Amendment W Election Ballot Format for Judicial Retention Elections

1 Amendment W proposes amending the <u>Colorado Constitution</u> to:

 change the ballot format for judicial retention elections to list justices and judges seeking retention by court type.

Summary and Analysis

Background. In 1966, Colorado voters approved a constitutional amendment that repealed the partisan election of justices and judges and enacted the current, merit-based process. The process requires justices and judges to be nominated by a nonpartisan judicial nominating commission and then appointed by the Governor.

Thereafter, nonpartisan justices and judges must go before voters in a retention election to maintain their seat on the bench. Colorado justices serve on the Supreme Court, and judges serve in all other courts.

Judicial retention elections. A retention election asks voters whether incumbent justices or judges should remain in office for another term. In Colorado, justices and judges stand for retention at the end of their judicial terms, and elections are held during the November general election in even-numbered years. Justices or judges do not face an opponent and retain their position if the majority of voters cast a "yes" vote.

Colorado court types. Colorado law requires judicial retention elections for all levels of courts, including the Supreme Court, district courts, county courts, City and County of Denver Probate Court, Denver Juvenile Court, and any other court created by the state legislature, such as the Court of Appeals.

Current ballot format. Under current law, ballots must be formatted according to the type of office up for election. Federal offices are required to be first on the ballot, followed by state, county, and local offices. The judicial retention candidates are listed after the county or local officers, but before the introduction of ballot measures. The county clerk and recorder is required to list the same retention question for each individual judge or justice on the ballot.

The current language reads as follows:

"Shall Justice (or Judge) ... of the Supreme Court (or other court) be retained in office?" YES/NO

Judicial retention ballot format under Amendment W. Amendment W requires the county clerk and recorder to display the retention question once for each court type and then list each individual justice or judge on that court with the "yes" or "no" option next to each name.

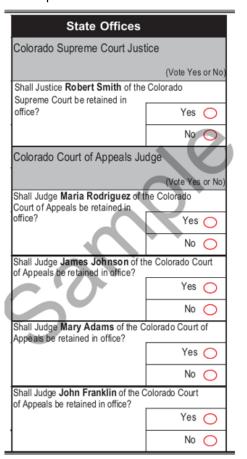
"Shall the following Justices (or Judges) of the Supreme (or other court) be retained in office?" YES/NO

Figure 1 shows a sample judicial retention ballot both under current law and Amendment W.

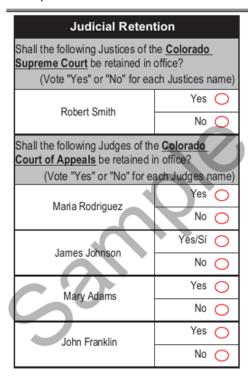
Figure 1. Sample Judicial Retention Ballots

Sample Ballot Under Current Law

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Sample Ballot Under Amendment W



For information on those issue committees that support or oppose the measures on the ballot at the November 6, 2018, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html

4 Argument For

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1) Amendment W helps make the ballot more concise and user-friendly. A well-designed and shorter ballot will allow voters to complete it more efficiently, while decreasing the likelihood of voter fatigue. A more compact ballot may also save counties printing and mailing costs, particularly in more populous counties that elect multiple justices or judges and counties that are required to print ballots in both English and Spanish.

^{*}This sample was prepared by the Denver Elections Division. Should Amendment W be adopted by the voters, actual ballots may differ due to County Clerk and Recorder ballot design discretion.

1 Argument Against

1) The proposed judicial retention section of the ballot may appear inconsistent with previous sections of the ballot. Voters may find the new layout unclear and not realize they are to vote for each justice or judge listed on the ballot. Judicial retention may be confused with a multi-member election where justices and judges are running against each other instead of an election where votes are cast on the retention of each individual justice or judge.

Estimate of Fiscal Impact

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(Please note: A summary of the fiscal impact will be included in this space in the second draft of the analysis. A final fiscal impact statement will be prepared and placed on the General Assembly's website when the final blue book is sent to voters.)