

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Donald Creager III and John Ebel
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 22, 2021
SUBJECT: Proposed initiative measure 2021-2022 #23, concerning petitions

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.

This initiative was submitted with proposed initiative 2021-2022 #24. The comments and question raised in this memorandum will not include comments and questions that were addressed in the memorandum for proposed initiative 2021-2022 #24, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum. Only new comments and questions are included in this memorandum.

Earlier versions of this proposed initiative, proposed initiatives 2021-2022 #6 and 2021-2022 #8-12, were the subject of memoranda dated November 27, 2020, and

December 31, 2020, which were discussed at public meetings on November 30, 2020, and January 6, 2021. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

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

1. To modify the following aspects of the petition process: filing procedures, deadlines, government administration, signature form and review, number of signatures required, protest and appeals, voter information, enforcement, and election timing;
2. To extend initiatives and referenda to counties and other local governments;
3. To expand the Colorado Supreme Court's role in reviewing petitions;
4. To restrict the Colorado General Assembly's authority to make bills petition exempt; and
5. To grant anyone standing to sue for any issue in the proposed amendment to the Colorado Revised Statutes.

Substantive Comments and Questions

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

1. Is the language of "except the first sentence of (4)(a), (7.3), and (8)" meant to exclude the first sentence of (4)(a), (7.3), and (8), or just (4)(a)?
2. What is meant by "[a]pplying the last sentence of Article X section 20(3)(b)(v) to petitions is repealed"? Does this mean that this section of the Colorado Constitution is to be amended rather than repealed?
3. Section 1 of the proposed initiative contains the phrase "...shall be filed in the supreme court *only*, and *only* two days after setting..." Does this phrase mean that the filing must happen only two days after title is set and not earlier?

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. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., SECTION 1., SECTION 2.). For example:

SECTION 1. In the constitution of the state of Colorado, **add** article XXX as follows:
2. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, (choose one of the following and customize for the initiative) ["In the constitution of the state of Colorado, **add** section __ to article X as follows:".] OR [For example, if you intend to add a new article to title 39 of the Colorado Revised Statutes, you would include the following amending clause: "In Colorado Revised Statutes, **add** article __ to title 39 as follows:".]
3. It is standard drafting practice to use SMALL CAPITAL LETTERS [rather than ALL CAPS] to show the language being added, and stricken type, which appears as ~~stricken type~~, to show language being removed from the Colorado constitution or the Colorado Revised Statutes. For example, the proposed initiative repeals portions of section 1 of article V and section 20 article X of the Colorado constitution. Please include the constitutional language and strike the sentences you indicate.
4. When referencing the section you are currently in, the section number does not need to be referenced. For all other article and section divisions, the number or letter of what you are referencing should be specified for every level of the reference. For example:
 - a. This section
 - b. This article XXX
 - c. Article XIX of the Colorado constitution
 - d. Section 20 of article X of the Colorado constitution
 - e. Section 20 (3)(b) of the Colorado constitution; or

- f. Subsection (5)(b)(II) of section 9 of article XVIII of the Colorado constitution.