

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-0442.01 Sharon Eubanks x4336

SENATE BILL 17-152

SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

Kennedy,

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

State, Veterans, & Military Affairs
Appropriations

HOUSE
3rd Reading Unamended
April 3, 2017

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF VOTER-APPROVED CHANGES**
102 **TO THE COLORADO CONSTITUTION THAT MAKE IT MORE**
103 **DIFFICULT TO AMEND THE STATE CONSTITUTION, AND, IN**
104 **CONNECTION THEREWITH, PROHIBITING A PETITION FOR AN**
105 **INITIATED AMENDMENT TO THE STATE CONSTITUTION FROM**
106 **BEING SUBMITTED TO VOTERS UNLESS THE PETITION IS SIGNED**
107 **BY THE CONSTITUTIONALLY REQUIRED NUMBER OF REGISTERED**
108 **ELECTORS WHO RESIDE IN EACH STATE SENATE DISTRICT AND**
109 **TOTAL NUMBER OF REGISTERED ELECTORS, REQUIRING AT**
110 **LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST ON ANY**
111 **AMENDMENT TO THE STATE CONSTITUTION TO ADOPT THE**
112 **AMENDMENT UNLESS THE AMENDMENT ONLY REPEALS IN**
113 **WHOLE OR IN PART A PROVISION OF THE STATE CONSTITUTION,**

HOUSE
2nd Reading Unamended
March 31, 2017

SENATE
3rd Reading Unamended
March 3, 2017

SENATE
Amended 2nd Reading
March 2, 2017

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

101 **IN WHICH CASE REQUIRING A MAJORITY OF THE VOTES CAST ON**
102 **THE AMENDMENT TO ADOPT THE AMENDMENT, AND MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill implements changes to the Colorado constitution approved by voters at the 2016 general election that make it more difficult to amend the state constitution by:

- ! Prohibiting a petition for an initiated state constitutional amendment to be submitted to voters for approval or rejection unless the petition is signed by the constitutionally specified number of registered electors who reside in each state senate district and total number of registered electors; and
- ! Requiring at least 55% of the votes cast on any state constitutional amendment to adopt the amendment; except that only a simple majority of the votes cast is necessary to adopt a state constitutional amendment that only repeals in whole or in part a provision of the state constitution.

When a draft of a ballot issue that proposes a state constitutional amendment is filed with the title board, the title board must decide if the proposed constitutional amendment only repeals in whole or in part a provision of the state constitution for purposes of determining the required percentage of votes cast to adopt the amendment. The designated representatives of the proponents or any registered elector who is not satisfied with the title board's decision may appeal the decision by filing a motion for rehearing to the title board. Decisions of the title board at the rehearing on this issue may be directly appealed to the Colorado supreme court in the same manner as ballot title and fiscal impact abstract appeals.

The bill requires the secretary of state to notify proponents of a petition for an initiated state constitutional amendment of the number and boundaries of the state senate districts in existence and the number of registered electors in each state senate district at the time the petition format is approved. The secretary of state must validate signatures on a petition for an initiated state constitutional amendment by random sampling. If the random sample establishes that the number of valid signatures is 90% or less of the total number of registered electors needed

to declare the petition sufficient, the secretary of state is required to deem the petition to be not sufficient. If the random sample establishes that the number of valid signatures is more than 90% of the total number of registered electors needed to declare the petition sufficient, the secretary of state is required to order the examination of each signature filed.

After the examination of a petition for an initiated constitutional amendment, the secretary of state is required to issue a statement as to whether a sufficient number of valid signatures from each state senate district and a sufficient total number of valid signatures appear to have been submitted to certify the petition to the ballot. If the secretary of state declares that the petition appears not to have either a sufficient number of valid signatures from each state senate district, a sufficient total number of valid signatures, or both, the secretary of state's statement shall specify the number of sufficient and insufficient signatures from each state senate district, the total number of sufficient or insufficient signatures, or both, as applicable. The bill allows the proponents of the petition to cure an insufficiency of signatures in one or more state senate districts, the total valid signatures, or both, as applicable.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 1-40-106, **add** (3.5)
3 as follows:

