

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0625.01 Bob Lackner x4350

SENATE BILL 16-106

SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

Salazar,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO FACILITATE THE EFFICIENT
102 ADMINISTRATION OF COLORADO LAWS GOVERNING CAMPAIGN
103 FINANCE.

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://www.leg.state.co.us/bills summaries>.)

The bill does the following to facilitate the administration of Colorado laws governing campaign finance:

- ! **Section 1** modifies the definition of "limited liability company" in the "Fair Campaign Practices Act".
- ! **Section 2** authorizes the secretary of state to appoint and

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

designate persons to serve as administrative law judges (ALJ) in connection with any complaint alleging a violation of the campaign finance laws that is referred to such ALJ, and specifies procedures by which ALJ appointments are to be made. The bill further specifies minimum requirements and powers and duties for a person appointed to be an ALJ. Not later than January 1, 2017, the secretary is required to establish and maintain a program to train these ALJs to undertake their powers and duties.

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

2 **SECTION 1.** In Colorado Revised Statutes, 1-45-103.7, **amend**
3 (8) as follows:

4 **1-45-103.7. Contribution limits - treatment of independent**
5 **expenditure committees - contributions from limited liability**
6 **companies - voter instructions on spending limits - definitions.** (8) As
7 used in this section, "limited liability company" ~~includes any form of~~
8 ~~domestic entity~~ HAS THE SAME MEANING as defined in ~~section 7-90-102~~
9 ~~(13)~~ SECTION 7-90-102 (15), C.R.S., or ~~foreign entity~~ as defined in ~~section~~
10 ~~7-90-102 (23)~~ SECTION 7-90-102 (24), C.R.S. ~~except that, as used in this~~
11 ~~section, "limited liability company" shall not include a domestic~~
12 ~~corporation, a domestic cooperative, a domestic nonprofit association, a~~
13 ~~domestic nonprofit corporation, a foreign corporation, a foreign~~
14 ~~cooperative, a foreign nonprofit association, a foreign nonprofit~~
15 ~~corporation, as those terms are defined in section 7-90-102, C.R.S., a~~
16 ~~nondomestic corporation as defined in section 1-45-103 (7), or a foreign~~
17 ~~corporation as defined in section 1-45-103 (10.5).~~

18 **SECTION 2.** In Colorado Revised Statutes, 1-45-111.5, **add** (5)
19 as follows:

20 **1-45-111.5. Duties of the secretary of state - enforcement -**

1 **sanctions - appointment of administrative law judges to hear**
2 **campaign finance complaints.** (5) (a) THE SECRETARY OF STATE SHALL
3 APPOINT AND DESIGNATE PERSONS, IN ACCORDANCE WITH THIS
4 SUBSECTION (5), TO SERVE AS ADMINISTRATIVE LAW JUDGES WITH
5 RESPECT TO ANY COMPLAINT THAT IS FILED ALLEGING A VIOLATION OF
6 ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS ARTICLE. THE
7 SECRETARY OF STATE SHALL APPOINT THE ADMINISTRATIVE LAW JUDGES
8 IN THE FOLLOWING MANNER:

9 (I) NOT LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF
10 THIS SUBSECTION (5), THE SECRETARY OF STATE SHALL APPOINT TWO
11 PERSONS WHO WILL COMPRISE A RECOMMENDATIONS COMMITTEE TO
12 ASSIST HIM OR HER IN APPOINTING PERSONS AS ADMINISTRATIVE LAW
13 JUDGES UNDER THIS SUBSECTION (5). EACH APPOINTEE TO THE
14 RECOMMENDATIONS COMMITTEE MUST HAVE BEEN AFFILIATED FOR AT
15 LEAST FIVE YEARS WITH A MAJOR POLITICAL PARTY. THE TWO MEMBERS
16 OF THE RECOMMENDATIONS COMMITTEE SHALL NOT BE AFFILIATED WITH
17 THE SAME MAJOR POLITICAL PARTY.

18 (II) NOT LATER THAN THIRTY DAYS AFTER THEIR APPOINTMENT BY
19 THE SECRETARY OF STATE, THE MEMBERS OF THE RECOMMENDATIONS
20 COMMITTEE SHALL SOLICIT, BY MEANS OF A NOTICE PLACED ON THE
21 WEBSITE OF THE SECRETARY, A LIST OF CANDIDATES TO BE CONSIDERED
22 FOR APPOINTMENT AS AN ADMINISTRATIVE LAW JUDGE.

23 (III) NOT LATER THAN THIRTY DAYS AFTER THE POSTING OF THE
24 NOTICE REQUIRED BY SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE
25 RECOMMENDATIONS COMMITTEE SHALL POST ON THE WEBSITE OF THE
26 SECRETARY OF STATE A LIST OF THE CANDIDATES TO BE CONSIDERED FOR
27 APPOINTMENT AS AN ADMINISTRATIVE LAW JUDGE. BY ADDITIONAL

1 NOTICE PLACED ON THE WEBSITE, THE RECOMMENDATIONS COMMITTEE
2 SHALL ALSO REQUEST PUBLIC COMMENTS ON THE CANDIDATES LISTED.

