

Developments in the States

December 2002

Colorado-Campaign Finance

On November 5, Colorado voters approved Amendment 27 by a margin of 66% to 34%. This ballot measure amends the state's constitution in several ways, some of which are discussed below, and became effective on December 6, 2002.

First, Amendment 27 prohibits corporations and labor organizations from making contributions to candidates and parties. Sec. 3(4)(a). The term "contribution," however, does not include, among other things, the cost of establishing, administering and soliciting funds from employees for a PAC. Sec. 2(5)(b).

Second, Amendment 27 prohibits corporations and labor organizations from making "expenditures expressly advocating the election or defeat of a candidate." Sec. 3(4)(a). This includes funding for "electioneering communications." Sec. 6(2).

"Electioneering communications" under this new Colorado law means "any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that: (I) unambiguously refers to any candidate; (II) is broadcast, printed, mailed, delivered or distributed within thirty days before a primary election or sixty days before a general election; and (III) is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office." Sec. 2(7)(a). The definition for "electioneering communications" under the ballot measure does not include, among other things, "any communication by persons made in the regular course and scope of their business," "any communication made by a membership organization solely to members of such organization and their families" and "any communication that refers

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to any candidate only as part of the popular name of a bill or statute." Sec. 2(7)(b).

Third, Amendment 27 lowers to \$500 the limits for contributions from individuals and PACs to candidates for:

- Governor
- Lieutenant Governor
- Governor and Lieutenant Governor jointly for the general election
- Secretary of State
- State Treasurer
- Attorney General

Sec. 3(1)(a). The limit is lowered to \$200 per election for contributions to candidates for the following offices:

- State Senate
- State House of Representatives
- State Board of Education
- Regent of the University of Colorado
- District Attorney

Sec. 3(1)(b). There are different and higher limits for "small donor committees."

Fourth, state PACs in Colorado may not receive more than \$500 per House of Representatives election cycle (2 years) from any person. Sec. 3(5)

Fifth, state parties are prohibited from receiving more than \$2,500 per year at the state level and \$3,000 per year at the state, county, district and local level combined from any person. Sec. 3(b)(3). All limits will be adjusted for inflation on a four-year cycle starting in 2007. Sec. 3(13).

Finally, there are new reporting requirements for persons making independent expenditures and electioneering communications of \$1,000 or more per calendar year. Secs. 5 & 6.

Pennsylvania-Lobbying

On October 23, the Pennsylvania Supreme Court issued a *per curiam* order denying reargument in the case of *Gmerek v. State Ethics Commission*. Because of this action, the earlier decision of the Commonwealth Court stands, which held that the state's Lobbying Disclosure Act was void. (The Pennsylvania Supreme Court had previously split 3-3 on the merits of the appeal on August 23.) Accordingly, the Pennsylvania State Ethics Commission now considers the Lobbying Disclosure Act to be void. The Commission is no longer administering the Lobbying Disclosure Act and is not accepting filings or registration fees under the Act.