



Notice of Proposed Rulemaking

Office of the Secretary of State Rules Concerning Lobbyist Regulation 8 CCR 1505-8

Date of notice: March 1, 2021

Date and time of public hearing: April 19, 2021 at 3:00 p.m.

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for April 19, 2021 at 3:00 p.m.. **This meeting will be conducted via webinar; no in-person option is available.** Details regarding how to join the webinar and testify during the hearing are outlined in section VI of this notice.

II. Subject

The Secretary is considering amendments to the Colorado Secretary of State rules concerning lobbyist regulation.² The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding lobbyist regulation.³

Specifically, the Secretary proposes permanent adoption of temporary rules, adopted on March 1, 2021. The Secretary is considering permanent rule revisions to facilitate implementation of Sections 44.2(4)(b)(III) and 48(4)(b)(III) of Article V of the Colorado Constitution concerning the new congressional and state redistricting commissions; organize existing rules for clarity; simplify the language of existing rules; and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments.

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

¹ Section 24-4-103(3)(a), C.R.S. (2020).

² 8 CCR 1505-8.

³ Part 3 of Article 6 of Title 24, C.R.S. (2020).

III. Statutory authority

The Secretary proposes the rule revisions and amendments in accordance with the following statutory provisions:

- Section 24-6-303(6.3)(a), C.R.S., (2020), which authorizes the Secretary of State to promulgate rules concerning electronic filing of required reports including information that the reports must contain.
- Section 24-6-305(2)(b), C.R.S., (2020), which authorizes the Secretary of State to adopt rules and regulations to define, interpret, implement, and enforce the provisions of the Colorado lobbyist regulation law (Part 3, Article 6, Title 24 of the Colorado Revised Statutes).

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State's rules and notices of rulemaking website at:

https://www.sos.state.co.us/pubs/rule_making/hearings/2021/LobbyRulesHearing20210419.html

You may also contact our office to request an editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by April 14, 2021.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

Everyone will have the opportunity to testify and provide written comment concerning the rule amendments. You may submit written comments to SoS.Rulemaking@sos.state.co.us any time before and during the hearing. Additional opportunity to comment in writing will be announced at the conclusion of the hearing. Information regarding how to testify during the webinar hearing is providing in section VI of this notice.

As soon as possible after receipt, written comments will be posted online at the Secretary of State website:

https://www.sos.state.co.us/pubs/rule_making/hearings/2021/LobbyRulesHearing20210419.html

We will redact apparent personal identifiable information, non-governmental email addresses, and cellular telephone numbers from submissions before posting the information online, unless

⁴ Section 24-4-103(3)(a), C.R.S. (2020). "Any 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."

otherwise directed by the contributor. All written comments will be added to the official rulemaking record.

VI. Webinar and audio recording of hearing

Register for the webinar hearing

To join and listen to the hearing, you must register for the webinar online: <https://attendee.gotowebinar.com/register/4450809188862361867>.

When you register, you must provide your full name and email address. Please provide additional contact information including your address and telephone number. You may also provide your job title and organization. Lastly, indicate whether you plan to testify during the hearing. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

Webinar hearing procedures

At the beginning of the webinar, we will mute all public participants. After the introduction and a brief summary of the rulemaking, we will open the hearing to testimony as follows:

- Referencing registration records, we will identify and individually unmute participants who indicated that they plan to testify during the hearing.
- When we exhaust the list, we will ask whether any additional attendees wish to testify. Attendees may raise/lower their hand by clicking the icon in their control panel.
- To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

Before the hearing concludes, we will announce an additional opportunity to submit written comments and the associated deadline.

Webinar audio requirements

Please be advised: we strongly encourage attendees to join the webinar through their computer even if they use their telephone to dial in for audio. To testify during the hearing, it is best to use your computer microphone and speakers or a headset. As outlined above, we will first receive testimony from attendees whose registration indicates that they plan to provide testimony and then we will offer attendees the option to raise their hand. If you access the webinar only by telephone, you may not appear in our webinar attendee list meaning we may not be able to unmute you. Moreover, the raise your hand feature is only available to attendees who access the webinar by computer.