4 **1-40-106. Title board - meetings - ballot title - initiative and**
5 **referendum.** (3.5) FOR EVERY PROPOSED CONSTITUTIONAL AMENDMENT,
6 THE TITLE BOARD SHALL DETERMINE WHETHER THE PROPOSED
7 CONSTITUTIONAL AMENDMENT ONLY REPEALS IN WHOLE OR IN PART A
8 PROVISION OF THE STATE CONSTITUTION FOR PURPOSES OF SECTION 1
9 (4)(b) OF ARTICLE V OF THE STATE CONSTITUTION. THE SECRETARY OF
10 STATE SHALL KEEP A RECORD OF THE DETERMINATION MADE BY THE TITLE
11 BOARD.

12 **SECTION 2.** In Colorado Revised Statutes, 1-40-107, **amend**
13 (1)(b) and (2); and **add** (1)(a)(III) as follows:

14 **1-40-107. Rehearing - appeal - fees - signing.** (1) (a) (III) THE
15 DESIGNATED REPRESENTATIVES OF THE PROPONENTS OR ANY REGISTERED

1 ELECTOR WHO IS NOT SATISFIED WITH THE DETERMINATION BY THE TITLE
2 BOARD MADE PURSUANT TO SECTION 1-40-106 (3.5) WITH RESPECT TO
3 WHETHER A PETITION THAT PROPOSES A CONSTITUTIONAL AMENDMENT
4 ONLY REPEALS IN WHOLE OR IN PART A PROVISION OF THE STATE
5 CONSTITUTION MAY FILE A MOTION FOR A REHEARING WITH THE
6 SECRETARY OF STATE WITHIN SEVEN DAYS AFTER THE TITLES AND
7 SUBMISSION CLAUSE FOR THE INITIATIVE PETITION ARE SET ON THE
8 GROUNDS THAT THE DETERMINATION IS INCORRECT.

9 (b) A motion for rehearing must be typewritten and set forth with
10 particularity the grounds for rehearing. If the motion claims that the
11 petition contains more than a single subject, then the motion must, at a
12 minimum, include a short and plain statement of the reasons for the claim.
13 If the motion claims that the title and submission clause set by the title
14 board are unfair or that they do not fairly express the true meaning and
15 intent of the proposed state law or constitutional amendment, then the
16 motion must identify the specific wording that is challenged. If the
17 motion claims that an estimate in the abstract is incorrect, the motion
18 must include documentation that supports a different estimate. If the
19 motion claims that the abstract is misleading or prejudicial or does not
20 comply with the statutory requirements, the motion must specifically
21 identify the specific wording that is challenged or the requirement at
22 issue. The title board may modify the abstract based on information
23 presented at the rehearing. IF THE MOTION CLAIMS THAT THE
24 DETERMINATION OF WHETHER THE PETITION THAT PROPOSES A
25 CONSTITUTIONAL AMENDMENT ONLY REPEALS IN WHOLE OR IN PART A
26 CONSTITUTIONAL PROVISION IS INCORRECT, THE MOTION MUST INCLUDE A
27 SHORT AND PLAIN STATEMENT OF THE REASONS FOR THE CLAIM.

1 (2) If any person presenting OR THE DESIGNATED
2 REPRESENTATIVES OF THE PROPONENTS OF an initiative petition for which
3 a motion for a rehearing is filed, any registered elector who filed a motion
4 for a rehearing pursuant to subsection (1) of this section, or any other
5 registered elector who appeared before the title board in support of or in
6 opposition to a motion for rehearing is not satisfied with the ruling of the
7 title board upon the motion, then the secretary of state shall furnish such
8 person, upon request, a certified copy of the petition with the titles and
9 submission clause of the proposed law or constitutional amendment, ~~or~~
10 the abstract, OR THE DETERMINATION WHETHER THE PETITION REPEALS IN
11 WHOLE OR IN PART A CONSTITUTIONAL PROVISION, together with a
12 certified copy of the motion for rehearing and of the ruling thereon. If
13 filed with the clerk of the supreme court within seven days thereafter, the
14 matter shall be disposed of promptly, consistent with the rights of the
15 parties, either affirming the action of the title board or reversing it, in
16 which latter case the court shall remand it with instructions, pointing out
17 where the title board is in error.

