



## NOTICE OF PROPOSED RULEMAKING

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

December 10, 2010

Pursuant to the requirements of section 24-4-103(3)(a), C.R.S., (2010), notice of proposed rulemaking is hereby given by the Secretary of State. A rulemaking hearing will be held on **January 26, 2011 from 1:00 p.m. to 4:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Office of the Secretary of State at 1700 Broadway, Denver, Colorado 80290. All interested persons will be afforded an opportunity to be heard on the subject of revisions and amendments to the Secretary of State's "Rules Concerning Campaign and Political Finance," 8 CCR 1505-6.

### Subject of the Proposed Rulemaking

The Secretary of State will consider amendments and revisions to the Colorado Secretary of State "Rules Concerning Campaign and Political Finance" as may be necessary or appropriate to administer the provisions of Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes. Specifically, the Secretary of State shall consider rules to implement the holding of the Tenth Circuit Court of Appeals in *Sampson v. Buescher*, Nos. 08-1389, 08-1415 (10th Cir. 2010), and such other rule amendments as may be necessary to answer questions arising under Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes.

Interested parties are encouraged to submit written comment and/or oral testimony regarding the potential effects of the proposed rule. In particular, the Secretary of State seeks comment or information addressing the factors outlined in the Proposed Statement of Basis, Purpose, and Specific Statutory Authority. The dollar amount proposed in the draft rule is only intended to serve as a starting point for discussion, input, and testimony.

### Authority for Proposed Rulemaking

Revisions and amendments to the Secretary of State's "Rules Concerning Campaign and Political Finance" [8 CCR 1505-6] are proposed pursuant to the following statutory and constitutional provisions:

1. Article XXVIII, Section 9(1)(b), 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 XXVIII of the Colorado State Constitution].”

2. Section 1-1-107(2)(a), C.R.S., (2010), 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.”
3. Section 1-45-111.5(1), C.R.S., (2010), 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.]”

Paper or editable electronic copies of the initial draft of the proposed rules may be obtained from the office of the Secretary of State at 1700 Broadway, Suite 200, Denver, Colorado, 80290, or by calling (303) 894-2200, extension 6329. The proposed rules are also posted on the Secretary of State website at [www.sos.state.co.us](http://www.sos.state.co.us).

A final copy of the proposed rules for consideration at the public rulemaking hearing will be posted on the Secretary of State website and made available to the public no later than **January 21, 2011** in accordance with section 24-4-103(4)(a), C.R.S., (2010), which states that “[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing.”

The rulemaking hearing on **January 26, 2011** will be held in accordance with section 24-4-103, C.R.S., (2010). Written and oral data, comments, and arguments will be received from all interested parties. Written submissions must be filed at or before the commencement of the hearing on **January 26, 2011** at 1:00pm in order to be considered. Oral testimony may be limited in order to allow the proceedings to go forward with reasonable promptness and efficiency. The hearing will be audio recorded and broadcast over the Internet. The broadcast may be accessed through the Secretary of State website at [www.sos.state.co.us](http://www.sos.state.co.us) on the “Information Center” page under “Broadcast and Recorded Meetings.”

For additional information, please contact Andrea Gyger, Elections Division at [andrea.gyger@sos.state.co.us](mailto:andrea.gyger@sos.state.co.us) or (303) 894-2200 ext. 6329.

Dated this 10th Day of December, 2010.



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William A. Hobbs  
Deputy Secretary of State

For

Bernie Buescher  
Colorado Secretary of State



## **Proposed Statement of Basis, Purpose, and Specific Statutory Authority**

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

**December 10, 2010**

#### **1. Basis and Purpose**

This proposed statement pertains to the amendments to the Colorado Secretary of State “Rules Concerning Campaign and Political Finance.” The amendments and revisions to these rules are intended to achieve the uniform and proper administration and enforcement of the campaign and political finance laws of the State of Colorado, including Article XXVIII of the Colorado Constitution and Article 45, Title 1 of the Colorado Revised Statutes. The rules are intended to answer questions arising under Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes. In particular, new Rule 4.27 increases the contribution and expenditure threshold that triggers the requirement for an issue committee to register and file disclosure reports, in order to provide guidance in light of the ruling of the Tenth Circuit Court of Appeals in *Sampson v. Buescher*, Nos. 08-1389, 08-1415 (10th Cir. 2010).

In determining the appropriate dollar threshold, the Secretary of State has considered various relevant factors, including but not limited to:

- A definition of what might appropriately be considered a “small” issue committee that should not be subject to registration and reporting requirements;
- The public’s information interest in knowing who is spending and receiving money to support or oppose ballot measures;
- Evidence indicating a correlation or lack thereof between contribution size and corruption or the appearance of corruption relating to ballot-issue campaigns;
- The burden presented by registration and reporting by groups of various sizes, including cost of complying; and
- Data that support a particular threshold.

#### **2. Rulemaking Authority**

Amendments to the Colorado Secretary of State “Rules Concerning Campaign and Political Finance” are proposed pursuant to the following statutory and constitutional provisions:

1. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to:

“Promulgate 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].”

2. Section 1-1-107(2)(a), C.R.S., (2010), which authorizes the Secretary of State:  
“To promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws”
3. Section 1-45-111.5(1), C.R.S., (2010), which requires the Secretary of State to:  
“[P]romulgate 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.]”

**COLORADO SECRETARY OF STATE**

**[8 CCR 1505-6]**

**RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE**

**Preliminary Draft of Proposed Rules**

**December 10, 2010**

*Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rulemaking hearing may be different than the proposed changes in this draft. This draft is submitted to the Department of Regulatory Agencies for the purpose of complying with section 24-4-103(2.5), C.R.S., which requires that a draft be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.*

*A final copy of the proposed rule changes will be available to the public no later than **January 21, 2011**, and a copy will be posted on the Department of State's web site, in compliance with the requirement of section 24-4-103(4)(a), C.R.S., that "[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing."*

*Proposed additions to the current rules are reflected in SMALL CAPS. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations may be included.*

1 New Rule 4.27 would be adopted as follows:

2 4.27 IN ACCORDANCE WITH THE DECISION OF THE TENTH CIRCUIT COURT OF APPEALS IN  
3 *SAMPSON V. BUESCHER*, NOS. 08-1389, 08-1415 (10TH CIR. 2010), THE \$200 AMOUNT  
4 SPECIFIED IN ARTICLE XXVIII, SECTION 2(10)(A) OF THE COLORADO CONSTITUTION AND  
5 SECTION 1-45-108, C.R.S., IS INCREASED TO [\$2,500].