

NOTE: The governor signed this measure on 5/2/2014.

An Act

HOUSE BILL 14-1335

BY REPRESENTATIVE(S) Moreno, Lebsock, McCann, Singer, Tyler;
also SENATOR(S) Jones, Aguilar, Guzman, Herpin, Hodge, Jahn,
Johnston, Kefalas, Kerr, King, Lambert, Rivera, Roberts, Schwartz,
Steadman, Todd, Ulibarri.

CONCERNING CAMPAIGN CONTRIBUTION LIMITS THAT ARE APPLICABLE TO
CANDIDATE COMMITTEES FOR CANDIDATES WHO ARE NOT
AFFILIATED WITH A MAJOR POLITICAL PARTY.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) Under section 3 (1) (b) of article XXVIII of the state constitution, any person is limited from making an aggregate contribution for a primary or general election in excess of four hundred dollars to a candidate for the general assembly.

(b) In 2004, the general assembly enacted section 1-45-103.7 (3) and (4), Colorado Revised Statutes, which effectively removed any potential time limitations on when a candidate committee could accept contributions when a primary election is involved. For moneys ostensibly

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

given for a primary election, the candidate committee could accept the contribution and spend it during the general election and for moneys ostensibly given for the general election, the committee could accept the contribution and spend it even before the primary. Write-in candidates, unaffiliated candidates, and candidates affiliated with minor political parties who obtain a nomination for the general election without competing in primary elections are not permitted this kind of flexibility in accepting and expending campaign contributions.

(c) The Colorado statute was challenged in federal court on the grounds that the state law violates the rights to equal protection, political expression, and association for individuals contributing to write-in candidates, unaffiliated candidates, and nominees for the minor political parties. Ultimately, the case reached the United States court of appeals for the tenth circuit. In *Riddle v. Hickenlooper*, No. 13-1108 (10th Cir. January 23, 2014), the tenth circuit held that the state statute violates the contributors' right to equal protection. Because of these disparate contribution limits, the statute created a basic favoritism between candidates vying for the same office. Specifically, the candidates of the major political parties may collect four hundred dollars from a single contributor after earning a place on the general election ballot and spend all of the money in the general election. By comparison, a write-in, unaffiliated, or minor party candidate without a primary is permitted to collect only two hundred dollars during the same general election campaign. The court held that these discriminatory limits were not closely drawn to the state's interest in battling corruption or the appearance of corruption.

(d) By treating contributors differently based upon the political affiliation of the candidate being supported, the statute impinged upon the right to political expression for those who support write-in, unaffiliated, or minor political party candidates who are not running in primary elections and who are unable to obtain campaign contributions prior to their nomination for the general election ballot. The court ruled that the state's statutory classification violates the right to equal protection for individuals wishing to contribute to write-in, unaffiliated, and minor political party candidates when each candidate runs unopposed for the general election nomination.

(2) By enacting this act, the general assembly intends to correct any

constitutional infirmities in the state's statutory requirements governing contribution limits in political campaigns as identified by the tenth circuit court of appeals in the *Riddle* decision by permitting write-in, unaffiliated, and minor political party candidates running unopposed for the general election nomination to accept the aggregate contribution limit from any person for the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general election ballot. In this way, all contributors, regardless of the type of candidate they are supporting, will face the same equal playing field.

SECTION 2. In Colorado Revised Statutes, 1-45-103.7, **amend** (3) introductory portion and (4); and **add** (4.5) and (10) as follows:

1-45-103.7. Contribution limits - treatment of independent expenditure committees - contributions from limited liability companies - voter instructions on spending limits - definitions. (3) A candidate committee ESTABLISHED IN THE NAME OF A CANDIDATE AFFILIATED WITH EITHER A MAJOR POLITICAL PARTY OR A MINOR POLITICAL PARTY WHO IS RUNNING IN A PRIMARY ELECTION may accept:

(4) A candidate committee ESTABLISHED IN THE NAME OF A CANDIDATE AFFILIATED WITH EITHER A MAJOR POLITICAL PARTY OR A MINOR POLITICAL PARTY RUNNING IN A PRIMARY ELECTION may expend contributions received and accepted for a general election prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot. A candidate committee established in the name of a candidate AFFILIATED WITH A MAJOR POLITICAL PARTY OR A MINOR POLITICAL PARTY RUNNING IN A PRIMARY ELECTION who wins the primary election may expend contributions received and accepted for a primary election in the general election.

(4.5) (a) A CANDIDATE COMMITTEE ESTABLISHED IN THE NAME OF A CANDIDATE WHO IS A WRITE-IN CANDIDATE, AN UNAFFILIATED CANDIDATE, OR THE CANDIDATE OF A MINOR POLITICAL PARTY WHO IS NOT RUNNING IN A PRIMARY ELECTION MAY ACCEPT FROM ANY ONE PERSON THE AGGREGATE CONTRIBUTION LIMIT SPECIFIED IN SECTION 3 (1) OF ARTICLE XXVIII OF THE STATE CONSTITUTION APPLICABLE TO THE OFFICE HE OR SHE IS SEEKING AT ANY POINT DURING THE ELECTION CYCLE IN WHICH THE CANDIDATE IN WHOSE NAME THE CANDIDATE COMMITTEE IS ACCEPTING

CONTRIBUTIONS IS ON THE GENERAL ELECTION BALLOT.

(b) A CANDIDATE COMMITTEE ESTABLISHED IN THE NAME OF A CANDIDATE WHO IS A WRITE-IN CANDIDATE, AN UNAFFILIATED CANDIDATE, OR THE CANDIDATE OF A MINOR POLITICAL PARTY WHO IS NOT RUNNING IN A PRIMARY ELECTION MAY EXPEND CONTRIBUTIONS RECEIVED AND ACCEPTED IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (4.5) AT ANY POINT DURING THE ELECTION CYCLE IN WHICH THE CANDIDATE IN WHOSE NAME THE CANDIDATE COMMITTEE IS ACCEPTING CONTRIBUTIONS IS ON THE GENERAL ELECTION BALLOT.

(10) FOR PURPOSES OF THIS SECTION, THE TERMS "UNAFFILIATED", "MAJOR POLITICAL PARTY", AND "MINOR POLITICAL PARTY" HAVE THE SAME MEANINGS AS SPECIFIED IN THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF THIS TITLE.

SECTION 3. Applicability. This act applies to the portion of any election cycle or for the portion of the calendar year remaining after the effective date of this act and for any election cycle or calendar year commencing after such effective date, whichever is applicable.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO