

1 *Be it Enacted by the People of the State of Colorado:*

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SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 18.5
Independent Ethics Commission

24-18.5-101. Independent ethics commission – establishment – membership – subpoena power – definitions. (1) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ARTICLE XXIX" MEANS ARTICLE XXIX OF THE STATE CONSTITUTION APPROVED BY THE VOTERS AT THE 2006 GENERAL ELECTION.

(b) "COMMISSION" MEANS THE INDEPENDENT ETHICS COMMISSION CREATED IN SECTION 5(1) OF ARTICLE XXIX.

(2) NOTWITHSTANDING ANY PROVISION OF LAW, THE COMMISSION'S IMPLEMENTATION SHALL ADHERE TO THE FOLLOWING REQUIREMENTS.

(a) THE INDEPENDENT ETHICS COMMISSION IS HEREBY ESTABLISHED IN THE OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL CREATED IN SECTION 24-30-1001. THE COMMISSION SHALL CONSIST OF FIVE MEMBERS. THE APPOINTING AUTHORITIES FOR THE COMMISSION MEMBERS, THE ORDER OF APPOINTMENT OF SUCH MEMBERS, AND OTHER REQUIREMENTS PERTAINING TO COMMISSION MEMBERSHIP SHALL BE AS SPECIFIED IN SECTION 5 (2) (a) OF ARTICLE XXIX. SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (2), ANY MEMBER APPOINTED BY THE SENATE PURSUANT TO SECTION 5 (2) (a) (I) OF ARTICLE XXIX AFTER JANUARY 1, 2008, SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS ELECTED TO THE SENATE. SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (2), ANY MEMBER APPOINTED BY THE HOUSE OF REPRESENTATIVES PURSUANT TO SECTION 5 (2) (a) (II) OF ARTICLE XXIX AFTER JANUARY 1, 2008, SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS ELECTED TO THE HOUSE OF REPRESENTATIVES. MEMBERS APPOINTED PURSUANT TO THIS SECTION MAY BE BUT ARE NOT REQUIRED TO BE AFFILIATED WITH A MAJOR POLITICAL PARTY, AND THE HOUSE AND SENATE APPOINTEES ARE NOT REQUIRED TO BE MEMBERS OF DIFFERENT POLITICAL PARTIES. FURTHER, THE COMMISSION MAY APPOINT ANY QUALIFYING INDIVIDUAL TO BE THE MEMBER WHO IS A LOCAL GOVERNMENT OFFICIAL OR LOCAL GOVERNMENT EMPLOYEE AND SHALL NOT BE LIMITED TO LISTS OF ELIGIBLE INDIVIDUALS PROVIDED BY MEMBERS OF THE GENERAL ASSEMBLY.

(b) THE COMMISSION MEMBERS SHALL BE APPOINTED TO FOUR-YEAR TERMS; EXCEPT THAT THE FIRST MEMBER APPOINTED BY THE SENATE AND THE FIRST MEMBER APPOINTED BY THE GOVERNOR SHALL INITIALLY SERVE TWO-YEAR TERMS.

1 (3) COMMISSION MEMBERS SHALL SERVE WITHOUT COMPENSATION;
2 EXCEPT THAT COMMISSION MEMBERS SHALL BE REIMBURSED FOR THE ACTUAL AND
3 NECESSARY EXPENSES THAT THEY INCUR IN CARRYING OUT THEIR DUTIES AND
4 RESPONSIBILITIES AS COMMISSION MEMBERS.

5 (4) IN ACCORDANCE WITH THE PROVISIONS OF SECTION 5 OF ARTICLE
6 XXIX, THE POWERS AND DUTIES OF THE COMMISSION SHALL BE AS FOLLOWS:

7 (a) TO HEAR COMPLAINTS, ISSUE FINDINGS, AND ASSESS PENALTIES ON
8 ETHICS ISSUES ARISING UNDER ARTICLE XXIX AND OTHER STANDARDS OF
9 CONDUCT AND REPORTING REQUIREMENTS AS PROVIDED BY LAW; AND

10 (b) (I) TO ISSUE ADVISORY OPINIONS AND LETTER RULINGS ON ETHICS
11 ISSUES ARISING UNDER ARTICLE XXIX AND OTHER STANDARDS OF CONDUCT AND
12 REPORTING REQUIREMENTS AS PROVIDED BY LAW.

