

CHAPTER 169

ELECTIONS

SENATE BILL 17-152

BY SENATOR(S) Court, Kerr;
also REPRESENTATIVE(S) Kennedy, Lawrence, Duran.

AN ACT

CONCERNING THE IMPLEMENTATION OF VOTER-APPROVED CHANGES TO THE COLORADO CONSTITUTION THAT MAKE IT MORE DIFFICULT TO AMEND THE STATE CONSTITUTION, AND, IN CONNECTION THEREWITH, PROHIBITING A PETITION FOR AN INITIATED AMENDMENT TO THE STATE CONSTITUTION FROM BEING SUBMITTED TO VOTERS UNLESS THE PETITION IS SIGNED BY THE CONSTITUTIONALLY REQUIRED NUMBER OF REGISTERED ELECTORS WHO RESIDE IN EACH STATE SENATE DISTRICT AND TOTAL NUMBER OF REGISTERED ELECTORS, REQUIRING AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST ON ANY AMENDMENT TO THE STATE CONSTITUTION TO ADOPT THE AMENDMENT UNLESS THE AMENDMENT ONLY REPEALS IN WHOLE OR IN PART A PROVISION OF THE STATE CONSTITUTION, IN WHICH CASE REQUIRING A MAJORITY OF THE VOTES CAST ON THE AMENDMENT TO ADOPT THE AMENDMENT, AND MAKING AN APPROPRIATION.

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

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

1-40-106. Title board - meetings - ballot title - initiative and referendum.

(3.5) FOR EVERY PROPOSED CONSTITUTIONAL AMENDMENT, THE TITLE BOARD SHALL DETERMINE WHETHER THE PROPOSED CONSTITUTIONAL AMENDMENT ONLY REPEALS IN WHOLE OR IN PART A PROVISION OF THE STATE CONSTITUTION FOR PURPOSES OF SECTION 1 (4)(b) OF ARTICLE V OF THE STATE CONSTITUTION. THE SECRETARY OF STATE SHALL KEEP A RECORD OF THE DETERMINATION MADE BY THE TITLE BOARD.

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

1-40-107. Rehearing - appeal - fees - signing. (1) (a) (III) THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS OR ANY REGISTERED ELECTOR WHO IS NOT SATISFIED WITH THE DETERMINATION BY THE TITLE BOARD MADE PURSUANT TO SECTION 1-40-106 (3.5) WITH RESPECT TO WHETHER A PETITION THAT PROPOSES A

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

CONSTITUTIONAL AMENDMENT ONLY REPEALS IN WHOLE OR IN PART A PROVISION OF THE STATE CONSTITUTION MAY FILE A MOTION FOR A REHEARING WITH THE SECRETARY OF STATE WITHIN SEVEN DAYS AFTER THE TITLES AND SUBMISSION CLAUSE FOR THE INITIATIVE PETITION ARE SET ON THE GROUNDS THAT THE DETERMINATION IS INCORRECT.

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

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

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

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

(b) NO PETITION FOR ANY INITIATED AMENDMENT TO THE STATE CONSTITUTION

IS OF ANY FORCE OR EFFECT, NOR SHALL THE INITIATED AMENDMENT TO THE STATE CONSTITUTION BE SUBMITTED TO THE PEOPLE OF THE STATE OF COLORADO FOR ADOPTION OR REJECTION AT THE POLLS, AS IS BY LAW PROVIDED FOR, UNLESS THE PETITION FOR THE SUBMISSION OF THE INITIATED AMENDMENT TO THE STATE CONSTITUTION IS SIGNED BY THE NUMBER OF REGISTERED ELECTORS REQUIRED BY THE STATE CONSTITUTION WHO RESIDE IN EACH STATE SENATE DISTRICT IN COLORADO, SO LONG AS THE TOTAL NUMBER OF REGISTERED ELECTORS WHO HAVE SIGNED THE PETITION IS AT LEAST THE NUMBER OF REGISTERED ELECTORS REQUIRED BY SECTION 1 (2) OF ARTICLE V OF THE STATE CONSTITUTION. FOR PURPOSES OF THIS SUBSECTION (1)(b), THE NUMBER AND BOUNDARIES OF THE STATE SENATE DISTRICTS ARE THOSE IN EXISTENCE, AND THE NUMBER OF REGISTERED ELECTORS IN THE STATE SENATE DISTRICTS IS THOSE REGISTERED, AT THE TIME THE FORM OF THE PETITION IS APPROVED FOR CIRCULATION IN ACCORDANCE WITH SECTION 1-40-113 (1)(a).

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

1-40-113. Form - representatives of signers. (1) (c) THE SECRETARY OF STATE SHALL NOTIFY THE PROPONENTS AT THE TIME A PETITION FORMAT FOR AN INITIATED AMENDMENT TO THE STATE CONSTITUTION IS APPROVED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION 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 OF APPROVAL.

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

1-40-116. Validation - ballot issues - random sampling - rules. (4) (a) The secretary of state shall ~~verify~~ EXAMINE the signatures on the petition by use of random sampling. The random sample of signatures to be ~~verified shall~~ EXAMINED MUST be drawn so that every signature filed with the secretary of state ~~shall be~~ IS given an equal opportunity to be included in the sample. The secretary of state is authorized to engage in rule-making to establish the appropriate methodology for conducting such random sample.

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

(II) THE RANDOM SAMPLING TO VALIDATE SIGNATURES ON A PETITION PROPOSING AN AMENDMENT TO THE STATE CONSTITUTION MUST INCLUDE AN EXAMINATION OF

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

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

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

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

(b) IF THE PETITION PROPOSES AN AMENDMENT TO THE STATE CONSTITUTION, THE SECRETARY OF STATE SHALL 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.

(2) If the petition PROPOSES AN INITIATED LAW AND was ~~verified~~ VALIDATED by random sample, the statement ~~shall~~ MUST contain the total number of signatures submitted and whether the number of signatures presumed valid was ninety percent of the required total or less or one hundred ten percent of the required total or more.

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

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

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

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

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

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

(3) AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON ADOPTS ANY MEASURE SUBMITTED FOR AN AMENDMENT TO THE STATE CONSTITUTION; EXCEPT THAT A MAJORITY OF THE VOTES CAST THEREON ADOPTS ANY MEASURE SUBMITTED FOR AN AMENDMENT TO THE STATE CONSTITUTION THAT ONLY REPEALS IN WHOLE OR IN PART ANY PROVISION OF THE STATE CONSTITUTION. IN THE CASE OF ADOPTION OF CONFLICTING PROVISIONS, THE ONE THAT RECEIVES THE GREATEST NUMBER OF AFFIRMATIVE VOTES PREVAILS IN ALL PARTICULARS AS TO WHICH THERE IS A CONFLICT.

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

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

Approved: April 28, 2017