

CHAPTER 456

INITIATED LAW OF 1972

COLORADO SUNSHINE LAW

Editor's note: As originally drafted, this Act added Articles 32 and 33 to Chapter 3, C.R.S. 1963, and an Article 8 to Chapter 63, C.R.S. 1963. In order to incorporate this Act into C.R.S. 1963 correctly and to keep it together, the article and section numbering has been changed to add a new Article 37 to Chapter 3, in four parts.

AN ACT

AN ACT TO REQUIRE DISCLOSURE OF PRIVATE INTERESTS BY PUBLIC OFFICIALS,
TO REGULATE LOBBYING AND TO REQUIRE OPEN MEETINGS.

Be it enacted by the People of the State of Colorado:

Section 1. Chapter 3, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 37

Colorado Sunshine Law

PART 1

GENERAL PROVISIONS

3-37-101. Short title. This act shall be known and may be cited as the "Colorado Sunshine Act of 1972".

3-37-102. Effective date. This act shall take effect January 1, 1973.

PART 2

PUBLIC OFFICIAL

DISCLOSURE LAW

3-37-201. Declaration. In order to continue the public confidence in the integrity of government officials and to promote trust of the people in the objectivity of their public servants, this open disclosure law is adopted.

3-37-202. Disclosure — contents — filing — false or incomplete filing —

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

penalty. (1)(a) Not later than forty-five days after the passage of this part 2, and thereafter not more than thirty days after their election, reelection, appointment, or retention in office, written disclosure, in such form as the attorney general shall prescribe, stating the interests named in subsection (2) of this section, shall be made to and filed with the attorney general of Colorado by:

(b) Each member of the general assembly;

(c) The governor, lieutenant governor, secretary of state, attorney general, and state treasurer; and

(d) Each justice or judge of a court of record.

(2) (a) Disclosure shall be made of:

(b) The names of any source or sources of any income including capital gains, whether or not taxable, of the person making disclosure, his spouse, and minor children residing with him;

(c) The name of each business, insurance policy, or trust in which he, his spouse, or minor children residing with him has a financial interest, in excess of five thousand dollars;

(d) The legal description of any interest in real property including an option to buy, in the state, in which the person making disclosure, his spouse, or minor children residing with him have any interest, direct or indirect, the market value of which is in excess of five thousand dollars;

(e) The identity, by name of all offices, directorships, and fiduciary relationships held by the person making disclosure, his spouse, and minor children residing with him;

(f) The identity by name of any person, firm, or organization for whom compensated lobbying is done by any person associated with the person making disclosure if the benefits of such compensation are or may be shared by the person making disclosure, directly or indirectly;

(g) The name of each creditor to whom the person making disclosure, his spouse, or minor children owes moneys in excess of one thousand dollars and the interest rate;

(h) A list of businesses with which the person making disclosure or his spouse are associated that do business with or are regulated by the state and the nature of such business or regulation;

(i) Such additional information as the person making disclosure might desire.

(3) Any disclosure statement shall be amended no more than thirty days after any termination or acquisition of interests as to which disclosure is required.

(4) Any person required by this section to file a disclosure statement shall on or before January 10 of each calendar year file an amended statement with the attorney general or notify the attorney general in writing that he has had no change of condition since the previous filing of a disclosure statement.

(5) Each disclosure statement, amended statement, or notification that no

amendment is required shall be public information, available to any person upon request during normal working hours.

(6) Any person subject to the provisions of this section may elect to file with the attorney general annually a copy of his federal income tax return and any separate federal income tax return filed by his spouse or minor children residing with him together with a certified statement of any investments held by him, his spouse, or minor children residing with him which are not reflected by the income tax returns, in lieu of complying with the provisions of subsections (1) to (4) of this section, which tax return and any statement filed under the provisions of this subsection shall be public information.

(7) Any person who willfully files a false or incomplete disclosure statement, amendment, or notice that no amendment is required, or who willfully files a false or incomplete copy of any federal income tax return or a false or incomplete certified statement of investments, or who willfully fails to make any filing required by this section, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than one thousand dollars and not more than five thousand dollars.

PART 3

REGULATION OF LOBBYISTS

3-37-301. Definitions. (1) As used in this part 3:

(2) "Contribution" means a gift, subscription, loan, advance, deposit, or gift of money or anything of value; and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(3) "Expenditure" means a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(4) "Legislation" means bills, resolutions, amendments, nominations, and other matters pending or proposed in either house of the general assembly, and includes any other matter which may be the subject of action by either house.

