

## Andrea Gyger

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**From:** [REDACTED]  
**Sent:** Tuesday, December 13, 2011 1:56 PM  
**To:** CO Secretary of State; Andrea Gyger  
**Subject:** make your opinions known about how the reporting schedule should

**Categories:** Rules

Andrea,

From an Accountant's and Treasurer's point of view, my suggestion is that reporting date should allow time to receive and reconcile End Of The Month Bank Statements. For example the 10th of a month.

Separately, I do not see the purpose of reporting more than once a month. I think reporting should be either monthly, quarterly, semi annual or annual, based upon the "legal" requirements.

Thanks for listening,  
Chuck O'Reilly  
[REDACTED]

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**From:** "CO Secretary of State" <ColoSecofState@public.govdelivery.com>  
**To:** [REDACTED]  
**Sent:** Monday, December 12, 2011 4:01:44 PM  
**Subject:** Campaign finance discussions happening this week



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Since taking office as Secretary of State, I've worked to build a political system that inspires civic engagement. Unfortunately, the administration of Colorado's campaign finance laws has deterred good people from volunteering or running for office. For that reason, my office is making changes to Colorado's campaign finance regulations.

**This email describes three changes, and I invite your participation in two issues that will have a major impact on how you comply with Colorado's campaign finance laws.**

Coloradans supported campaign finance transparency, but our campaign finance laws have led to two major problems. First, the rules and regulations have become incredibly complex, making it very difficult for volunteers and part-time activists to follow the law.

Second, campaign finance fines have been completely out of proportion to the violations. We've seen candidates with very limited contributions rack up hundreds of thousands of dollars in fines, not because they were intentionally hiding their political spending, but because of filing mistakes or confusion.

As a result, Colorado politics has become a game for the wealthy, who can hire expensive lawyers and accountants.

Much rhetoric today claims to “get big-money out of politics.” But our elections remain saturated with expensive political ads from independent groups, who rarely pay fines. For example, during the 2010 election cycle large, sophisticated independent groups (often called 527’s), could take unlimited contributions, and they spent about 25% of all political money. But they paid less than 1% of all fines. Meanwhile, small groups and low-spending candidates suffer disproportionately from fines.

While the wealthy, independent groups can afford lawyers and accountants, most candidates have strict contribution limits. So, Coloradans running for state or local elections must deal with complex campaign finance filing requirements on their own, and they often suffer \$50 per day penalties.

This isn’t the system that Colorado voters were promised.

As Secretary of State, I’ve implemented common sense policies aimed at simplifying some of our campaign finance complexities. Below are three efforts you should know about:

- First, I reconciled conflicting reporting schedules, to match the intent of the legislature and provide clear guidance for candidates. **There is an upcoming legislative hearing on this issue on December 14, 2011.**
- Second, I have proposed re-writing my department’s campaign finance rules to better organize them, improve their clarity, and use common sense that promotes – rather than chills – civic participation. **My office is holding a hearing on these proposals on December 15, 2011.**
- Third, I am seeking to bring Colorado’s issue committee rules into compliance with the First Amendment, following a federal court decision that struck down part of Colorado law (and that also cost the state over \$600,000 in attorney fees).

Unfortunately, I’ve received some partisan criticism from those locked into a broken system. We need, however, leadership to fix a broken system and to even the playing field for everyone who gets involved in politics. People deserve a clear understanding of our campaign finance system without having to pay a lawyer and an accountant.

**A joint legislative committee will be reviewing a rule to determine whether groups must file biweekly reports based on a change in the primary calendar.**

In order to comply with federal law, last year the General Assembly moved the date of the primary from the middle of August to the end of June. The switch created a conflict in the campaign finance filing schedule. On one hand, the law requires quarterly filing in odd years and monthly filing in election years. On the other hand, with the shift to June, the law now seems to require biweekly filings for a full year before the primary – including in off-years. (Before the primary shift, the state required biweekly filing starting the July before the primary, which did not create a conflict.)

When the legislature changed the primary date, no one intended to radically alter Colorado’s campaign finance reporting schedule. Unfortunately, however, the legislature couldn’t agree on a solution this past session.

So in order to resolve the legal conflict, my office directed candidates and filers to follow the legislative

intent and continue filing every three months during off-years and monthly during election years before the primary.

The legislature's Legal Services Committee will discuss this issue on December 14, 2011 at 10:00 a.m. At issue will be how to resolve the conflict.

**I encourage you to make your opinions known about how the reporting schedule should be interpreted. The committee's vote may have a big impact on how often people report before a primary.**

**The Secretary of State is recodifying Colorado's campaign finance regulations.**

Since the passage of the state's campaign finance laws in 2002, we've had some laws ruled unconstitutional and confusion surrounding others. Furthermore, the rules have collected, piecemeal, over the last 9 years.

I am proposing a re-write of Colorado's campaign finance rules, for three reasons.

- First, the rules are poorly organized, and reorganization will make them easier to use.
- Second, some rules are poorly written, and a substantial re-write will make it easier to understand the rules.
- Third, the rules need to reflect recent court cases and experience. Accordingly, the rules will reflect several new, common-sense interpretations.

**In order for my office to receive the best information possible, I urge you to review the rules and provide your views at the upcoming hearing at 9:00 am on December 15<sup>th</sup> at my office.**

The draft rules are available [here](#).

Those who can't attend the hearing can submit their comments to [andrea.gyger@sos.state.co.us](mailto:andrea.gyger@sos.state.co.us).

You can listen to the hearing live over the internet by going to [www.sos.state.co.us](http://www.sos.state.co.us).

**I am appealing a state court case in order to bring Colorado's issue committee reporting requirements into compliance with the First Amendment.**

In 2006, a group of homeowners in Parker joined forces to defeat a local annexation measure. The group spent slightly more than \$2,000 on yard signs and other campaign activities. The group's opponents sued, arguing that the group failed to register with the Secretary of State.

The case ended up in federal court and on appeal, these residents prevailed and the federal court said their constitutional rights were violated. The state paid over \$600,000 in legal fees.

Although Colorado's constitution requires any group raising over \$200 to support or oppose a ballot issue, the federal court said that the state had no justification for regulating small political groups, and that this group's spending of about \$2,300 fell "well below the line" of enforcement.

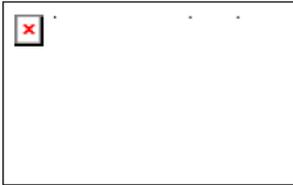
In order to clearly set "the line" for enforcement and bring state law into compliance with the First Amendment, I conducted a public hearing to identify an appropriate enforcement threshold for Coloradans wanting to participate in issue committee elections. Hearing everything from \$50,000 to \$1,000, I eventually agreed to set the new threshold at \$5,000.

Recently, that rule was challenged in state court and a local judge ruled against the state. Unfortunately, the decision has only further clouded the situation. The federal court says small groups that spend \$2,000 or less are “well below the line,” but the state judge says the \$200 threshold must stand, “except in similar contexts” to the federal court case. This isn’t clear guidance and only opens the state to additional lawsuits.

I am appealing this case – Coloradans need clear rules. Not dueling courts arguing the modern equivalent of how many angels can fit on the head of a pin.

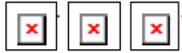
Sincerely,

Scott Gessler



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