13 (II) THE COMMISSION SHALL PREPARE A RESPONSE TO A REQUEST FOR
14 AN ADVISORY OPINION FROM A PUBLIC OFFICER, MEMBER OF THE GENERAL
15 ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE AS TO
16 WHETHER PARTICULAR ACTION BY SUCH OFFICER, MEMBER, OFFICIAL, OR
17 EMPLOYEE SATISFIES THE REQUIREMENTS OF ARTICLE XXIX NOT MORE THAN
18 TWENTY BUSINESS DAYS AFTER THE REQUEST IS MADE TO THE COMMISSION.

19 (III) ANY PERSON WHO IS NOT A PUBLIC OFFICER, MEMBER OF THE
20 GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE
21 MAY SUBMIT A REQUEST TO THE COMMISSION FOR A LETTER RULING CONCERNING
22 WHETHER POTENTIAL CONDUCT OF THE PERSON MAKING THE REQUEST SATISFIES
23 THE REQUIREMENTS OF ARTICLE XXIX. IN SUCH CASE, THE COMMISSION SHALL
24 ISSUE A RESPONSE TO THE REQUEST AS SOON AS PRACTICABLE.

25 (IV) EACH ADVISORY OPINION OR LETTER RULING, AS APPLICABLE,
26 ISSUED BY THE COMMISSION SHALL BE WRITTEN WITH THE ASSISTANCE OF
27 APPROPRIATE STAFF IN THE ATTORNEY GENERAL'S OFFICE, SHALL BE A PUBLIC
28 DOCUMENT, AND SHALL BE PROMPTLY POSTED ON A WEBSITE THAT SHALL BE
29 MAINTAINED BY THE COMMISSION; EXCEPT THAT, IN THE CASE OF A LETTER RULING,
30 THE COMMISSION SHALL REDACT THE NAME OF THE PERSON REQUESTING THE
31 RULING OR OTHER IDENTIFYING INFORMATION BEFORE IT IS POSTED ON THE
32 WEBSITE.

33 (5) (a) THE COMMISSION SHALL DISMISS AS FRIVOLOUS ANY COMPLAINT
34 FILED UNDER ARTICLE XXIX THAT FAILS TO ALLEGE A PUBLIC OFFICER, MEMBER OF
35 THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT
36 EMPLOYEE SOLICITED, ACCEPTED, OR RECEIVED ANY GIFT OR OTHER THING OF
37 VALUE FOR PRIVATE GAIN OR PERSONAL FINANCIAL GAIN.

38 (b) FOR PURPOSES OF THIS SUBSECTION (5):

39 (I) "OFFICIAL ACT" SHALL HAVE THE SAME MEANING AS SET FORTH IN
40 SECTION 24-18-107 (7).

41 (II) "PRIVATE GAIN" OR "PERSONAL FINANCIAL GAIN" MEANS ANY
42 MONEY, FORBEARANCE, FORGIVENESS OF INDEBTEDNESS, GIFT, OR OTHER THING OF
43 VALUE GIVEN OR OFFERED BY A PERSON SEEKING TO INFLUENCE AN OFFICIAL ACT
44 THAT IS PERFORMED IN THE COURSE AND SCOPE OF THE PUBLIC DUTIES OF A PUBLIC
45 OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR
46 GOVERNMENT EMPLOYEE.

1 (6) PURSUANT TO THE PROVISIONS OF SECTION 5(1) OF ARTICLE XXIX,
2 THE COMMISSION SHALL ADOPT REASONABLE RULES AS MAY BE NECESSARY FOR
3 THE PURPOSE OF ADMINISTERING AND ENFORCING THE PROVISIONS OF ARTICLE
4 XXIX AND ANY OTHER STANDARDS OF CONDUCT AND REPORTING REQUIREMENTS
5 AS PROVIDED BY LAW. ANY RULES SHALL BE PROMULGATED IN ACCORDANCE WITH
6 THE REQUIREMENTS OF ARTICLE 4 OF THIS TITLE.

