

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0225.01 Bob Lackner x4350

HOUSE BILL 16-1071

HOUSE SPONSORSHIP

Windholz, Priola

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING INITIATIVE POWERS GRANTED TO THE REGISTERED
102 ELECTORS OF COUNTY GOVERNMENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill makes the powers of a county subject to the rights of the registered electors of county governments to exercise the power of initiative granted to them by the bill.

Section 2 of the bill grants to the registered electors of every county of the state, including the residents of any unincorporated portion of such county, initiative powers similar to those reserved by the people

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

of the state under the state constitution with respect to all countywide legislation of every character in and for their respective counties. The initiative powers granted by the bill also extend to the registered electors of any special taxing district created by a county with respect to all legislation of every character in and for such district.

In order to exercise the right of initiative granted by the bill, the registered electors of a county acting as the petitioners of the proposed initiative may submit a proposed ordinance or other form of legislation (proposed ordinance) to the board of county commissioners of the county (county board) by filing written notice of the proposed ordinance with the county clerk and recorder. Within 180 days after the notice, the petitioners are required to file with the county clerk and recorder an initiative petition signed by at least 5% of the registered electors of the entire county voting in the last general election. However, if the proposed ordinance affects only a geographic portion of the entire county, the number of signatures required is equal to 5% of the registered electors in only the affected geographic portion of the county.

Section 2 of the bill also specifies duties placed upon the county clerk and recorder in determining whether the signature requirement has been met, certifying the text of the proposed ordinance, and determining whether only a geographic portion of the county is affected by the proposed ordinance.

The proposed ordinance may be adopted without alteration by the county board within 20 days following the final determination that the petition is legally sufficient. If the county board fails to adopt the proposed ordinance, the bill requires the legislative body to publish the proposed ordinance in the same manner as other ordinances or forms of legislation are published and to refer the proposed ordinance to the registered electors of the county for their approval or rejection at a regular or special election held not less than 60 days and not more than 150 days after final determination of the sufficiency of the petition. If the proposed ordinance affects only a geographic portion of the county, the proposed ordinance must be referred to only those registered electors residing within the affected geographic portion of the county.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 30-11-103 as
3 follows:

4 **30-11-103. Commissioners to exercise powers of county.** The
5 powers of a county as a body politic and corporate shall be exercised by

1 a board of county commissioners ~~therefor~~ SUBJECT TO THE RIGHTS OF THE
2 REGISTERED ELECTORS OF COUNTY GOVERNMENTS TO EXERCISE THE
3 POWER OF INITIATIVE GRANTED TO THEM BY SECTION 30-11-103.5.

4 **SECTION 2.** In Colorado Revised Statutes, **amend** 30-11-103.5
5 as follows:

6 **30-11-103.5. Right of initiative of county residents - how**
7 **exercised - petitions and referred measures.** (1) (a) THE REGISTERED
8 ELECTORS OF EVERY COUNTY OF THE STATE, INCLUDING THE RESIDENTS OF
9 ANY UNINCORPORATED PORTION OF SUCH COUNTY, POSSESS INITIATIVE
10 POWERS SIMILAR TO THOSE RESERVED BY THE PEOPLE BY SECTION 1 OF
11 ARTICLE V OF THE STATE CONSTITUTION WITH RESPECT TO ALL
12 COUNTYWIDE LEGISLATION OF EVERY CHARACTER IN AND FOR THEIR
13 RESPECTIVE COUNTIES. THE INITIATIVE POWERS GRANTED BY THIS
14 SUBSECTION (1) ALSO EXTEND TO THE REGISTERED ELECTORS OF ANY
15 SPECIAL TAXING DISTRICT CREATED BY A COUNTY WITH RESPECT TO ALL
16 LEGISLATION OF EVERY CHARACTER IN AND FOR SUCH DISTRICT.

17 (b) IN ORDER TO EXERCISE THE RIGHT OF INITIATIVE GRANTED BY
18 PARAGRAPH (a) OF THIS SUBSECTION (1), THE REGISTERED ELECTORS OF A
19 COUNTY ACTING AS THE PETITIONERS OF THE PROPOSED INITIATIVE MAY
20 SUBMIT A PROPOSED ORDINANCE OR OTHER FORM OF LEGISLATION TO THE
21 BOARD OF COUNTY COMMISSIONERS OF THE COUNTY BY FILING WRITTEN
22 NOTICE OF THE PROPOSED ORDINANCE OR OTHER LEGISLATION WITH THE
23 CLERK AND RECORDER OF THE COUNTY. THE NOTICE MUST ALSO ADVISE
24 THE CLERK IF THE PROPOSED ORDINANCE OR OTHER LEGISLATION AFFECTS
25 ALL OF THE COUNTY OR ONLY A GEOGRAPHIC PORTION OF THE COUNTY
26 AND, IF THE LATTER, THE NOTICE MUST IDENTIFY THE GEOGRAPHIC
27 PORTION OF THE COUNTY THAT THE PETITIONERS BELIEVE IS AFFECTED BY

