

## Amendment 54 Campaign Contributions from Certain Government Contractors

1 **Amendment 54 proposes amending the Colorado Constitution to:**

- 2       ♦ prohibit certain government contractors from contributing to a political  
3       party or candidate for the contract's duration and two years thereafter;
- 4       ♦ prohibit contributors to ballot issue campaigns from entering into certain  
5       government contracts relating to the ballot issue;
- 6       ♦ apply the prohibitions on campaign contributions and ballot issue  
7       contracts to any contractor with a government contract or contracts that  
8       does not use a public and competitive bidding process soliciting at least  
9       three bids and with a total value greater than \$100,000 in a single year;  
10      and
- 11      ♦ apply the prohibitions on campaign contributions and ballot issue  
12      contracts to a labor organization holding a collective bargaining  
13      agreement with a state or local government.

### 14 **Summary and Analysis**

15       Government entities purchase goods and services from private-sector vendors for  
16       the operation of government. The awarding of state contracts for these goods and  
17       services is regulated by state law. Local governments largely determine their own  
18       practices.

19       ***How are state government contracts awarded?*** State law requires, with few  
20       exceptions, that vendors for state contracts be selected through a competitive bidding  
21       process. Separate rules govern small and emergency purchases. In some cases, a  
22       state agency may determine that only one good or service can reasonably meet the  
23       agency's need, and only one vendor can provide the particular good or service.  
24       Examples of circumstances when competitive bidding is not used include cases:

- 25      ♦ where equipment, accessories, or replacement parts must be  
26      compatible;
- 27      ♦ where a sole supplier's item is needed for trial use or testing; and
- 28      ♦ where public utility services are to be purchased.

1       **How does the measure affect government contractors and labor**  
2 **organizations?** Amendment 54 prohibits campaign contributions by certain  
3 government contractors. The prohibition applies to contractors with a total contract  
4 value of greater than \$100,000 in a single year where fewer than three bids are  
5 solicited. It also covers labor organizations that represent public employees in a  
6 collective bargaining agreement.

7       Contracts covered by Amendment 54 are referred to in the measure as "sole  
8 source contracts" and include those awarded by the state, cities, counties, school  
9 districts, and other special districts. The measure requires the state to publish and  
10 maintain a database of every covered government contract issued at every level of  
11 government.

12       **How are Amendment 54's prohibitions applied?** Under the measure, covered  
13 government contractors are prohibited from making a campaign contribution  
14 themselves, or on behalf of a family member, to any political party or any state or local  
15 candidate for the duration of the contract plus two additional years. A contractor  
16 includes:

- 17       ◆ the contracting entity's officers, directors, or trustees;
- 18       ◆ any individual who controls at least 10 percent of the shares of or  
19       interest in the entity; and
- 20       ◆ in the case of a collective bargaining agreement, a labor organization  
21       and any political committees it creates to make campaign contributions.

22       The measure also prohibits a person who contributes to a ballot issue campaign from  
23 entering into a covered government contract relating to the ballot issue.

24       **What penalties exist under Amendment 54?** Under Amendment 54, individuals  
25 who accept contributions from covered government contractors for the benefit of a  
26 political party or candidate must pay restitution to the contracting government. Elected  
27 or appointed officials may be removed or disqualified from office for knowingly  
28 violating Amendment 54. Further, a covered government contractor who intentionally  
29 makes a contribution in violation of the measure is barred from holding a covered  
30 government contract or public employment for three years. The governor may  
31 suspend these penalties during a declared state of emergency.

32       **What is the scope of state contracts affected by Amendment 54?** Information  
33 is not available on the number of state contracts that meet the criteria in Amendment  
34 54. However, a sample of state contracts indicates that last year about 6 percent of  
35 state contracts had a value greater than \$100,000 and were not put out for bid. These  
36 contracts represented about 5 percent of the total value of state contracts over  
37 \$100,000.

38       **What is the scope of local government contracts affected by Amendment**  
39 **54?** Information is not available on the number and value of local contracts that meet  
40 the criteria in Amendment 54. Some local governments, including the cities of Boulder  
41 and Fort Collins, have enacted laws restricting campaign contributions by individuals

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1 holding any type of contract with the local government and would integrate  
2 Amendment 54's provisions into existing practice. Local governments also enter into  
3 collective bargaining agreements. For example, 45 school districts, representing  
4 80 percent of teachers in the state, and four city police departments, representing  
5 33 percent of the state's police officers, are covered under collective bargaining  
6 agreements.

## 7 **Arguments For**

8 1) Amendment 54 promotes civic trust and government transparency. By  
9 prohibiting campaign contributions, Amendment 54 ensures that business interests,  
10 labor, and other covered government contractors do not influence policy decisions  
11 through campaign contributions. In addition, by requiring state officials to publish  
12 information on covered government contracts, the measure makes information on  
13 vendors that receive such contracts easier to obtain by ordinary citizens. Registered  
14 voters can hold both public officials and contractors to a high ethical standard and  
15 seek remedies when violations occur.

16 2) Amendment 54 furthers the efficient use of taxpayer dollars by promoting  
17 competitive bidding for government contracts. It makes contracts where fewer than  
18 three bids are solicited less attractive by prohibiting political contributions from entities  
19 that receive such contracts. Amendment 54 thus encourages taxpayer value in  
20 contracting, and discourages instances where it may be easy to rely on entities with  
21 existing contracts.

## 22 **Arguments Against**

23 1) The broad scope of the measure could have far-reaching consequences for  
24 contractors, political candidates, and elected officials. For example, an individual  
25 holding a covered contract with one local government could be penalized for making a  
26 contribution to a candidate in a separate jurisdiction. To avoid violations and  
27 penalties, candidates and political parties will have to monitor each contribution to  
28 ensure that it is not made by a sole-source government contractor, or by the  
29 contractor on behalf of a relative. Furthermore, Amendment 54 establishes penalties  
30 that are severe relative to the offenses, including loss or disqualification from office for  
31 elected or appointed officials.

32 2) Amendment 54 proposes an inflexible approach to government contracting.  
33 Different regions and levels of government throughout the state have varying  
34 contracting needs and access to providers of goods and services. Because rural  
35 cities and counties typically have fewer contracting options than urban communities or  
36 state government, the measure presents unique challenges for small communities and  
37 their service providers. For example, if one organization in a small community is the  
38 only available contractor for community services, the organization would have to  
39 choose between accepting a contract and participating financially in the political  
40 process.

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## 1 **Estimate of Fiscal Impact**

2       Amendment 54 requires the state to publish and maintain a summary of each  
3 covered government contract issued by the state and all local government entities,  
4 beginning December 31, 2008. The cost of hiring a contractor to develop the  
5 database is \$234,000. In addition, annual state expenditures of \$85,000 for one  
6 employee are required to manage the database of contracts of approximately  
7 4,000 governmental entities. Thus, the total cost to the state will be \$277,000 and a  
8 half-time employee in budget year 2009 and \$85,000 and one employee in budget  
9 year 2010 and thereafter.