



Notice of Permanent Adoption

Office of the Secretary of State Rules Concerning Campaign and Political Finance 8 CCR 1505-6

December 27, 2011

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Rules Concerning Campaign and Political Finance³ are adopted.

The office received numerous comments regarding the recodification of the campaign finance rules. The Secretary is considering these comments and will issue a separate notice when a determination is made regarding the remainder of the rulemaking.

(Additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~. *Annotations* may be included):

Rule 5.13 would be repealed and new Rule 5.14 would be adopted as follows:

5.13 ~~The requirement of section 1-45-108(2)(a)(I)(B), C.R.S., to file reports of contributions and expenditures biweekly rather than monthly beginning in July before the primary election, was rendered infeasible by the enactment of Senate Bill 11-189, which moved the date of the primary election from August to June. Therefore, monthly filing as required by section 1-45-108(2)(a)(I)(C), C.R.S., remains applicable through the primary election and until biweekly reporting begins in September before the November election as required by section 1-45-108(2)(a)(I)(D), C.R.S. REPEALED~~

5.14 IN ACCORDANCE WITH SECTION 1-45-108(2)(A)(I)(B), C.R.S., BIWEEKLY REPORTING FOR THE PRIMARY ELECTION BEGINS ON THE FIRST MONDAY IN JULY IN THE OFF-ELECTION YEAR AND ENDS ON THE LAST MONDAY OF THE BIWEEKLY SCHEDULE BEFORE THE PRIMARY ELECTION.

5.14.1 THE FIRST BIWEEKLY REPORT FOR THE 2012 PRIMARY ELECTION SHALL BE DUE ON JANUARY 30, 2012. THE REPORTING PERIOD FOR THE FIRST REPORT BEGINS ON

¹ Article XXVIII, Section 9(1)(b) of the Colorado Constitution and section 1-45-111.5(1), C.R.S. (2011).

² Section 24-4-103(3)(a), C.R.S. (2011).

³ 8 CCR 1505-6.

JANUARY 1, 2012 AND CLOSES ON JANUARY 25, 2012. THIS PARAGRAPH 5.14.1 IS REPEALED, EFFECTIVE JULY 1, 2012.

5.14.2 NO BIWEEKLY REPORTS FOR JULY 2011 THROUGH DECEMBER 2011 ARE REQUIRED. THIS PARAGRAPH 5.14.2 IS REPEALED, EFFECTIVE JULY 1, 2012.

II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Effective Date of Adopted Rules

These new and amended rules will become permanently effective twenty days after publication in the Colorado Register.⁴

Dated this 27th day of December, 2011,



William A. Hobbs
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

⁴ Section 24-4-103(5), C.R.S. (2011).



Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State
Rules Concerning Campaign and Political Finance
8 CCR 1505-6

December 27, 2011

I. Basis and Purpose

This statement is about amendments to the Colorado Secretary of State Rules Concerning Campaign and Political Finance¹. The amendments are intended to achieve the uniform and proper administration and enforcement of Colorado campaign and political finance laws.² Specifically, the amendments clarify that biweekly reporting is required beginning in July of the off-election year through the month of the primary election.

Following the enactment of Senate Bill 11-189, which moves the date of the primary election from the first Tuesday in August to the last Tuesday in June, questions arose as to the operation of statutory provisions governing the required frequency of campaign finance reports. Because the General Assembly neglected to remedy the problem during the 2011 session, the Secretary adopted a rule in June 2011 to provide guidance to filers that they would not be required to file biweekly reports beginning in July 2011.

After reviewing the rule, the Office of Legislative Legal Services recommended to the Committee on Legal Services that the rule not be extended.³ On December 14, 2011, the Committee met to consider the rule. The Committee determined that the issue was more properly addressed legislatively and voted not to extend the rule.

The Secretary agrees that it is the responsibility of the General Assembly to address this issue and respects the decision of the committee; therefore, he is repealing the rule. The Secretary is hopeful that the General Assembly will adopt an amendment to address the conflicting timelines during the next legislative session beginning in January 2012.

The rule, as amended, clarifies that section 1-45-108(2)(a)(I)(B), C.R.S., should be interpreted literally to require that biweekly reporting begins in July in the odd-numbered year before the general election year. However, the first biweekly report for the 2012 primary election will be due on January 30, 2012. It should be noted that the final quarterly report for 2011 is due on January 17, 2012. Therefore, the reporting period for the first biweekly report will include January 1, 2012 through January 25, 2012. Committees are not required to file retroactive biweekly reports for the months of July through December.

¹ 8 CCR 1505-6.

² Article XXVIII of the Colorado Constitution and Article 45, Title I of the Colorado Revised Statutes.

³ Section 24-4-103(8)(c)(1), C.R.S. (2011).

The office received numerous comments regarding the recodification of the campaign finance rules. The Secretary is considering these comments and will issue a separate notice when a determination is made regarding the remainder of the rulemaking.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Article XXVIII, Section 8 of the Colorado Constitution, which requires the Secretary of State to “promulgate rules related to filing in accordance with article 4 of title 24, C.R.S.”
2. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to “[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”
3. Section 1-1-107(2)(a), C.R.S., (2011), which authorizes the Secretary of State “[t]o promulgate, publish, and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
4. Section 1-45-111.5(1), C.R.S., (2011), which requires the Secretary of State to “promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.]”