18 **SECTION 3.** In Colorado Revised Statutes, 1-40-109, **amend** (1)
19 as follows:

20 **1-40-109. Signatures required - withdrawal.** (1)(a) No petition
21 for any initiated law ~~or amendment to the state constitution shall be~~ IS OF
22 any force or effect, nor shall the proposed law ~~or amendment to the state~~
23 ~~constitution~~ be submitted to the people of the state of Colorado for
24 adoption or rejection at the polls, as is by law provided for, unless the
25 petition for the submission of the initiated law ~~or amendment to the state~~
26 ~~constitution~~ is signed by the number of REGISTERED electors required by
27 SECTION 1 (2) OF ARTICLE V OF the state constitution.

1 (b) NO PETITION FOR ANY INITIATED AMENDMENT TO THE STATE
2 CONSTITUTION IS OF ANY FORCE OR EFFECT, NOR SHALL THE INITIATED
3 AMENDMENT TO THE STATE CONSTITUTION BE SUBMITTED TO THE PEOPLE
4 OF THE STATE OF COLORADO FOR ADOPTION OR REJECTION AT THE POLLS,
5 AS IS BY LAW PROVIDED FOR, UNLESS THE PETITION FOR THE SUBMISSION
6 OF THE INITIATED AMENDMENT TO THE STATE CONSTITUTION IS SIGNED BY
7 THE NUMBER OF REGISTERED ELECTORS REQUIRED BY THE STATE
8 CONSTITUTION WHO RESIDE IN EACH STATE SENATE DISTRICT IN
9 COLORADO, SO LONG AS THE TOTAL NUMBER OF REGISTERED ELECTORS
10 WHO HAVE SIGNED THE PETITION IS AT LEAST THE NUMBER OF REGISTERED
11 ELECTORS REQUIRED BY SECTION 1 (2) OF ARTICLE V OF THE STATE
12 CONSTITUTION. FOR PURPOSES OF THIS SUBSECTION (1)(b), THE NUMBER
13 AND BOUNDARIES OF THE STATE SENATE DISTRICTS ARE THOSE IN
14 EXISTENCE, AND THE NUMBER OF REGISTERED ELECTORS IN THE STATE
15 SENATE DISTRICTS IS THOSE REGISTERED, AT THE TIME THE FORM OF THE
16 PETITION IS APPROVED FOR CIRCULATION IN ACCORDANCE WITH SECTION
17 1-40-113 (1)(a).

18 **SECTION 4.** In Colorado Revised Statutes, 1-40-113, **add** (1)(c)
19 as follows:

20 **1-40-113. Form - representatives of signers.** (1) (c) THE
21 SECRETARY OF STATE SHALL NOTIFY THE PROPONENTS AT THE TIME A
22 PETITION FORMAT FOR AN INITIATED AMENDMENT TO THE STATE
23 CONSTITUTION IS APPROVED PURSUANT TO SUBSECTION (1)(a) OF THIS
24 SECTION OF THE NUMBER AND BOUNDARIES OF THE STATE SENATE
25 DISTRICTS IN EXISTENCE AND THE NUMBER OF REGISTERED ELECTORS IN
26 EACH STATE SENATE DISTRICT AT THE TIME OF APPROVAL.

27 **SECTION 5.** In Colorado Revised Statutes, 1-40-116, **amend** (4)

1 as follows:

2 **1-40-116. Validation - ballot issues - random sampling - rules.**

3 (4) (a) The secretary of state shall ~~verify~~ EXAMINE the signatures on the
4 petition by use of random sampling. The random sample of signatures to
5 be ~~verified shall~~ EXAMINED MUST be drawn so that every signature filed
6 with the secretary of state ~~shall be~~ IS given an equal opportunity to be
7 included in the sample. The secretary of state is authorized to engage in
8 rule-making to establish the appropriate methodology for conducting such
9 random sample.

