

STATE OF COLORADO

Colorado General Assembly

Natalie Mullis, Director
Legislative Council Staff

Colorado Legislative Council
200 East Colfax Avenue Suite 029
Denver, Colorado 80203-1716
Telephone 303-866-3521
Facsimile 303-866-3855
Email: lcs.ga@state.co.us



Sharon L. Eubanks, Director
Office of Legislative Legal Services

Office of Legislative Legal Services
200 East Colfax Avenue Suite 091
Denver, Colorado 80203-1716
Telephone 303-866-2045
Facsimile 303-866-4157
Email: olls.ga@state.co.us

MEMORANDUM

TO: Donald Creager III and John Ebel
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: July 16, 2021
SUBJECT: Proposed initiative measure 2021-2022 #43, 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 a series of initiatives including proposed initiative 2021-2022 #44. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiative 2021-2022 #44, 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, 2021-2022 ##8-12, 2021-2022 ##23 and 24, and 2021-2022 ##35 and 36, were the subject of memoranda dated November 27, 2020, December 31, 2020, March 22, 2021, and April 16, 2021, which were discussed at public meetings on November 30, 2020, January 6, 2021, March 25, 2021, and April 19, 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 restrict the Colorado General Assembly's authority to make bills petition exempt;
4. To allow laws enacted by initiative to be changed only by another initiative;
5. To repeal the requirement that constitutional amendments, other than those that are limited to repealing a provision, must be approved by 55% of the voters; and
6. 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. The following questions relate to the statement, "The last sentence of Article X section 20 (3)(b)(v) does not apply to petitions," which appears in the proposed initiative under the heading "COLORADO CONSTITUTION":

- a. Article V, section 1 (5) of the Colorado constitution and section 1-40-102 (4), Colorado Revised Statutes, require a proponent to submit for review and comment the full text of the measure being proposed, which, if passed, becomes the actual language of the constitution or statute. This sentence is an idea or a statement of intent, rather than the actual language that would be added to or amended in the Colorado constitution or Colorado Revised Statutes. Please amend your proposal to include the actual text of your proposed constitutional or statutory changes.
- b. The last sentence of article X, section 20 (3)(b)(v) states that the "provisions of this subparagraph (v) do not apply to a statewide ballot issue, which is subject to the provisions of section 1 (7.5) of article V of the state constitution." The proposed initiative, however, provides for the repeal of article V, section 1 (7.5). If the last sentence of article X, section 20 (3)(b)(v) continues to apply to referred measures under the proposed initiative, but section 1 (7.5) of article V is repealed, does that mean that there is no requirement to provide similar information to voters for statewide ballot measures that are referred by the general assembly?
- c. The measure repeals section 1 (7.5) of the Colorado constitution, which is referred to in the last sentence of section 20 (3)(b)(v) of the Colorado constitution. With the requirements of section 1 (7.5) of the Colorado constitution repealed, which election officer is responsible for carrying out the obligations of article X, section 20 (3)(b)(v) for a statewide initiated measure? If there is not a single election officer responsible for these obligations, is it possible that voters in different parts of the state would receive different information about the same initiative?

Technical Comments

There are no new technical comments.