(5) "Person" means an individual, partnership, committee, association, corporation, and any other organization or group of persons.

(6) "Political committee" means any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or presidential and vice-presidential electors, or any duly authorized committee or subcommittee of a national, state, or local political party.

3-37-302. Statement of contributions and expenditures — applicability. (1) (a) Every person receiving any contribution or making any expenditure for any of the purposes designated in subsection (3) of this section shall file a statement with the secretary of state within ten days after the close of each calendar month, in which such contribution is received or expenditure made, and shall file a cumulative statement on or before January 15 for the preceding calendar year, containing:

(b) The name and address of each person who has made a contribution

or contributions totaling twenty-five dollars or more since the effective date of this part 3 or since the last report required by this act;

(c) The total sum of the contributions made to or for such person during the calendar year and not stated under paragraph (b) of this subsection (1);

(d) The total sum of all contributions made to or for such person during the calendar year;

(e) The name and address of each person to whom an expenditure in the aggregate amount or value of twenty-five dollars or more has been made by or on behalf of such person within the calendar year, and the amount, date, and purpose of such expenditure;

(f) The total sum of all expenditures made by or on behalf of such person during the calendar year and not stated under paragraph (e) of this subsection (1);

(g) The total sum of all expenditures made by or on behalf of such person during the calendar year;

(2) The statements required to be filed under subsection (1) of this section shall be cumulative during the calendar year to which they relate, but only the amount need be carried forward if there has been no change in an item reported in a previous statement.

(3) (a) The provisions of subsections (1) and (2) of this section shall apply to any person, except a political committee, who by himself or through any agent, employee, or other person in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used in any manner to aid in or to influence.

(b) The passage or defeat of any legislation by the general assembly or the approval or veto of any legislation by the governor of this state;

(c) The adoption or defeat of any standard, rule, rate, or decision of any board or commission of this state which has been delegated rule-making authority by the general assembly.

3-37-303. Preservation of statement — public inspection. Any statement required by this part 3 to be filed with the secretary of state shall be preserved by the secretary of state for a period of five years from the date of filing, shall constitute part of the public records of that office, and shall be open and readily accessible for public inspection.

3-37-304. Registration as lobbyist — filing of information — public inspection — certificate of registration. (1) Any person who shall engage himself or be engaged by any other people for pay or for any consideration for any of the purposes described in section 3-37-302 (3) shall, before doing anything in furtherance of such purposes, register with the secretary of state. The registrant shall state in writing his full legal name and business address, the name and address of the person by whom he is employed, all persons in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive for such services, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included. Any person who is not engaged solely for the purposes described in section 3-37-302 (3) but whose regular gainful employment includes such activities, shall state the proportion of his employed time which

he spends or intends to spend in such activities and the like percentage of his regular pay that supports these activities described in section 3-37-302 (3). Such person shall file an updated statement on or before January 15 of each year unless he at that time is no longer engaged for pay or other consideration for the purposes specified in section 3-37-302 (3).

(2) Each person so registering shall, ten days after the close of each calendar month, in which he has been engaged in any of the activities described in section 3-37-302 (3) file with the secretary of state a detailed report under oath of all contributions received and each expenditure of twenty-five dollars or more during the preceding calendar quarter in carrying on his work; to whom paid; for what purposes; the total of all expenditures during the preceding calendar quarter, and the names and expenditures for or contributions to any papers, periodicals, magazines, or other publications in which he or his employer, his agent, or the agent of his employer has caused to be published any advertisements, articles, or editorials relating to purposes described in section 3-37-302 (3) and the proposed legislation, standard, rule, rate, or decision of any board or commission designated in section 3-37-302 (3) that he is employed to support or oppose. The provisions of this section shall not apply to any person who merely appears before a committee of the general assembly or board or commission in support of or opposition to legislation or rule-making, but is not directly or indirectly compensated therefore, or to any state official acting in his official capacity or any elected public official acting in his official capacity.

(3) All information required to be filed under the provisions of this section with the secretary of state and not previously published shall be compiled by the secretary of state within thirty days after the close of the calendar month for which such information is filed and shall be organized alphabetically according to the name of the persons filing statements or registering, and such files shall be open and accessible for public inspection during normal working hours.

(4) In addition to the requirements of subsection (1) of this section, no person subject to such requirements shall act in furtherance of the purposes designated in section 3-37-302 (3) unless he shall have received a certificate of registration as provided in section 3-37-305 (1).