Audio recording

After the hearing concludes, a recording will be available on our audio broadcasts page here: https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

VII. Office contact

If you have any questions or would like to submit written comments, please contact the Department Rulemaking Program Manager at SoS.Rulemaking@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 1st Day of March, 2021.

Melissa Belle Kessler
Legal and Policy Director

For

Jena Griswold
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Rules Concerning Lobbyist Regulation 8 CCR 1505-8

March 1, 2021

I. Basis and Purpose

This statement explains proposed amendments to the Colorado Secretary of State rules concerning lobbyist regulation.¹ The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding lobbyist regulation.² Specifically, the Secretary proposes permanent adoption of temporary rules, adopted on March 1, 2021. The Secretary is considering permanent rule revisions to facilitate implementation of Sections 44.2(4)(b)(III) and 48(4)(b)(III) of Article V of the Colorado Constitution concerning the new congressional and state redistricting commissions.

Proposed changes include:

- New Rule 1.1 defines “contract”.
- New Rule 1.9 defines “redistricting commission lobbyist”.
- New Rule 4 to establish rules concerning redistricting commission lobbyists.
 - New Rule 4.1 clarifies registration and reporting requirements for redistricting commission lobbyists.
 - New Rule 4.2 clarifies disclosure requirements.
 - New Rule 4.3 clarifies that complaints can be filed against redistricting committee lobbyists.

Other changes to rules not specifically listed concern necessary renumbering, are non-substantive, and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

¹ 8 CCR 1505-8.

² Part 3 of Article 6 of Title 24, C.R.S. (2020).

II. Rulemaking Authority

The statutory authority is as follows:

- Section 24-6-303(6.3)(a), C.R.S., (2020), which authorizes the Secretary of State to promulgate rules concerning electronic filing of required reports including information that the reports must contain.
- Section 24-6-305(2)(b), C.R.S., (2020), which authorizes the Secretary of State to adopt rules and regulations to define, interpret, implement, and enforce the provisions of the Colorado lobbyist regulation law (Part 3, Article 6, Title 24 of the Colorado Revised Statutes).

Preliminary Draft of Proposed Rules

Office of the Colorado Secretary of State Rules Concerning Lobbyist Regulation 8 CCR 1505-8

March 1, 2021

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the April 19, 2021 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **April 14, 2021**.²:

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>Italic blue font text</i>	Annotations

Amendments to 8 CCR 1505-8 follow:

1 *New definitions; Rules 1.1 and 1.9:*

2 1.1 "CONTRACT" MEANS A WRITTEN OR VERBAL AGREEMENT BETWEEN A CLIENT AND A PERSON FOR
3 LOBBYING SERVICES INCLUDING COMMUNICATING DIRECTLY OR INDIRECTLY WITH A MEMBER OF A
4 REDISTRICTING COMMISSION FOR THE PURPOSES OF AIDING OR INFLUENCING SUCH REDISTRICTING
5 COMMISSION OR THEIR STAFF ON BEHALF OF A CLIENT BEFORE A REDISTRICTING COMMISSION.

6 *[Not shown: current Rules 1.1 through 1.7 are renumbered to Rules 1.2 through 1.8]*

7 1.9 "REDISTRICTING COMMISSION LOBBYIST" MEANS A PERSON WHO IS CONTRACTED OR COMPENSATED TO
8 COMMUNICATE DIRECTLY OR INDIRECTLY WITH A MEMBER OF A REDISTRICTING COMMISSION FOR THE
9 PURPOSES OF AIDING OR INFLUENCING SUCH REDISTRICTING COMMISSION OR THEIR STAFF.

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2020). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2020). "[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."

