

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Nathan Clay and Mark Tejada
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 29, 2019

SUBJECT: Proposed initiative measure 2019-2020 #59, concerning Democracy Day

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 Revised Statutes appear to be:

1. To add the Tuesday following the first Monday in November of each even-numbered year to the list of legal state holidays, to be called Democracy Day.

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. What will be the effective date of the proposed initiative?
3. Why does the proposed initiative only establish a holiday for the general elections that occur in even-numbered years, and not for the November coordinated elections that occur in odd-numbered years?
4. The proposed initiative adds one additional paid holiday for state employees in every other year. Have the proponents considered any financial or personnel issues the additional holiday and varying schedule might create for the state?
5. What impact will having an additional holiday have on hourly wage earners?
6. The proposed initiative does not amend section 5-1-301, Colorado Revised Statutes, which defines "business day" for the purposes of the Uniform Consumer Credit Code, or section 6-1-102, Colorado Revised Statutes, which defines "business day" for the Colorado Consumer Protection Act. Is it the proponent's intent that the new Democracy Day would not be a holiday for the purposes of those laws?
7. Will creating a state legal holiday on the day of the general election create any concerns about the ability to use public buildings as voter service and polling centers?
8. Given that Colorado has mail ballot elections and, in general election years, electors can vote any time during the 15-day period leading up to and including election day, what is the intended purpose of making the day of the general election a legal holiday?
9. Under section 1-40-105.5, Colorado Revised Statutes, 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. Each statutory section being amended, repealed, or added is preceded by a separate amending clause explaining precisely how the law is being changed. In section 1 of the initiative, the amending clause instruction includes all of section 24-11-101, but it appears that only subsection (1) is actually being amended. The amending clause therefore should read: "In Colorado Revised Statutes, 24-11-101, **amend** (1) as follows:". Additionally, the amending clause is sufficient for showing an instruction and it is not necessary to also include the word "**AMEND:**" within the statute.
2. It is standard drafting practice to use SMALL CAPITAL LETTERS to show language being added to and stricken type, which appears as ~~stricken type~~, to show language being removed from the Colorado Revised Statutes. Current law is shown in regular type. Headnotes are shown in regular type and bold.