3-37-305. Granting and revocation of certificates — referrals and reports to attorney general. (1) (a) It shall be the duty and responsibility of the secretary of state:

(b) To grant a certificate of registration as a lobbyist to any person registering under the provisions of this section and who supplies the information herein required.

(c) To revoke the certificate of registration of any person who has been convicted of violating any of the provisions of this article.

(d) To refer on his own motion or on the verified complaint of any member of the general assembly or board or commission designated in section 3-37-302 (3), or on the verified complaint of any other person, to the attorney general of Colorado for investigation the activities of any person who he has reason to believe or who is or has been allegedly acting as a lobbyist and who may be in violation of the requirements of this part 3.

(e) To report to the attorney general any violation of this part 3.

(2) In addition to any other powers conferred by this section, the secretary of state may revoke the certificate of registration required by section 3-37-304 (4) for failure to file the reports required by section 3-37-304 (2); but no certificate may be revoked within ninety days after the failure to file such a report if, prior to the last day for filing such reports, the secretary of state has been informed in writing of extenuating circumstances justifying such failure.

3-37-306. Employment of legislators, legislative employees, or state employees — filing of statement. If any person registered or required to be registered under section 3-37-304 employs or causes his employer to employ any member of the general assembly, any member of a board or commission designated in section 3-37-302 (3), any employee of the general assembly, or any full-time state employee who remains in the partial employ of the state or any agency thereof, the new employer shall file a statement under oath with the secretary of state within ten days after such employment. The statement shall specify the nature of the employment, the name of the person to be paid thereunder, the amount of pay or consideration to be paid thereunder.

3-37-307. Employment of unregistered persons. It shall be unlawful for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to engage in activities for the purposes designated in section 3-37-302 (3) who is not registered except upon condition that such person register forthwith.

3-37-308. Contingent agreement prohibited. No person may make any agreement under which any compensation or thing of value is to be given, transferred, or paid to any person contingent upon the passage or defeat of any legislation; the making of any rule, standard, rate, or decision by any board or commission designated in section 3-37-302 (3); or the approval or veto of any legislation by the governor of this state.

3-37-309. Offenses — penalties. (1) Any person who violates any of the provisions of this part 3, willfully files any document provided for in this part 3 that contains any materially false statement or material omission, or willfully fails to comply with any material requirement of this part 3 shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars, or by imprisonment in the county jail for not more than twelve months, or by both such fine and imprisonment.

(2) In addition to the penalties provided for in subsection (1) of this section, any person convicted of the misdemeanor specified therein is prohibited for a period of three years from the date of conviction from attempting to influence for pay or consideration, directly or indirectly, the passage or defeat of any proposed legislation; from appearing for pay or consideration before a committee of the general assembly in support of or opposition to proposed legislation; or attempting for pay or consideration to influence the passage or defeat of any rule, standard, rate, or decision by any board or commission designated in section 3-37-302 (3). Any person who violates any provision of this subsection (2) shall be guilty of a felony and shall, upon conviction thereof, be punished by a fine of not more than ten thousand dollars or by imprisonment in the state penitentiary for not more than three years, or by both such fine and imprisonment.

PART 4

OPEN MEETINGS LAW

3-37-401. Declaration. It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

3-37-402. Meetings — open — procedure. (1) (a) All meetings of two or more members of any board, committee, commission, or other policy-making or rule-making body of any state agency or authority or of the legislature, at which any public business is discussed, or at which any formal action is taken by such board, committee, commission, or other policy-making or rule-making body, are declared to be public meetings open to the public at all times, except as may be otherwise provided in the constitution.

(b) Any such meetings at which the decision or adoption of any proposed resolution, rule, regulation, or formal action occurs, or at which a majority or quorum of the body is in attendance shall be held only after full and timely notice to the public.

(c) The secretary or clerk of each such board, committee, commission, or other policy-making or rule-making body shall maintain a list of persons who request notification of all meetings, or of meetings when certain specified policies will be discussed, and shall provide such reasonable advance notification.

(d) No resolution, rule, regulation, ordinance or formal action of a board, committee, commission or other policy-making body shall be valid unless taken or made at a meeting that meets the requirements of subsections (a) and (b) of this subsection (1).

(e) The minutes of a meeting of any such board, committee, commission or other policy-making body shall be promptly recorded and such records shall be open to the public inspection.

(f) The courts of record of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

Submitted to the people at the General Election held November 7, 1972.

Approved by 491,073 votes "Yes" to 325,819 votes "No".