1 *[Not shown: current Rules 1.8 through 1.11 are renumbered to Rules 1.10 through 1.13]*

2 *New Rule 4 concerning redistricting commission lobbyist requirements:*

3 **RULE 4. REDISTRICTING COMMISSION LOBBYISTS**

4 4.1 REGISTRATION

5 4.1.1 A REDISTRICTING COMMISSION LOBBYIST MUST REGISTER ELECTRONICALLY VIA THE SECRETARY
6 OF STATE'S WEBSITE. THE REGISTRATION MUST CONTAIN:

7 (A) THE REDISTRICTING COMMISSION LOBBYIST'S FULL NAME, EMAIL ADDRESS, BUSINESS
8 ADDRESS, AND BUSINESS TELEPHONE NUMBER;

9 (B) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ALL CLIENTS THAT CONTRACT WITH
10 OR COMPENSATE THE REDISTRICTING COMMISSION LOBBYIST;

11 4.1.2 THERE IS NO REGISTRATION FEE FOR A REDISTRICTING COMMISSION LOBBYIST.

12 4.1.3 IF APPLICABLE, A PERSON, WHO IS ALREADY REGISTERED WITH THE SECRETARY OF STATE'S
13 OFFICE AS A PROFESSIONAL LOBBYIST MUST ALSO REGISTER AS A REDISTRICTING COMMISSION
14 LOBBYIST.

15 4.2 DISCLOSURE

16 4.2.1 A REDISTRICTING COMMISSION LOBBYIST MUST DISCLOSE, WITHIN 72 HOURS:

17 (A) ANY CONTRACTS EXECUTED TO ENGAGE ON BEHALF OF A CLIENT IN COMMUNICATION
18 DIRECTLY OR INDIRECTLY WITH A MEMBER OF A REDISTRICTING COMMISSION FOR THE
19 PURPOSES OF AIDING OR INFLUENCING SUCH REDISTRICTING COMMISSION OR THEIR
20 STAFF, INCLUDING THE START DATE AND END DATE OF SUCH A CONTRACT;

21 (B) ANY COMPENSATION RECEIVED TO ENGAGE ON BEHALF OF A CLIENT IN COMMUNICATION
22 DIRECTLY OR INDIRECTLY WITH A MEMBER OF A REDISTRICTING COMMISSION FOR THE
23 PURPOSES OF AIDING OR INFLUENCING SUCH REDISTRICTING COMMISSION OR THEIR
24 STAFF, INCLUDING THE VALUE OF ANY NON-MONETARY COMPENSATION; OR

25 (C) TERMINATION OF ANY CONTRACT.

26 4.2.2 A REDISTRICTING COMMISSION LOBBYIST MUST DISCLOSE THE APPLICABLE COMMISSION.

27 4.3 COMPLAINTS. ANY PERSON WHO BELIEVES THAT A REDISTRICTING COMMISSION LOBBYIST IS NOT
28 COMPLYING WITH THIS RULE 4, MAY FILE A COMPLAINT WITH THE SECRETARY OF STATE IN ACCORDANCE
29 WITH RULE 5.1.

30 *[Not shown: current Rules 4 through 6 are renumbered to Rules 5 through 7]*

31 *Current Rules 4.5.2, 4.5.3, 4.6.3 are renumbered as Rules 5.5.2, 5.5.3, 5.6.3, and include amendments to*
32 *update cross-references:*

33 ~~4.5.2~~-5.5.2 If the division conducts an investigation, it will do so within 28 days from the date
34 of the notification sent in Rule ~~4.3~~-5.3. The division may extend this time period at its
35 discretion.

1 ~~4.5.3~~ 5.5.3 If, after its investigation, the division does not have reasonable grounds to
2 believe that a violation of section 24-6-301 et. seq. C.R.S. has occurred, or otherwise
3 concludes that enforcement pursuant to Rule ~~4.6~~-5.6 is not warranted then the division
4 must make a motion to the Secretary of State or their designee to dismiss the complaint
5 as a final agency decision.

6 ~~4.6.3~~ 5.6.3 Following a hearing under Rule ~~4.6.1~~-5.6.1, the Secretary of State or their
7 designee may dismiss the complaint or take any of the actions listed in Rule ~~4.6.1~~-5.6.1.
8 The decision following a hearing is a final agency decision.