

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**TO:** Nathan Clay and Mark Tejada

**FROM:** Legislative Council Staff and Office of Legislative Legal Services

**DATE:** March 29, 2019

**SUBJECT:** Proposed initiative measure 2019-2020 #60, concerning Democracy Vouchers

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 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 intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

## Purposes

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To create a voucher system for the purpose of providing Colorado registered voters non-transferable vouchers used only for making donations to political candidates;

2. To determine the monetary value of each voucher and the number of vouchers distributed for each odd- and even-numbered election years.

## **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. What will be the effective date of the proposed initiative?
3. Please describe how a voucher will be used by the voter, including the role played in the process by the candidate?
4. With respect to the vouchers:
  - a. What entity will issue the democracy vouchers?
  - b. Who pays for the voters to redeem the vouchers?
  - c. Who mails the vouchers to voters and who will pay for the costs of that mailing?
  - d. What exactly is mailed to the voter, i.e., a coupon book or something else?
  - e. Does a voter get a new coupon book on or about February 1 of each year or is something else intended?
  - f. How many of which type of vouchers are in a coupon book?
5. How will political candidates redeem their vouchers?
6. Is the voucher system open to unaffiliated and minor political party candidates for office? If "yes", is it open to the same extent as major political party candidates?
7. Do the voters get mailed the \$50 vouchers in odd years and \$100 vouchers in even years? If so, what is the rationale for this difference between the types of vouchers mailed in a particular type of year?
8. Are there any limitations on the amount of candidate vouchers that a voter could donate to any one candidate? For example, could a voter donate to one candidate the voter's entire coupon book?

9. Is a voter limited to redeeming not more than 1 coupon book per year?
10. Why are democracy vouchers sent on January 31 of an odd year, when candidates will not be selected for the next general election until the primary elections that are held in June of the following (even) year?
11. Will candidates be able to solicit and accept campaign contributions outside the voucher system?
  - a. If "no", have you researched the legality of restricting the maximum amount of campaign contributions one individual may make during an election cycle to a candidate to the amount of the vouchers the candidate would be mailed under the voucher system?
  - b. If "no", how will you be able to circumvent the campaign finance structure created in the state constitution with the ability of individuals and other entities, including non- voters, to take advantage of constitutionally granted contribution opportunities and related arrangements?
  - c. If "yes", then what are the advantages of adopting a voucher system if the existing system of financing political campaigns remains largely in place?
12. The headnote for section 1-46-1103 refers to "donation guidelines." What are the donation guidelines specified in that section?
13. Why do democracy vouchers expire on the day prior to the day on which the general election is held?
14. Have you considered the extent to which adoption of the voucher system will necessitate major changes to constitutional and statutory provisions governing campaign and political finance in Colorado? How do you intend those changes to be made?
15. With respect to proposed section 1-46-1103 (5):
  - a. Does the voucher system include candidates for the U.S. Senate?
  - b. Generally, states are not permitted to regulate candidates for federal office. Have you researched the extent to which a state voucher system would be able to affect the process by which candidates run for seats in the U.S. Congress?

- c. To what extent would candidates for statewide offices in Colorado besides the governor be included within the voucher system? What do the proponents mean by "state...congressional seats"? Is this phrasing intended to cover candidates for the Colorado General Assembly? If so, would the proponents consider modifying this provision to accurately reflect the correct name of the offices that would be covered under the proposed initiative?
16. Are the donations of democracy vouchers subject to disclosure requirements currently in effect for contributions and expenditures?
17. How will the non-transferable nature of vouchers be enforced?
18. Under section 1-40-105.5, Colorado Revised Statutes, the director of research of the legislative council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
- a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
  - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
  - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the legislative council staff at [BallotImpactEstimates.ga@state.co.us](mailto:BallotImpactEstimates.ga@state.co.us).

## **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 meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Section 1 of the proposed initiative adds a new article 46 of title 1 of the Colorado Revised Statutes. An article title should be added preceding the first section.
2. The new article 46 contains section 1-46-101, and then the subsequent sections are mislabeled at 1-46-1102 and 1-46-1103. Please provide correct section numbers.
3. It is standard drafting practice for section headnotes to be shown in regular type and in bold, and they should end in a period.
4. It appears that proposed section 1-46-1102 (1) contains an erroneous "of" between the words "comprising" and "non-transferable."
5. Proposed section 1-46-1102 is a "Definitions" section. Standard drafting practice is to indicate the parts of the Colorado Revised Statutes to which the definitions apply. For example, "as used in this title 1" or "as used in this article 46". To what parts of the Colorado Revised Statutes are the definitions in the proposed initiative intended to apply?
6. Section 1-46-1103 (4) is missing a period at the end of the sentence.