDIDATE;

8 (b) ELECTIONEERING COMMUNICATIONS GREATER THAN ONE
9 THOUSAND DOLLARS; OR

10 (c) CONTRIBUTIONS OR EXPENDITURES GREATER THAN ONE
11 THOUSAND DOLLARS TO SUPPORT OR OPPOSE A SPECIFIED BALLOT ISSUE OR
12 BALLOT QUESTION.

13 (12) (b) For purposes of section 2 (10)(a)(I) of article XXVIII of
14 the state constitution, "major purpose" means support of or opposition to
15 a ballot issue or ballot question that is reflected by:

16 (II) An organization's demonstrated pattern of conduct based upon
17 ~~its~~ IT:

18 (A) ~~Annual expenditures in support of or opposition to a ballot~~
19 ~~issue or ballot question; or~~

20 (B) ~~Production or funding, or both, of written or broadcast~~
21 ~~communications, or both, in support of or opposition to a ballot issue or~~
22 ~~ballot question.~~

23 (C) DURING THE COMBINED PERIOD OF THE ENTIRE PRECEDING AND
24 CURRENT CALENDAR YEARS, MAKING EITHER CONTRIBUTIONS TO ONE OR
25 MORE COLORADO ISSUE COMMITTEES OR DIRECT BALLOT ISSUE OR BALLOT
26 QUESTION EXPENDITURES, IN EITHER SUPPORT OF OR OPPOSITION TO ONE
27 OR MORE BALLOT ISSUES OR BALLOT QUESTIONS, THAT EXCEEDED THIRTY

1 PERCENT OF THE TOTAL DOLLAR AMOUNT OF ALL FUNDS SPENT BY THE
2 ORGANIZATION FOR ANY PURPOSE AND IN ANY LOCATION DURING THE
3 ENTIRE PRECEDING AND CURRENT CALENDAR YEARS;

4 (D) DURING THE COMBINED PERIOD OF THE ENTIRE PRECEDING
5 AND CURRENT CALENDAR YEARS, MAKING EITHER CONTRIBUTIONS TO A
6 SINGLE COLORADO ISSUE COMMITTEE OR DIRECT BALLOT ISSUE OR BALLOT
7 QUESTION EXPENDITURES, IN EITHER SUPPORT OF OR OPPOSITION TO A
8 SINGLE BALLOT ISSUE OR BALLOT QUESTION, THAT EXCEEDED TWENTY
9 PERCENT OF THE TOTAL DOLLAR AMOUNT OF ALL FUNDS SPENT BY THE
10 ORGANIZATION FOR ANY PURPOSE AND IN ANY LOCATION; OR

11 (E) ACTING AS AN ISSUE COMMITTEE'S FUNDING INTERMEDIARY BY
12 MAKING CONTRIBUTIONS TO AN ISSUE COMMITTEE FROM FUNDS
13 EARMARKED FOR THE ISSUE COMMITTEE.

14 **SECTION 2.** In Colorado Revised Statutes, 1-45-108, **add**
15 (1)(a)(VI) as follows:

16 **1-45-108. Disclosure - definitions - repeal.** (1) (a) (VI) ANY
17 PERSON WHO MAKES A DIRECT BALLOT ISSUE OR BALLOT QUESTION
18 EXPENDITURE SHALL REPORT TO THE SECRETARY OF STATE, IN
19 ACCORDANCE WITH THE DISCLOSURE REQUIRED BY THIS SECTION, THE
20 AMOUNT EXPENDED AND THE PURPOSE FOR WHICH THE EXPENDITURES
21 WERE MADE. SUCH A REPORT MUST INCLUDE THE BALLOT QUESTION OR
22 BALLOT ISSUE SUPPORTED OR OPPOSED AND MUST BE FILED WITH THE
23 SECRETARY OF STATE NO LATER THAN FORTY-EIGHT HOURS AFTER
24 OBLIGATION OF THE FUNDS USED TO MAKE THE DIRECT BALLOT ISSUE OR
25 BALLOT QUESTION EXPENDITURE.

26 **SECTION 3.** In Colorado Revised Statutes, 1-45-108.3, **add** (4)
27 as follows:

1 **1-45-108.3. Disclaimer statement - committees - electioneering**
2 **communications - direct ballot issue or ballot question expenditures.**

3 (4) ANY PERSON WHO MAKES A DIRECT BALLOT ISSUE OR BALLOT
4 QUESTION EXPENDITURE SHALL, PURSUANT TO SECTION 1-45-107.5 (5),
5 STATE THEIR NAME IN ANY COMMUNICATION THAT IS BROADCAST,
6 PRINTED, MAILED, OR DELIVERED; PLACED ON A WEBSITE, STREAMING
7 MEDIA SERVICE, OR ONLINE FORUM FOR A FEE; OR THAT IS OTHERWISE
8 DISTRIBUTED TO PERSONS WHO ARE ELIGIBLE TO VOTE ON THE BALLOT
9 ISSUE OR BALLOT QUESTION AND IS PRODUCED OR FUNDED, EITHER IN
10 WHOLE OR IN PART, BY THE PERSON WHO MADE THE DIRECT BALLOT ISSUE
11 OR BALLOT QUESTION EXPENDITURE.

12 **SECTION 4. Effective date - applicability.** This act takes effect
13 July 1, 2022, and applies to the portion of any election cycle or for the
14 portion of the calendar year remaining after said date, and for any election
15 cycle or calendar year commencing after said date.

16 **SECTION 5. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety.