

# STATE OF COLORADO

## Colorado General Assembly

Natalie Castle, Director  
Legislative Council Staff

**Colorado Legislative Council**  
200 E. Colfax Ave., Room 029  
Denver, Colorado 80203-1716  
Telephone 303-866-3521  
Facsimile 303-866-3855  
Email: lcs.ga@coleg.gov



Ed DeCecco, Director  
Office of Legislative Legal Services

**Office of Legislative Legal Services**  
200 E. Colfax Ave., Room 091  
Denver, Colorado 80203-1716  
Telephone 303-866-2045  
Email: olls.ga@coleg.gov

## MEMORANDUM

**TO:** Jon Caldara and Vanessa Rutledge  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** January 20, 2024  
**SUBJECT:** Proposed initiative measure 2023-2024 #184, concerning voter-approved revenue changes pursuant to section 20 (7) of article X of the Colorado constitution

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 constitution appear to be:

1. To limit the effective period of any voter-approved revenue change pursuant to section 20 (7)(d) of article X of the Colorado constitution "to a term of four

years, unless approved by a subsequent vote of the people for a subsequent four-year term";

2. To expressly override any existing law or judicial precedent which indicates that section 20 of article X of the Colorado constitution does not impose a time limit on the effective period of a voter-approved revenue change.

## **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. Is the four-year limit in the proposed initiative intended to operate only prospectively, as to voter-approved revenue changes that are approved after the proposed initiative takes effect, or is it intended to limit the effective period of voter-approved revenue changes that occurred in the past?
3. If the four-year limit is intended to apply to past voter-approved revenue changes:
  - a. How will it be applied and how far back will it go? Consider whether the proposed initiative should include language detailing this effect and process. How would the four-year limit in the proposed initiative impact both existing and future multiple-fiscal year direct or indirect debt or other financial obligations of the state and local districts?
4. Consider adding an applicability clause to the proposed initiative that specifies the scope and timing of its applicability to elections occurring before, on, or after a date or dates certain.
5. Section 1 (4)(a) of the Colorado constitution states that voter-approved initiatives take effect "from and after the official declaration of the vote thereon by proclamation of the governor ...". Does this provision make section 2 of the proposed initiative unnecessary? If not, should section 2 include a reference to section 1 (4) of article V of the Colorado constitution?

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6. Have the proponents considered any fiscal or other impacts that may result from the enactment of the proposed initiative, such as:
  - a. The cost to the state and each local district to administer substantially more ballot issue elections; and
  - b. The inability of the state and each local district, including school districts, to effectively budget and secure financing, as needed, for future fiscal years by borrowing money that is to be repaid over a period of longer than four years or by other means.

## 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. Each constitutional section being amended or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In the constitution of the state of Colorado, **add** section \_\_ to article X as follows:"
  - a. The amending clause for section 1 contains formatting and capitalization errors and should be changed to read as follows:
    - i. "**SECTION 1.** In the constitution of the state of Colorado, section 20 of article X, **amend** (7)(d) as follows:"

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