

STATE OF COLORADO

Colorado General Assembly

Natalie Castle, Director
Legislative Council Staff

Colorado Legislative Council
200 E. Colfax Ave., Room 011
Denver, Colorado 80203-1716
303-866-3521
lcs.ga@coleg.gov



Ed DeCecco, Director
Office of Legislative Legal Services

Office of Legislative Legal Services
1375 Sherman St., Suite 300
Denver, Colorado 80261
303-866-2045
olls.ga@coleg.gov

MEMORANDUM

To: Marty Neilson & Frank Atwood

From: Legislative Council Staff and Office of Legislative Legal Services

Date: January 23, 2026

Subject: Proposed Initiative Measure 2025-2026 #224, Concerning state and local initiatives and referenda

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Legislative Council Staff 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 and questions to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council Staff and the Office of Legislative Legal Services is to provide comments and questions intended to aid designated representatives, and the proponents they represent, in determining the language of their proposal and to avail the public of the contents of the proposal. Our first objective is to be sure we understand your intended purposes of the proposal. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposal. Discussion between designated representatives or their legal representatives and employees of the Legislative Council Staff and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

Purposes

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

1. To extend initiatives and referenda to all districts, including local and home rule governments and authorities;
2. To modify the following aspects of the petition process: filing procedures, title setting, deadlines, signature form and review, number of signatures required, protest and appeals, voter information, enforcement, and election timing;
3. To expand the Colorado Supreme Court's role in reviewing petitions;
4. To restrict the General Assembly's authority to make bills petition exempt and requiring certain language in the ballot title of petitions concerning bills;
5. To require voter approval to change voter-approved petitions and for bills that concern topics that were the subject of bills that voters rejected through referenda;
6. To eliminate the Title Board;
7. To repeal any laws that conflict with the proposed amendments to the Colorado Revised Statutes;
8. To establish fines for interfering with petitioners; and
9. To void petition fines, fees, or costs assessed after 2024.

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. Article V, section 1 (4)(a) of the Colorado Constitution requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor.

Because the proposed initiative does not contain an effective date, this would be the default effective date. Does this default effective date satisfy your intent? If not, you should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.

3. The following questions relate to proposed section 1-40-137 (1) (1):
 - a. The proposed initiative states: “Petition rights shall exist in all districts.” What is meant by “petition rights”? Does this encompass only the initiative and referendum powers defined later in the measure, or does it include other forms of petitioning (e.g., recall, nomination)?
 - b. What does it mean for a state or county election office to “aid” a petition? Does this require election offices to provide legal advice, drafting assistance, or financial support to petitioners?
 - c. By stating that state or county election offices must aid “any” petition, does this mean that it does not matter where the petition originates or what it concerns? For instance, must state election offices assist with a local petition or vice versa?
 - d. Since the statutes that address the review and comment process are repealed by proposed section 1-40-137 (1)(4), what does it mean for “state texts” to be “reviewed”? What is a “state text” in this context?
 - e. The proposed initiative states that ballot titles shall be “up to 60 words in plain English.” If a measure's single subject is complex, how does this word limit interact with the requirement to set a clear title in article V section (5.5) of the state constitution?
 - f. The proposed initiative requires ballot titles to be set “without fiscal impact.” Does “without fiscal impact” mean that the title itself shall not contain fiscal information, or that no fiscal impact statement shall be prepared in connection with the setting of the ballot title?

- g. The proposed initiative states that “[a]ll single subject and title protests shall be filed in the supreme court in four days.” When does this four-day period begin to run?
- h. The proposed initiative states that all single subject and title protests must be filed in the Supreme Court and “decided six days later.” What happens if the Court is unable to reach a decision within the six-day statutory deadline?
- i. Who is responsible for complying with the requirement that “[s]ample petitions are given two days later”? When does this two-day period begin to run?

4. The following questions relate to proposed section 1-40-137 (1) (2):

- a. Article V, section 1 (2) of the state constitution sets the number of signatures required for an initiative at “at least five percent of the total number of votes cast for all candidates for the office of secretary of state at the previous general election.” The proposed initiative sets the limit at “5% of district active registered electors up to 100,000 entries.” If 5% of the votes cast for Secretary of State exceeds 100,000, the proposed statutory cap would be lower than the constitutional minimum. How would this conflict be resolved?
- b. When does the five-day period begin for purposes of the statement that “In five days, neutral election offices shall count each filed entry.”? What is a “neutral election office”?
- c. In the context of verifying entries, the proposed initiative states that “random or statistical entry sampling is void” and requires the counting of each filed entry within five days. Does that mean that every single signature on a petition containing more than 100,000 entries must be individually verified within the five days allotted for counting?
- d. Is the Supreme Court the appropriate venue for fact-finding regarding individual signature validity, or should this occur in district court?
- e. What is the impact of stating that “[s]igners shall be strongly presumed truly addressed district registered electors”?