7 (7) SUBJECT TO AVAILABLE APPROPRIATIONS, THE COMMISSION MAY
8 EMPLOY SUCH STAFF AS IT DEEMS NECESSARY TO ENABLE IT TO CARRY OUT ITS
9 FUNCTIONS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND
10 ARTICLE XXIX.

11 (8) NOTWITHSTANDING ANY PROVISION OF LAW, A SUBPOENA
12 REQUIRING THE ATTENDANCE OF A WITNESS OR THE PRODUCTION OF DOCUMENTS
13 SHALL BE ISSUED BY THE COMMISSION ONLY IF A MOTION TO ISSUE ANY SUCH
14 SUBPOENA HAS BEEN MADE BY ONE MEMBER OF THE COMMISSION AND APPROVED
15 BY A MAJORITY OF THE COMMISSION'S MEMBERS.

16 (9) ANY FINAL ACTION OF THE COMMISSION CONCERNING A COMPLAINT
17 SHALL BE SUBJECT TO JUDICIAL REVIEW BY THE DISTRICT COURT FOR THE CITY AND
18 COUNTY OF DENVER.

19
20 **24-18.5-102. Occupational tax on professional lobbyists – ceiling on**
21 **annual occupational tax revenues.**

22 (a) IN ORDER TO SUPPLEMENT THE STATE'S GENERAL FUND FOR
23 REVENUES EXPENDED ON THE COMMISSION'S INTERPRETATION AND ENFORCEMENT
24 OF ARTICLE XXIX, AN OCCUPATIONAL TAX OF \$50 PER YEAR SHALL BE PAID BY
25 EACH PROFESSIONAL LOBBYIST. FOR THE FISCAL YEAR ENDING JUNE 30, 2008, THE
26 FULL AMOUNT OF SUCH OCCUPATIONAL TAX SHALL BE IMPOSED ON ANY PERSON
27 WHO ACTS AS A PROFESSIONAL LOBBYIST ON OR AFTER JANUARY 1, 2008. SUBJECT
28 TO SUBSECTION (b) OF THIS SECTION, A PROFESSIONAL LOBBYIST SHALL PAY THE
29 OCCUPATIONAL TAX IN ANY SUBSEQUENT FISCAL YEAR IN WHICH HE LOBBIES ONE
30 OR MORE PUBLIC OFFICERS, MEMBERS OF THE GENERAL ASSEMBLY, LOCAL
31 GOVERNMENT OFFICIALS, OR GOVERNMENT EMPLOYEES.

32 (b) FOR ANY FISCAL YEAR COMMENCING AFTER JUNE 30, 2008, THE
33 GENERAL ASSEMBLY MAY INCREASE OR DECREASE THE RATE OF THIS
34 OCCUPATIONAL TAX, SO LONG AS REVENUE FROM SUCH TAX DOES NOT EXCEED
35 NINETY PERCENT OF GENERAL FUND EXPENDITURES ASSOCIATED WITH THE
36 COMMISSION IN THAT FISCAL YEAR. REGARDING ANY INCREASE IN THE RATE OF
37 THE OCCUPATIONAL TAX ENACTED PURSUANT TO THIS SUBSECTION, VOTER
38 APPROVAL OF THIS SECTION AT THE 2007 GENERAL ELECTION SHALL SATISFY THE
39 REQUIREMENTS FOR VOTER APPROVAL UNDER SECTION 20 OF ARTICLE X OF THE
40 COLORADO CONSTITUTION.

41 (c) THE DEPARTMENT OF REVENUE SHALL COLLECT ALL OCCUPATIONAL
42 TAXES IMPOSED UNDER THIS SECTION AND SHALL REMIT THE REVENUES FROM SUCH
43 TAX TO THE STATE'S GENERAL FUND.

44 (d) ALL REVENUES GENERATED BY THE OCCUPATIONAL TAX ON
45 PROFESSIONAL LOBBYISTS SHALL BE EXEMPT FROM ANY RESTRICTIONS ON

1 SPENDING, REVENUES, OR APPROPRIATIONS, INCLUDING WITHOUT LIMITATION, THE
2 RESTRICTIONS IN SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION.