3 (IV) NOT LATER THAN THIRTY DAYS AFTER THE POSTING OF THE
4 NOTICE REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH (a)
5 REQUESTING PUBLIC COMMENTS, THE RECOMMENDATIONS COMMITTEE
6 SHALL RECOMMEND TO THE SECRETARY OF STATE THREE CANDIDATES FOR
7 APPOINTMENT AS AN ADMINISTRATIVE LAW JUDGE.

8 (V) NOT LATER THAN THIRTY DAYS AFTER THE
9 RECOMMENDATIONS COMMITTEE SUBMITS ITS RECOMMENDATIONS TO THE
10 SECRETARY OF STATE PURSUANT TO SUBPARAGRAPH (IV) OF THIS
11 PARAGRAPH (a), THE SECRETARY SHALL APPOINT THREE PERSONS FROM
12 THE LIST OF CANDIDATES SUBMITTED BY THE RECOMMENDATIONS
13 COMMITTEE TO SERVE AS AN ADMINISTRATIVE LAW JUDGE. OF THE THREE
14 PERSONS APPOINTED INITIALLY, THE TERM OF OFFICE OF ONE PERSON
15 APPOINTED WILL BE TWO YEARS, THE TERM OF OFFICE OF ONE PERSON
16 APPOINTED WILL BE THREE YEARS, AND THE TERM OF OFFICE OF ONE
17 PERSON APPOINTED WILL BE FOUR YEARS. AFTER THE INITIAL THREE
18 APPOINTMENTS ARE MADE, THE TERM OF OFFICE OF PERSONS APPOINTED
19 AS AN ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS SUBSECTION (5) IS
20 THREE YEARS.

21 (b) EACH ADMINISTRATIVE LAW JUDGE APPOINTED IN
22 ACCORDANCE WITH THE PROCEDURES SPECIFIED IN PARAGRAPH (a) OF THIS
23 SUBSECTION (5) MUST BE AN ATTORNEY WITH AT LEAST FIVE YEARS OF
24 EXPERIENCE IN THE PRACTICE OF LAW.

25 (c) IF AT ANY TIME THE TWO MEMBERS OF THE RECOMMENDATIONS
26 COMMITTEE ARE NOT ABLE TO AGREE ON A LIST OF THREE CANDIDATES TO
27 RECOMMEND TO THE SECRETARY OF STATE AS REQUIRED BY

1 SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (5), THE
2 SECRETARY SHALL DISCHARGE THE EXISTING RECOMMENDATIONS
3 COMMITTEE AND APPOINT A NEW RECOMMENDATIONS COMMITTEE
4 FOLLOWING THE SAME PROCEDURES AS SPECIFIED IN SUBPARAGRAPH (I) OF
5 PARAGRAPH (a) OF THIS SUBSECTION (5).

6 (d) EACH ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO
7 THIS SUBSECTION (5) IS AUTHORIZED TO ADMINISTER OATHS, EXAMINE
8 WITNESSES, ISSUE SUBPOENAS, RECEIVE EVIDENCE, CONDUCT HEARINGS,
9 AND EXERCISE ANY OTHER POWERS AND DUTIES THAT ARE DELEGATED TO
10 ADMINISTRATIVE LAW JUDGES UNDER ARTICLE XXVIII OF THE STATE
11 CONSTITUTION OR THIS ARTICLE.

12 (e) NOT LATER THAN JANUARY 1, 2017, THE SECRETARY OF STATE
13 SHALL ESTABLISH AND MAINTAIN A PROGRAM TO TRAIN ADMINISTRATIVE
14 LAW JUDGES APPOINTED PURSUANT TO PARAGRAPH (a) OF THIS
15 SUBSECTION (5) TO UNDERTAKE THEIR POWERS AND DUTIES AS PROVIDED
16 BY LAW. THE TRAINING PROGRAM MUST BE APPROVED BY THE
17 RECOMMENDATIONS COMMITTEE.

18 **SECTION 3.** In Colorado Revised Statutes, 24-30-1003, **amend**
19 (1) as follows:

20 **24-30-1003. Administrative law judges - appointment -**
21 **qualifications - standards of conduct.** (1) The executive director of the
22 department of personnel may appoint such administrative law judges
23 except those employed pursuant to ~~sections 24-50-103 (7) and 40-2-104~~
24 ~~SECTIONS 1-45-111.5 (5) (a), 24-50-103 (7), AND 40-2-104, C.R.S.,~~ as may
25 be necessary to provide services to each state agency, except the
26 DEPARTMENT OF STATE, THE state personnel board, and the public utilities
27 commission, entitled to use administrative law judges. Administrative law

1 judges shall be appointed in accordance with the provisions of section 13
2 of article XII of the state constitution and the laws and rules governing
3 the state personnel system.

4 **SECTION 4. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2016 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.