10 (b) (I) The random sampling ~~shall~~ TO VALIDATE SIGNATURES ON
11 A PETITION PROPOSING AN INITIATED LAW MUST include an examination
12 of no less than five percent of the signatures, but in no event ~~less~~ FEWER
13 than four thousand signatures. If the random sample ~~verification~~
14 EXAMINATION establishes that the number of valid signatures is ninety
15 percent or less of the number of registered eligible electors needed to find
16 the petition sufficient, the SECRETARY OF STATE SHALL DEEM THE petition
17 ~~shall be deemed~~ to be not sufficient. If the random sample ~~verification~~
18 establishes that the number of valid signatures totals one hundred ten
19 percent or more of the number of required signatures of registered eligible
20 electors, the SECRETARY OF STATE SHALL DEEM THE petition ~~shall be~~
21 ~~deemed~~ sufficient. If the random ~~sampling~~ SAMPLE shows the number of
22 valid signatures to be more than ninety percent but less than one hundred
23 ten percent of the number of signatures of registered eligible electors
24 needed to declare the petition sufficient, the secretary of state shall order
25 the examination and ~~verification~~ VALIDATION of each signature filed.

26 (II) THE RANDOM SAMPLING TO VALIDATE SIGNATURES ON A
27 PETITION PROPOSING AN AMENDMENT TO THE STATE CONSTITUTION MUST

1 INCLUDE AN EXAMINATION OF NO FEWER THAN FIVE PERCENT OF THE
2 SIGNATURES, BUT IN NO EVENT LESS THAN FOUR THOUSAND SIGNATURES.
3 IF THE RANDOM SAMPLE ESTABLISHES THAT THE NUMBER OF VALID
4 SIGNATURES IS NINETY PERCENT OR LESS OF THE NUMBER OF REGISTERED
5 ELECTORS REQUIRED BY SECTION 1 (2) OF ARTICLE V OF THE STATE
6 CONSTITUTION TO FIND THE PETITION SUFFICIENT, THE SECRETARY OF
7 STATE SHALL DEEM THE PETITION TO BE NOT SUFFICIENT. IF THE RANDOM
8 SAMPLE SHOWS THE NUMBER OF VALID SIGNATURES TO BE MORE THAN
9 NINETY PERCENT OF THE NUMBER OF REGISTERED ELECTORS REQUIRED BY
10 SECTION 1 (2) OF ARTICLE V OF THE STATE CONSTITUTION TO DECLARE THE
11 PETITION SUFFICIENT, THE SECRETARY OF STATE SHALL ORDER THE
12 EXAMINATION OF EACH SIGNATURE FILED.

13 **SECTION 6.** In Colorado Revised Statutes, **amend** 1-40-117 as
14 follows:

15 **1-40-117. Statement of sufficiency - cure.** (1) After examining
16 the petition:

17 (a) IF THE PETITION PROPOSES A LAW, the secretary of state shall
18 issue a statement as to whether a sufficient number of valid signatures
19 appears to have been submitted to certify the petition to the ballot; OR

20 (b) IF THE PETITION PROPOSES AN AMENDMENT TO THE STATE
21 CONSTITUTION, THE SECRETARY OF STATE SHALL ISSUE A STATEMENT AS
22 TO WHETHER A SUFFICIENT NUMBER OF VALID SIGNATURES FROM EACH
23 STATE SENATE DISTRICT AND A SUFFICIENT TOTAL NUMBER OF VALID
24 SIGNATURES APPEAR TO HAVE BEEN SUBMITTED TO CERTIFY THE PETITION
25 TO THE BALLOT.

26 (2) If the petition PROPOSES AN INITIATED LAW AND was ~~verified~~
27 VALIDATED by random sample, the statement ~~shall~~ MUST contain the total

1 number of signatures submitted and whether the number of signatures
2 presumed valid was ninety percent of the required total or less or one
3 hundred ten percent of the required total or more.

