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Colorado General Assembly

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MEMORANDUM

To: Suzanne Taheri and Michael Fields

From: Legislative Council Staff and Office of Legislative Legal Services

Date: April 2, 2025

Subject: Proposed initiative measure 2025-2026 #66, concerning Mail Ballot Verification

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments and questions to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments and questions intended to aid designated representatives, and the proponents they represent, in determining the language of their proposal and to avail the public of the contents of the proposal. Our first objective is to be sure we understand your intended purposes of the proposal. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposal. Discussion between designated representatives or their legal representatives and employees of the Colorado Legislative Council and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

Purposes

Purposes for Proposed Initiative 2025-2026 #66

The major purpose of the proposed amendment to the Colorado constitution appears to be to require a voter to sign and provide the last four digits of either their Social Security number or a state-issued identification on the self-affirmation on the return envelope for a mail ballot.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado Constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. Article V, section 1 (4)(a) of the Colorado Constitution requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor. Because the proposed initiative does not contain an effective date, this would be the default effective date. Does this default effective date satisfy the proponents' intent?
3. The amending clause of the proposed initiative places this language as a new Section 13 in article XVIII of the Colorado Constitution, which covers "Miscellaneous" constitutional provisions. Because this proposed initiative relates to the administration of elections, please consider adding the language of the proposed initiative to article VII of the Colorado Constitution, which covers "Suffrage and Elections."
4. To which elections is the proposed initiative intended to apply? Please consider adding language to the proposed initiative to clarify its applicability. If the proposed initiative is intended to apply to elections for which the county clerk and recorder is not the designated election official, please consider adding language to the proposed initiative to include other designated election officials as appropriate.
5. Section 1-7.5-107 (3)(b.5)(II), C.R.S., allows an individual to complete the self-affirmation on a return envelope for a mail ballot by "making a mark on the

self-affirmation, with or without assistance, witnessed by another person” instead of by signing the self-affirmation, if they are unable to sign. Is it the proponents’ intent to require a signature on the self-affirmation and to disallow making such a mark? If so, is it the proponents’ intent that the General Assembly introduce legislation to amend section 1-7.5-1-7 (3)(b.5)(II), C.R.S., so that it does not conflict with the proposed initiative?

6. What is meant by a “state-issued identification”? Is this the number on an individual’s driver’s license or state-issued identification card, the identifying number assigned by the secretary of state to a registered elector pursuant to section 1-2-204 (2.7), C.R.S., or any of these? In addition, section 1-1-104 (19.5), C.R.S., defines “identification” for purposes of the “Uniform Election Code of 1992”. Would any of these forms of identification satisfy the requirement of the proposed initiative so long as the identification is state-issued? Please consider adding clarifying language to the proposed initiative.
7. Is it the proponents’ intent that a voter may provide the last four digits of their social security number or the last four digits of their “state-issued identification”? If so, please consider adding clarifying language to the proposed initiative (for example, moving “either” to after “the last four digits of”). Or, if it is the proponents’ intent to require a voter to include their entire state-issued identification number, please add language to the proposed initiative to clarify that intent instead.
8. What is meant by the “voter file”? Do you mean the information kept in the centralized statewide voter registration system maintained by the Secretary of State? Please consider adding clarifying language or a definition of this term to the proposed initiative.
9. The following questions and comments relate to the implementation of the proposed initiative:
 - a. How will the proposed initiative be implemented? What responsibilities would the General Assembly, the Secretary of State, or county clerk and recorders have in connection with its implementation, if any?
 - b. How will an election judge verify that the information on the self-affirmation matches the “voter file” information?
 - c. How will an election judge have access to this “voter file” information?

- d. What is the process by which a voter can correct a discrepancy on their self-affirmation? Would the county clerk and recorder be required to use the current statutory process that allows a voter to cure a deficiency on a ballot as specified in sections 1-7.5-107 (3.5)(d) and 1-7.5-107.3 (1.5) and (2), C.R.S.?
 - e. If the voter does not correct the discrepancy through this process, what happens?
 - f. Are there specific safeguards for the personal identifying information required to be provided on the self-affirmation?
 - g. Is it the proponents' intent that the Secretary of State be able to adopt rules as necessary to administer and enforce the proposed initiative?
 - h. If the proponents intend there to be a specific method for implementation of the proposed initiative, please consider adding language to clarify these aspects.
10. Please consider replacing the term "county clerk" with the term "county clerk and recorder" to conform with standard drafting practices.

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public hearing only if the designated representatives so request. You will have the opportunity to ask questions about these comments at the review and comment hearing. Please consider revising the proposed initiative as follows:

1. Each section in the Colorado constitution has a headnote, which briefly describes the content of the section. A headnote should be in bold-face type and should end with a period. Please add a period to the headnote of section 13 of the proposed initiative.
2. Please add a hyphen to the phrase "state issued" so that it becomes "state-issued."
3. Please large-capitalize the first letter of the first word of the second sentence of the proposed initiative.