1 THE PROPOSED ORDINANCE OR OTHER LEGISLATION. WITHIN ONE
2 HUNDRED EIGHTY DAYS AFTER THE NOTICE, THE PETITIONERS MUST FILE
3 WITH THE COUNTY CLERK AND RECORDER AN INITIATIVE PETITION SIGNED
4 BY AT LEAST FIVE PERCENT OF THE REGISTERED ELECTORS OF THE ENTIRE
5 COUNTY VOTING IN THE LAST GENERAL ELECTION; EXCEPT THAT, IF THE
6 PROPOSED ORDINANCE OR OTHER LEGISLATION AFFECTS ONLY A
7 GEOGRAPHIC PORTION OF THE ENTIRE COUNTY, THE NUMBER OF
8 SIGNATURES REQUIRED IS EQUAL TO FIVE PERCENT OF THE REGISTERED
9 ELECTORS IN ONLY THE GEOGRAPHIC PORTION OF THE COUNTY THAT IS
10 AFFECTED. THE COUNTY CLERK AND RECORDER SHALL DETERMINE IF THE
11 SIGNATURE REQUIREMENT UNDER THIS PARAGRAPH (b) HAS BEEN MET AND
12 WHETHER THE PROPOSED ORDINANCE OR OTHER LEGISLATION AFFECTS ALL
13 OR ONLY A GEOGRAPHIC PORTION OF THE COUNTY. THE COUNTY CLERK
14 AND RECORDER SHALL CERTIFY TO THE BOARD OF COUNTY
15 COMMISSIONERS OF THE COUNTY THE TEXT OF THE PROPOSED ORDINANCE
16 OR OTHER LEGISLATION AND, IF ONLY A GEOGRAPHIC PORTION OF THE
17 COUNTY IS AFFECTED BY THE ORDINANCE, THE PORTION AFFECTED BY THE
18 PROPOSED ORDINANCE OR OTHER FORM OF LEGISLATION. THE COUNTY
19 CLERK AND RECORDER IS NOT BOUND BY THE DESCRIPTION OF THE
20 GEOGRAPHIC AREA OF THE COUNTY SPECIFIED IN THE NOTICE AND SHALL
21 MAKE ITS OWN INDEPENDENT DETERMINATION OF THE GEOGRAPHIC
22 PORTION OF THE COUNTY AFFECTED BY THE PROPOSED ORDINANCE OR
23 OTHER FORM OF LEGISLATION.

24 (c) THE PROPOSED ORDINANCE OR OTHER FORM OF LEGISLATION
25 MAY BE ADOPTED WITHOUT ALTERATION BY THE BOARD OF COUNTY
26 COMMISSIONERS WITHIN TWENTY DAYS FOLLOWING THE FINAL
27 DETERMINATION THAT THE PETITION SATISFIES THE REQUIREMENTS OF

1 PARAGRAPH (b) OF THIS SUBSECTION (1). IF THE BOARD OF COUNTY
2 COMMISSIONERS FAILS TO ADOPT THE PROPOSED ORDINANCE OR OTHER
3 FORM OF LEGISLATION, THE LEGISLATIVE BODY SHALL PUBLISH THE
4 PROPOSED ORDINANCE OR OTHER FORM OF LEGISLATION IN THE SAME
5 MANNER AS OTHER ORDINANCES OR FORMS OF LEGISLATION ARE
6 PUBLISHED AND SHALL REFER THE PROPOSED ORDINANCE OR OTHER FORM
7 OF LEGISLATION IN THE FORM SPECIFIED IN THE PETITION TO THE
8 REGISTERED ELECTORS OF THE COUNTY FOR THEIR APPROVAL OR
9 REJECTION AT A REGULAR OR SPECIAL ELECTION HELD NOT LESS THAN
10 SIXTY DAYS AND NOT MORE THAN ONE HUNDRED FIFTY DAYS AFTER FINAL
11 DETERMINATION OF THE SUFFICIENCY OF THE PETITION. IF THE PROPOSED
12 ORDINANCE OR OTHER FORM OF LEGISLATION AFFECTS ONLY A
13 GEOGRAPHIC PORTION OF THE COUNTY, THE PROPOSED ORDINANCE OR
14 OTHER FORM OF LEGISLATION MUST BE REFERRED TO ONLY THOSE
15 REGISTERED ELECTORS RESIDING WITHIN THE GEOGRAPHIC PORTION OF
16 THE COUNTY AFFECTED BY THE PROPOSED ORDINANCE OR OTHER FORM OF
17 LEGISLATION AS CERTIFIED BY THE COUNTY CLERK AND RECORDER.

18 (d) THE PROPOSED ORDINANCE OR OTHER FORM OF LEGISLATION
19 TAKES EFFECT IF A MAJORITY OF THE REGISTERED ELECTORS VOTING ON
20 THE MEASURE AT THE ELECTION VOTE IN FAVOR OF THE PROPOSED
21 ORDINANCE OR OTHER FORM OF LEGISLATION. ALTERNATIVE ORDINANCES
22 OR OTHER FORMS OF LEGISLATION MAY BE SUBMITTED AT THE SAME
23 ELECTION, AND IF TWO OR MORE CONFLICTING ORDINANCES OR OTHER
24 FORMS OF LEGISLATION ARE APPROVED BY THE ELECTORS, THE ONE THAT
25 RECEIVES THE GREATEST NUMBER OF AFFIRMATIVE VOTES MUST BE
26 ADOPTED CONCERNING ANY MATTER AS TO WHICH THERE IS A CONFLICT
27 BETWEEN OR AMONG THE PROPOSED ORDINANCES OR OTHER FORMS OF

1 LEGISLATION.

2 (2) The procedures for placing an issue or question on the ballot
3 by a petition of the electors of a county that is pursuant to statute or the
4 state constitution or that a board of county commissioners may refer to a
5 vote of the electors pursuant to statute or the state constitution ~~shall~~ MUST,
6 to the extent no such procedures are prescribed by statute, charter, or the
7 state constitution, follow as nearly as practicable the procedures for
8 municipal initiatives and referred measures under part 1 of article 11 of
9 title 31, C.R.S. The county clerk and recorder ~~shall~~ MUST resolve any
10 questions about the applicability of the procedures in part 1 of article 11
11 of title 31, C.R.S.

12 **SECTION 3. Effective date.** This act takes effect July 1, 2016.

13 **SECTION 4. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.