4 (3) (a) If the secretary declares that the petition appears not to
5 have a sufficient number of valid signatures, the statement issued by the
6 secretary ~~shall~~ MUST specify the number of sufficient and insufficient
7 signatures. The secretary shall identify by section number and line
8 number within the section those signatures found to be insufficient and
9 the grounds for the insufficiency. Such information shall be kept on file
10 for public inspection in accordance with section 1-40-118.

11 (b) In the event the secretary of state issues a statement declaring
12 that a petition, having first been submitted with the required number of
13 signatures, appears not to have a sufficient number of TOTAL valid
14 signatures, A SUFFICIENT NUMBER OF VALID SIGNATURES IN ONE OR MORE
15 STATE SENATE DISTRICTS, OR BOTH, AS APPLICABLE, the designated
16 representatives of the proponents may cure the insufficiency by filing an
17 addendum to the original petition for the purpose of offering such number
18 of additional signatures as will cure the insufficiency. No addendum
19 offered as a cure shall be considered unless the addendum conforms to
20 requirements for petitions outlined in sections 1-40-110, 1-40-111, and
21 1-40-113 and unless the addendum is filed with the secretary of state
22 within the fifteen-day period after the insufficiency is declared and unless
23 filed with the secretary of state no later than three months ~~and three~~
24 ~~weeks~~ before the election at which the initiative petition is to be voted on.
25 All filings under this ~~paragraph (b)~~ SUBSECTION (3)(b) shall be made by
26 3 p.m. on the day of filing. Upon submission of a timely filed addendum,
27 the secretary of state shall order the examination ~~and verification~~ of each

1 signature on the addendum. The addendum shall not be available to the
2 public for a period of up to ten calendar days for such examination. After
3 examining the petition, the secretary of state shall, within ten calendar
4 days, issue a statement as to whether the addendum cures the
5 ~~insufficiency~~ INSUFFICIENCIES found in the original petition.

6 **SECTION 7.** In Colorado Revised Statutes, **amend** 1-40-123 as
7 follows:

8 **1-40-123. Counting of votes - effective date - conflicting**
9 **provisions.** (1) The votes on all measures submitted to the people shall
10 be counted and properly entered after the votes for candidates for office
11 cast at the same election are counted and shall be counted, canvassed, and
12 returned and the result determined and certified in the manner provided
13 by law concerning other elections. The secretary of state who has certified
14 the election shall, without delay, make and transmit to the governor a
15 certificate of election. The measure ~~shall take~~ TAKES effect from and after
16 the date of the official declaration of the vote by proclamation of the
17 governor, but not later than thirty days after the votes have been
18 canvassed, as provided in section 1 of article V of the state constitution.

19 (2) A majority of the votes cast thereon ~~shall adopt~~ ADOPTS any
20 measure submitted FOR A PROPOSED LAW, and, in case of adoption of
21 conflicting provisions, the one that receives the greatest number of
22 affirmative votes ~~shall prevail~~ PREVAILS in all particulars as to which
23 there is a conflict.

24 (3) AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON
25 ADOPTS ANY MEASURE SUBMITTED FOR AN AMENDMENT TO THE STATE
26 CONSTITUTION; EXCEPT THAT A MAJORITY OF THE VOTES CAST THEREON
27 ADOPTS ANY MEASURE SUBMITTED FOR AN AMENDMENT TO THE STATE

1 CONSTITUTION THAT ONLY REPEALS IN WHOLE OR IN PART ANY PROVISION
2 OF THE STATE CONSTITUTION. IN THE CASE OF ADOPTION OF CONFLICTING
3 PROVISIONS, THE ONE THAT RECEIVES THE GREATEST NUMBER OF
4 AFFIRMATIVE VOTES PREVAILS IN ALL PARTICULARS AS TO WHICH THERE
5 IS A CONFLICT.

6 **SECTION 8. Appropriation.** For the 2017-18 state fiscal year,
7 \$4,120 is appropriated to the department of state. This appropriation is
8 from the department of state cash fund created in section 24-21-104
9 (3)(b), C.R.S. To implement this act, the department may use this
10 appropriation for personal services.

11 **SECTION 9. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2018 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.