- f. If a petition is found insufficient, does the proponent get five days to collect new signatures, or only to "cure" technical defects in existing ones?
- 5. The following questions relate to proposed section 1-40-137 (1) (3):
 - a. What is meant by "allow Election day each November on any topic"?
 - b. Does the use of "allow" in the first sentence of proposed section 1-40-137 (1) (3) mean that a question is not required to appear on the ballot of the election held in November of the year that it is filed?
 - c. Does the first sentence of proposed section 1-40-137 (1) (3) allow for statewide questions that do not relate to the Taxpayer's Bill of Rights to appear on the ballot in odd-numbered years?
 - d. What is meant by an "[e]lection notice summary"? Is this meant to be a summary required by the Taxpayer's Bill of Rights, Legislative Council Staff's ballot information booklet, or something else?
 - e. How are the "filer" and "foe" websites determined? What if there are either multiple or no "foes"?
- 6. The following questions relate to proposed section 1-40-137 (2):
 - a. Article V, section 1 (3) of the state constitution requires referendum petitions to be signed by registered electors in an amount equal to at least five percent of the votes cast for Secretary of State at the previous general election. The proposed initiative allows a referendum upon filing "30,000 valid entries." If 30,000 signatures is fewer than the constitutionally required five percent, how is this conflict resolved?
 - b. Article V, section 1 (3) of the state constitution prevents referenda against laws "necessary for the immediate preservation of the public peace, health, or safety" (the "safety clause"). What happens if the General Assembly determines that more than 12 bills are "necessary for the immediate preservation of the public peace, health, or safety"?
 - c. What is the scope of a "topic," and who determines that scope, for purposes of requiring voter approval for "future bills on rejected topics"?
- 7. The following questions relate to proposed section 1-40-137 (3):

- a. The proposed initiative defines “districts” to include “all local and home rule governments and authorities.” Article XX of the state constitution grants home rule municipalities the power to govern their own local and municipal matters, including initiative and referendum procedures. Does this proposed initiative intend to override the charter provisions and ordinances of home rule cities regarding their petition processes?
 - b. What is meant by “legislative policy,” for purposes of the proposed definition of “petitions”?
8. The following questions relate to proposed section 1-40-137 (4):
 - a. Repealing the statutes listed in this proposed section would eliminate the Title Board. Is this your intent? If so, who is responsible for the "Draft reviews" and setting "Ballot titles" described in proposed section 1-40-137 (1)?
 - b. Repealing the statutes listed in this proposed section would eliminate the statutes that describe the review and comment process. Is this your intent? If so, how would article V, section 5 of the state constitution be complied with?
 - c. The proposed initiative imposes a \$3,000 fine on those who “stop, cite, or arrest carriers or signers peaceably petitioning in public access areas.”
 - i. Who is authorized to levy this fine? Is it a civil penalty or a criminal fine?
 - ii. How is “public access areas” defined? Does this include the interior of government buildings or private property open to the public (e.g., shopping malls)?
 - iii. Does the fine apply to law enforcement officers acting under color of law?
 - d. What appearances are meant to be captured by the statement that “[p]etitioners may appear by telephone and email”?
 - e. The proposed initiative states: “Any petition fee, fine, or cost after 2024 shall be void.”

- i. Does this void fines properly levied for fraud or forgery? What about filing fees associated with campaign finance reporting for petition committees?
- ii. If this measure is adopted in the 2026 election, does this provision retroactively require the refund of fees or fines collected between January 1, 2025, and the effective date of this measure?

f. The proposed initiative states: “Except Article V, changing voter-approved petitions requires voter-approved petitions.”

- i. What does “[e]xcept Article V” mean in this context? Article V of the state constitution describes the powers of initiative and referendum.
- ii. Does this mean that the General Assembly is prohibited from amending any statutory initiative approved by voters?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiatives. These comments will be read aloud at the public meeting only if the designated representatives 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 follows:

1. Each statutory section being amended, repealed, or added is preceded by a separate clause, referred to as the “amending clause,” that explains how the law is being changed. Amending clauses are written in lowercase type and follow a specific format. For example, the proposed initiative should begin:

SECTION 1. In Colorado Revised Statutes, **add 1-40-137** as follows:

2. Each section in the Colorado Revised Statutes has a headnote. Headnotes are written in lowercase bold text and briefly describe the content of the section. For example: **“1-40-147. Petition rights.”**

3. It is standard drafting practice to use small capital letters to show the language being added to the C.R.S. The headnote should remain in lowercase letters. To find small capital letters in Microsoft Word, go to the Home tab, click the arrow in the bottom right corner of the Font group, and in the Font dialog box, check the Small Caps checkbox under Effects.

4. In (1) of the proposed initiative, “Procedures” does not need to be a separate paragraph from the following (1). Instead, this section should be written as:

“(1) **Procedures.** Petition rights shall exist in all districts...”

5. The following is the standard drafting language used for creating a definitions section:

As used in this section, unless the context otherwise requires:

(1) “[The term]” means [the definition of the term].

(2) “[The term]” means [the definition of the term].

6. The Colorado Revised Statutes are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs. This structure should be followed to ensure consistency in the structure of the statutes. For example:

(3) **Definitions.** As used in this section, unless the context otherwise requires:

(a) “Districts” means the state and all local and home rule governments and authorities.

(b) “Petitions” means initiatives and referenda on legislative policy, except zoning, started by two or more adults any time.

7. Repealing the specific sections of the Colorado Revised Statutes referred to in (4) of the proposed initiative should be accomplished through a separate amending

clause in another section of the initiative. For instance, this could be written out as:

SECTION 2. In Colorado Revised Statutes, **repeal** 1-40-105, 1-40-105.5, 1-40-106, 1-40-107, [...] and 1-40-135.