

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0944.01 Bob Lackner x4350

HOUSE BILL 14-1335

HOUSE SPONSORSHIP

Moreno,

SENATE SPONSORSHIP

(None),

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

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

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>.)

The bill permits 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 to accept from any one person the aggregate contribution limit

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.

applicable to the office he or she is seeking as specified in the campaign finance provisions of the state constitution 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.

The bill also permits 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 to expend contributions received and accepted for the general election 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.

The bill conforms contribution requirements applicable to major political party candidates to minor political party candidates running in a primary election.

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

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

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

8 (b) In 2004, the general assembly enacted section 1-45-103.7 (3)
9 and (4), Colorado Revised Statutes, which effectively removed any
10 potential time limitations on when a candidate committee could accept
11 contributions when a primary election is involved. For moneys ostensibly
12 given for a primary election, the candidate committee could accept the
13 contribution and spend it during the general election and for moneys
14 ostensibly given for the general election, the committee could accept the
15 contribution and spend it even before the primary. Write-in candidates,
16 unaffiliated candidates, and candidates affiliated with minor political
17 parties who obtain a nomination for the general election without

1 competing in primary elections are not permitted this kind of flexibility
2 in accepting and expending campaign contributions.

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

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

1 individuals wishing to contribute to write-in, unaffiliated, and minor
2 political party candidates when each candidate runs unopposed for the
3 general election nomination.

4 (2) By enacting this act, the general assembly intends to correct
5 any constitutional infirmities in the state's statutory requirements
6 governing contribution limits in political campaigns as identified by the
7 tenth circuit court of appeals in the *Riddle* decision by permitting write-in,
8 unaffiliated, and minor political party candidates running unopposed for
9 the general election nomination to accept the aggregate contribution limit
10 from any person for the election cycle in which the candidate in whose
11 name the candidate committee is accepting contributions is on the general
12 election ballot. In this way, all contributors, regardless of the type of
13 candidate they are supporting, will face the same equal playing field.

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

16 **1-45-103.7. Contribution limits - treatment of independent**
17 **expenditure committees - contributions from limited liability**
18 **companies - voter instructions on spending limits - definitions.** (3) A
19 candidate committee ESTABLISHED IN THE NAME OF A CANDIDATE
20 AFFILIATED WITH EITHER A MAJOR POLITICAL PARTY OR A MINOR
21 POLITICAL PARTY WHO IS RUNNING IN A PRIMARY ELECTION may accept:

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

1 ballot. A candidate committee established in the name of a candidate
2 AFFILIATED WITH A MAJOR POLITICAL PARTY OR A MINOR POLITICAL PARTY
3 RUNNING IN A PRIMARY ELECTION who wins the primary election may
4 expend contributions received and accepted for a primary election in the
5 general election.

6 (4.5) (a) A CANDIDATE COMMITTEE ESTABLISHED IN THE NAME OF
7 A CANDIDATE WHO IS A WRITE-IN CANDIDATE, AN UNAFFILIATED
8 CANDIDATE, OR THE CANDIDATE OF A MINOR POLITICAL PARTY WHO IS NOT
9 RUNNING IN A PRIMARY ELECTION MAY ACCEPT FROM ANY ONE PERSON
10 THE AGGREGATE CONTRIBUTION LIMIT SPECIFIED IN SECTION 3 (1) OF
11 ARTICLE XXVIII OF THE STATE CONSTITUTION APPLICABLE TO THE OFFICE
12 HE OR SHE IS SEEKING AT ANY POINT DURING THE ELECTION CYCLE IN
13 WHICH THE CANDIDATE IN WHOSE NAME THE CANDIDATE COMMITTEE IS
14 ACCEPTING CONTRIBUTIONS IS ON THE GENERAL ELECTION BALLOT.

15 (b) A CANDIDATE COMMITTEE ESTABLISHED IN THE NAME OF A
16 CANDIDATE WHO IS A WRITE-IN CANDIDATE, AN UNAFFILIATED
17 CANDIDATE, OR THE CANDIDATE OF A MINOR POLITICAL PARTY WHO IS NOT
18 RUNNING IN A PRIMARY ELECTION MAY EXPEND CONTRIBUTIONS RECEIVED
19 AND ACCEPTED IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION
20 (4.5) AT ANY POINT DURING THE ELECTION CYCLE IN WHICH THE
21 CANDIDATE IN WHOSE NAME THE CANDIDATE COMMITTEE IS ACCEPTING
22 CONTRIBUTIONS IS ON THE GENERAL ELECTION BALLOT.

23 (10) FOR PURPOSES OF THIS SECTION, THE TERMS "UNAFFILIATED",
24 "MAJOR POLITICAL PARTY", AND "MINOR POLITICAL PARTY" HAVE THE
25 SAME MEANINGS AS SPECIFIED IN THE "UNIFORM ELECTION CODE OF
26 1992", ARTICLES 1 TO 13 OF THIS TITLE.

27 **SECTION 3. Applicability.** This act applies to the portion of any

1 election cycle or for the portion of the calendar year remaining after the
2 effective date of this act and for any election cycle or calendar year
3 commencing after such effective date, whichever is applicable.

4 **SECTION 4. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.