

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: Mary Lou Moser and Willard Behm
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: February 3, 2020
SUBJECT: Proposed initiative measure 2019-2020 #249, Repeal Constitutional Provisions Concerning the Personal Use and Regulation of Marijuana

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 repeal article XVIII, section 16 of the Colorado constitution.
2. To state that laws regarding medical marijuana and industrial hemp are not changed.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado". To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
2. 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?
3. Article V, section 1 (5) of the Colorado constitution and section 1-40-102 (4), C.R.S., 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. You have provided a description of the measure; please amend your proposal to show the actual proposed constitutional or statutory changes.
4. The proposed initiative states that laws regarding medical marijuana and industrial hemp are not changed. Do the proponents intend that the statement be made law in the constitution or do the proponents intend that the declaration is a statement of legislative intent?
5. The proposed initiative states that article XVIII, section 16 of the Colorado constitution is repealed and then it states that laws regarding industrial hemp are not changed. But, article XVIII, section 16 of the Colorado constitution includes provisions related to industrial hemp. How do the proponents intend to address this conflict?
6. The proposed initiative seeks to repeal article XVIII, section 16 of the Colorado constitution, but the statutory provisions related to retail marijuana, for example article 12 of title 44, C.R.S., and section 18-18-433, C.R.S., remain in law. What is the proponent's intent in repealing the constitutional provisions but not the statutory provisions? Do the proponents believe that a person would still be able to purchase marijuana at a licensed entity and use small amounts of marijuana?
7. Under section 1-40-105.5, C.R.S., the director of research of the Legislative Council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted

to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.

- a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
- b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
- c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the legislative council staff at BallotImpactEstimates.ga@state.co.us.

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. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., SECTION 1., SECTION 2.). Also, each constitutional and/or statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example:

SECTION 1. In the constitution of the state of Colorado, **repeal** section 16 of article XVIII as follows:

2. Each section in the Colorado Revised Statutes and the Colorado constitution has a headnote. Headnotes briefly describe the content of the section. A headnote should be added to what would be section 1 and be in **bold-face type**.
3. It is standard drafting practice to use SMALL CAPITAL LETTERS, rather than ALL CAPS, to show the language being added to and stricken type, which appears as ~~stricken type~~, to show language being removed from the Colorado constitution or the Colorado Revised Statutes.

4. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate capitalization where appropriate. The following should be capitalized:
 - a. The first letter of the first word of each sentence;
 - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
 - c. The first letter of proper names.