

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Donald Creager III and John Ebel
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: December 31, 2020
SUBJECT: Proposed initiative measure 2021-2022 #8, concerning Petitions

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.

This initiative was submitted with a series of initiatives including proposed initiatives 2021-2022 ##9 to 12. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2021-2022 ##9 to 12, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum. Only new comments and questions are included in this memorandum.

An earlier version of this proposed initiative, proposed initiative 2021-2022 #6, was the subject of a memorandum dated November 27, 2020. Proposed initiative 2021-2022 #6 was discussed at a public meeting on November 30, 2020. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To modify the following aspects of the petition process: filing procedures, deadlines, government administration, signature form and review, number of signatures required, protest and appeals, voter information, enforcement, and election timing;
2. To extend initiatives and referenda to counties and other local governments;
3. To expand the Colorado Supreme Court's role in reviewing petitions;
4. To restrict the Colorado General Assembly's authority to make bills petition exempt; and
5. To have the Legislative Council Staff's Blue Book not apply to petitions.

Substantive Comments and Questions

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

1. What is the effect of the first sentence in section 4?
2. What is the effect of the constitutional provisions listed in the first sentence of section 4 if they do not apply to petitions?
3. The first sentence in section 4 appears to limit, and therefore conflict with, the Colorado Constitution. If this is the case, is this sentence unconstitutional?
4. What is the effect of the last sentence?

- a. What is the scope of an "issue in this statute" for purposes of the last sentence of section 4? Does this only cover violations on the procedures in this section?
- b. In what jurisdictions will this standing apply?
- c. Is there a time limit for the standing conferred by this sentence?
- d. Does this apply to residents and nonresidents of Colorado and citizens and noncitizens of the United States?

Technical Comments

There are no new technical comments.