

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 11-0468.01 Richard Sweetman

HOUSE BILL 11-1117

HOUSE SPONSORSHIP

McCann and Court, Gardner B., Kagan, Kerr A., Lee, Liston, Looper, Ryden, Waller

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King S.,

House Committees

State, Veterans, & Military Affairs

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A BILL FOR AN ACT

101 **CONCERNING SUBPOENAS ISSUED BY ADMINISTRATIVE LAW JUDGES IN**
102 **CAMPAIGN FINANCE PROCEEDINGS.**

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/billsummaries>.)

If a witness or party fails to comply with an administrative subpoena issued to address an alleged campaign finance reporting violation, the bill allows the agency or party that requested the administrative subpoena to petition a district court to order compliance with the administrative subpoena. The witness or party may appear

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.

before the district court and show why he or she should not be ordered to comply with the administrative subpoena. If the witness or party fails to appear at the show cause hearing, the district court may issue a warrant for the subpoenaed witness's or party's arrest or impose other sanctions. If the subpoenaed witness or party does not show good cause why he or she should not be ordered to comply with the administrative subpoena, the district court shall order compliance with the administrative subpoena and may impose remedial and punitive fines.

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

2 **SECTION 1.** 1-45-111.5, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **1-45-111.5. Duties of the secretary of state - enforcement -**
5 **sanctions.** (4) (a) UPON FAILURE OF A WITNESS OR PARTY TO COMPLY
6 WITH AN ADMINISTRATIVE SUBPOENA ISSUED IN RELATION TO AN ALLEGED
7 CAMPAIGN FINANCE VIOLATION PURSUANT TO ARTICLE XXVIII OF THE
8 STATE CONSTITUTION OR THIS ARTICLE, THE PARTY THAT REQUESTED THE
9 ADMINISTRATIVE SUBPOENA MAY PETITION THE DISTRICT COURT, EX
10 PARTE WITH A COPY OF THE PETITION SENT TO THE SUBPOENAED WITNESS
11 OR PARTY AND THE ADMINISTRATIVE LAW JUDGE BY REGULAR MAIL, FOR
12 AN ORDER DIRECTING THE WITNESS OR PARTY TO COMPLY WITH THE
13 ADMINISTRATIVE SUBPOENA.

14 (b) IF THE PETITION REQUIRED BY PARAGRAPH (a) OF THIS
15 SUBSECTION (4) SHOWS TO THE DISTRICT COURT'S SATISFACTION THAT THE
16 ADMINISTRATIVE SUBPOENA WAS PROPERLY SERVED, THE DISTRICT COURT
17 SHALL ORDER THE SUBPOENAED WITNESS OR PARTY TO APPEAR BEFORE
18 THE DISTRICT COURT AND SHOW CAUSE WHY THE WITNESS OR PARTY
19 SHOULD NOT BE ORDERED TO COMPLY WITH THE ADMINISTRATIVE
20 SUBPOENA. A COPY OF THE PETITION AND THE COURT ORDER SHALL BE
21 SERVED BY REGULAR MAIL ON THE WITNESS OR PARTY AT LEAST FIFTEEN

1 DAYS BEFORE THE DATE DESIGNATED FOR THE WITNESS OR PARTY TO
2 APPEAR BEFORE THE DISTRICT COURT.

3 (c) AT A SHOW CAUSE HEARING ORDERED BY THE DISTRICT COURT
4 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), THE SUBPOENAED
5 WITNESS OR PARTY MAY PRESENT EVIDENCE TO OVERCOME THE
6 PRESUMPTION IN FAVOR OF ORDERING COMPLIANCE WITH THE
7 ADMINISTRATIVE SUBPOENA. IF THE WITNESS OR PARTY FAILS TO APPEAR
8 AT THE SHOW CAUSE HEARING, THE DISTRICT COURT MAY ISSUE A
9 WARRANT FOR THE WITNESS'S OR PARTY'S ARREST OR IMPOSE OTHER
10 SANCTIONS.

11 (d) UPON A FINDING THAT THE SUBPOENAED WITNESS OR PARTY
12 HAS NOT SHOWN GOOD CAUSE WHY THE WITNESS OR PARTY SHOULD NOT
13 BE ORDERED TO COMPLY WITH THE ADMINISTRATIVE SUBPOENA, THE
14 DISTRICT COURT SHALL ORDER COMPLIANCE WITH THE ADMINISTRATIVE
15 SUBPOENA WITHIN TEN BUSINESS DAYS AFTER THE ORDER AND MAY
16 IMPOSE REMEDIAL AND PUNITIVE FINES, INCLUDING ATTORNEY'S FEES AND
17 COSTS, FOR THE WITNESS'S OR PARTY'S FAILURE TO COMPLY WITH THE
18 ADMINISTRATIVE SUBPOENA.

19 **SECTION 2. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.