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4 **24-18.5-103. Applicability.** IN APPROVING THIS ARTICLE AT THE 2007
5 GENERAL ELECTION, IT IS THE VOTERS' INTENT THAT SECTIONS 24.18.5-101(1) AND
6 24-18.5-102(5) CLARIFY EXISTING LAW. THOSE PROVISIONS IMPLEMENT THE
7 OVERRIDING LEGAL STANDARD USED IN SECTIONS 1 AND 6 OF ARTICLE XXIX:
8 VIOLATION OF THE PUBLIC TRUST FOR PRIVATE GAIN. AS SUCH, SECTIONS 24.18.5-
9 101(1) AND 24-18.5-102(5) ARE INTENDED TO BE USED IN INTERPRETING AND
10 APPLYING ARTICLE XXIX IN COMPLAINTS BEFORE THE COMMISSION, ADVISORY
11 OPINIONS AND LETTER RULINGS, LITIGATION IN WHICH ONE OR MORE PARTIES SEEKS
12 TO DECLARE ANY PORTION OF ARTICLE XXIX UNCONSTITUTIONAL OR ENJOIN OR
13 SUSPEND ITS EFFECT, IN WHOLE OR IN PART, AND APPELLATE PROCEEDINGS OF ANY
14 COMMISSION OR COURT DECISION INCLUDING THOSE INITIATED PRIOR TO THE 2007
15 GENERAL ELECTION.

16
17 **SECTION 2.** 24-18-112 of the Colorado Revised Statutes is amended to
18 read:

19 (1) There is hereby created a board of ethics for the executive branch of
20 state government in the office of the governor. The board shall consist of five
21 members to be appointed by and serve at the pleasure of the governor.

22 (2) The board of ethics for the executive branch shall:

23 (a) Comment, when requested by the governor, on each proposed
24 gubernatorial appointment, including the heads of the principal departments and
25 the senior members of the governor's office based upon the provisions of this
26 article;

27 ~~(b) Upon written request of the governor, review complaints of any~~
28 ~~violation of the provisions of this article by a member of the executive branch of~~
29 ~~state government;~~

30 (c) Make written recommendations to the governor concerning his
31 requests; and

32 (d) Review appeals brought before the board of ethics pursuant to section
33 24-30-1003(4).

34 (3) THE INDEPENDENT ETHICS COMMISSION CREATED BY ARTICLE XXIX OF
35 THE CONSTITUTION SHALL, PURSUANT TO SECTION 24-18.5-101(4)(a), CONSIDER
36 COMPLAINTS OF ANY VIOLATION OF THE PROVISIONS OF THIS ARTICLE BY A MEMBER
37 OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

38
39 **SECTION 3.** 24-18-113 of the Colorado Revised Statutes is amended to
40 read:

41 (1) There is hereby created a board of ethics for the general assembly. The
42 board shall consist of four legislative members. One member shall be appointed
43 by and serve at the pleasure of the majority leader of the house of representatives;
44 one member shall be appointed by and serve at the pleasure of the majority leader
45 of the senate; one member shall be appointed by and serve at the pleasure of the

1 minority leader of the house of representatives; and one member shall be
2 appointed by and serve at the pleasure of the minority leader of the senate.
3 (2) ~~The board of ethics for the general assembly~~ INDEPENDENT ETHICS
4 COMMISSION CREATED BY ARTICLE XXIX OF THE CONSTITUTION shall, upon
5 written request of a member of the general assembly AND PURSUANT TO SECTION
6 24-18.5-101(4)(b)(II), issue advisory opinions concerning issues relating to the
7 requesting member's conduct and the provisions of this article.

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9 **SECTION 4. Effective date.** ARTICLE 18.5 OF TITLE 24 AND
10 AMENDMENTS TO ARTICLE 18 OF TITLE 24 THAT ARE APPROVED BY THE VOTERS AT
11 THE NOVEMBER, 2007 GENERAL ELECTION SHALL TAKE EFFECT EITHER ON
12 JANUARY 1, 2008 OR AS PROVIDED BY SECTION 1(4) OF ARTICLE V OF THE
13 COLORADO CONSTITUTION, WHICHEVER DATE OCCURS EARLIER.
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