

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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

SENATE SPONSORSHIP

King S.,

House Committees

State, Veterans, & Military Affairs

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Judiciary

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.*

SENATE
3rd Reading Unam ended
March 8, 2011

SENATE
2nd Reading Unam ended
March 7, 2011

HOUSE
3rd Reading Unam ended
February 15, 2011

HOUSE
Am ended 2nd Reading
February 14, 2011

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 OR THE ISSUING AGENCY MAY PETITION THE
10 DISTRICT COURT, EX PARTE WITH A COPY OF THE PETITION SENT TO THE
11 SUBPOENAED WITNESS OR PARTY AND THE ADMINISTRATIVE LAW JUDGE
12 BY REGULAR MAIL, FOR AN ORDER DIRECTING THE WITNESS OR PARTY TO
13 COMPLY WITH THE 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 PURSUANT TO RULE
17 4 OF THE COLORADO RULES OF CIVIL PROCEDURE, THE DISTRICT COURT
18 SHALL ORDER THE SUBPOENAED WITNESS OR PARTY TO APPEAR BEFORE
19 THE DISTRICT COURT AND SHOW CAUSE WHY THE WITNESS OR PARTY
20 SHOULD NOT BE ORDERED TO COMPLY WITH THE ADMINISTRATIVE
21 SUBPOENA. A COPY OF THE PETITION AND THE COURT ORDER SHALL BE

1 SERVED, PURSUANT TO RULE 5 OF THE COLORADO RULES OF CIVIL
2 PROCEDURE, ON THE WITNESS OR PARTY AT LEAST FIFTEEN DAYS BEFORE
3 THE DATE DESIGNATED FOR THE WITNESS OR PARTY TO APPEAR BEFORE
4 THE DISTRICT COURT.

5 (c) AT A SHOW CAUSE HEARING ORDERED BY THE DISTRICT COURT
6 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), THE COURT SHALL
7 REVIEW THE ADMINISTRATIVE SUBPOENA AND ANY EVIDENCE PRESENTED
8 BY THE PARTIES TO DETERMINE COMPLIANCE WITH THE COLORADO RULES
9 OF CIVIL PROCEDURE. THE SUBPOENAED WITNESS OR PARTY SHALL BEAR
10 THE BURDEN OF SHOWING GOOD CAUSE AS TO WHY HE OR SHE SHOULD NOT
11 BE ORDERED TO COMPLY WITH THE ADMINISTRATIVE SUBPOENA.

12 (d) IF THE COURT DETERMINES THAT THE SUBPOENAED WITNESS OR
13 PARTY IS REQUIRED TO COMPLY WITH THE ADMINISTRATIVE SUBPOENA:

14 (I) THE DISTRICT COURT SHALL ORDER COMPLIANCE FORTHWITH
15 AND MAY IMPOSE REMEDIAL AND PUNITIVE FINES, INCLUDING ATTORNEYS'
16 FEES AND COSTS, FOR THE WITNESS'S OR PARTY'S FAILURE TO COMPLY
17 WITH THE ADMINISTRATIVE SUBPOENA; AND

18 (II) THE ADMINISTRATIVE LAW JUDGE SHALL SCHEDULE A HEARING
19 ON THE COMPLAINT TO OCCUR ON A DAY AFTER THE OCCURRENCE OF THE
20 REQUIRED DEPOSITION AND SUCH OTHER DISCOVERY AS MAY BE
21 WARRANTED DUE TO SUCH DEPOSITION.

22 (e) IF THE SUBPOENAED WITNESS OR PARTY FAILS TO APPEAR AT
23 THE SHOW CAUSE HEARING, THE DISTRICT COURT MAY ISSUE A BENCH
24 WARRANT FOR THE ARREST OF THE SUBPOENAED WITNESS OR PARTY AND
25 MAY IMPOSE OTHER SANCTIONS PURSUANT TO THE COLORADO RULES OF
26 CIVIL PROCEDURE.

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