

Proposed Amendment to
Article XXVIII

1 Be it enacted by the People of the State of Colorado an amendment to the
2 Colorado Constitution Article XXVIII by the addition of the following new sections:

3 **Section 15:** Because of a presumption of impropriety between contributions to any
4 campaign and sole source government contracts, contract holders who have entered into a
5 sole source government contract or contracts, for a cumulative total of more than
6 \$100,000, with the state or any of its political subdivisions shall contractually agree, for
7 the duration of the contract and for two years thereafter, to cease making or causing to be
8 made any contribution for the benefit of any political party or any candidate for any
9 elected office of the state or any of its political subdivisions.

10 **Section 16:** To aid in enforcement of this measure concerning sole source contracts, the
11 Executive Director of the Department of Personnel shall promptly publish and maintain a
12 summary of each sole source government contract issued. Any contract holder of a sole
13 source government contract shall promptly prepare and deliver to the Executive Director
14 of the Department of Personnel a true and correct "Government Contract Summary," in
15 digital format as prescribed by that office, which shall identify the names and addresses
16 of the contract holders and all other parties to the government contract, briefly describe
17 the nature of the contract and goods or services performed, disclose the beginning and
18 end date of the contract, disclose the contract's estimated amount or rate of payment,
19 disclose the sources of payment, and other information as determined by the Executive
20 Director of the Department of Personnel which is not in violation of federal law, trade
21 secrets or intellectual property rights. The Executive Director of the Department of
22 Personnel is hereby given authority to promulgate rules to facilitate this section.

23 **Section 17:** (1) Every sole source government contract by the state or any of its political
24 subdivisions shall have the provisions required in this article incorporated into the
25 contract. Any person who intentionally accepts contributions on behalf of a candidate
26 committee, political committee, small donor committee, political party, or other entity, in
27 violation of this provision, has engaged in corrupt misconduct and shall pay restitution to
28 the general treasury of the contracting governmental entity to compensate the
29 governmental entity for all costs and expenses associated with the breach, including costs
30 and losses involved in securing a new contract if that becomes necessary. If a person
31 responsible for the bookkeeping of an entity that seeks or has a sole source contract with
32 a governmental entity, or if a person acting on behalf of the governmental entity, obtains
33 knowledge of a contribution made or accepted in violation of this article, and that person
34 intentionally fails to notify the Secretary of State or appropriate officer about the
35 violation in writing within ten business days of learning of such contribution, then
36 contract liability in an amount up to the above restitution shall be also attributable to such
37 person.

38 (2) Any person who makes or causes to be made any contribution intended to promote or
39 influence the result of an election on a ballot issue shall not be qualified to enter into a
40 sole source contract relating to that particular ballot issue.

1 (3) The parties shall agree that if a contract holder intentionally violates this article, as
2 contractual damages that contract holder shall be ineligible to hold any sole source
3 government contract, or public employment with the state, or any of its political
4 subdivisions, for three years. The Governor may temporarily suspend any remedy under
5 this section during a declared state of emergency.

6 (4) Knowing violation of this section by an elected official is grounds for removal from
7 office and disqualification to hold any office of honor, trust or profit in the state, and
8 shall constitute misconduct or malfeasance.

9 (5) A registered voter of the state may enforce this article by filing a complaint for
10 injunctive or declaratory relief or for civil damages and remedies, if appropriate, in the
11 district court.

12 **Section 18:** The provisions of this article concerning sole source contracts shall take
13 effect on December 31, 2008.

14 **Section 19:** Conflicting provisions. Any provision in the statutes of this state in conflict
15 or inconsistent with this article are hereby declared to be inapplicable to the matters
16 provided for in this article.

17 **Section 20:** Severability. If any provision of this article or the application thereof is held
18 invalid, such invalidity shall not affect other provisions or applications of the article,
19 which can be given effect without the invalid provision or application, and to this end the
20 provisions of this article are declared to be separable.

21 **[The following to be inserted alphabetically into Article 28, § 2]**

22 (a) "Contract holder" means any non-governmental party to a sole-source government
23 contract, including persons that control 10% or more shares or interest in that party; or
24 that party's officers, directors or trustees; or, in the case of collective bargaining
25 agreements, the labor organization and any political committees created or controlled by
26 the labor organization;

27 (b) "Government contract" means any sole-source government contract awarded by the
28 state or any of its political subdivisions for amounts greater than \$100,000 indexed for
29 inflation per the United States Bureau of Labor Statistics Consumer Price Index for
30 Denver-Boulder after the year 2010. This amount is cumulative, that is, it includes all
31 sole-source contracts that a contract holder may have with any and all governmental
32 entities during a calendar year. Such contracts for services include collective bargaining
33 agreements with a labor organization representing employees, but not employment
34 contracts with individual employees;

35 (c) "Immediate family member" means any spouse, child, spouse's child, son-in-law,
36 daughter-in-law, parent, sibling, grandparent, grandchild, stepbrother, stepsister,
37 stepparent, parent-in-law, brother-in-law, sister-in-law, aunt, niece, nephew, guardian,

1 and domestic partner;

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3 (d) "Making or causing to be made any contribution" means any contract holder making,
4 causing to be made, or inducing by any means a contribution, directly or indirectly, on
5 behalf of the contract holder, or an immediate family member of any contract holder
6 doing the same;

7 (e) "Sole source" means any government contract that does not use a public and
8 competitive bidding processes soliciting at least three bids prior to awarding the contract.
9 Collective bargaining agreements qualify as sole source government contracts if the
10 contract confers an exclusive representative status to bind all employees to accept the
11 terms and conditions of the contract;

12 (f) "State or any of its political subdivisions" means the State of Colorado and its
13 agencies or departments, as well as the political subdivisions within this state including
14 counties, municipalities, school districts, special districts, and any public or quasi-public
15 body that receives a majority of its funding from the taxpayers of the State of Colorado.