

Obsolete Constitutional Provisions

1 The proposed amendment to the Colorado Constitution:

- 2 ♦ removes provisions that are obsolete;
- 3 ♦ strikes references to one-time events that have already occurred; and
- 4 ♦ removes a voting requirement found unconstitutional by the Colorado
5 Supreme Court in 1972.

6 Background

7 ***Obsolete provisions.*** A requirement that the Superintendent of Public Instruction
8 serve as the state librarian is deleted because the superintendent position no longer exists.
9 The Commissioner of Education replaced the Superintendent of Public Instruction in 1948.
10 A provision concerning the eligibility of a person living in a poorhouse to vote or run for
11 office is also deleted. Poorhouses, or publicly supported homes for the poor, no longer
12 exist in Colorado.

13 ***References to one-time events.*** The constitution required all agencies of state
14 government to be divided among no more than 20 state departments by June 30, 1968.
15 This requirement stemmed from a major reorganization of the state government in the
16 1960s. The proposal removes the reference to June 30, 1968, but does not change the limit
17 on the number of departments.

18 The proposal removes language regarding the expiration of terms of the former
19 State Board of Land Commissioners since they are no longer in office. The constitution
20 required the Governor to appoint a new board by May 1, 1997.

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22 ***Unconstitutional provision.*** The proposal strikes a requirement in one section of
23 the constitution that citizens live in the state for three months before being eligible to vote
24 and a requirement in another section that citizens live in the state for at least one year before
25 being eligible to vote. The Colorado Supreme Court held in 1972 that voting is a
26 fundamental right that cannot be limited by imposing a three-month residency requirement.
27 The court based its ruling on a U.S. Supreme Court decision that a similar residency
28 requirement violated the U.S. Constitution. State law currently establishes a 30-day
29 residency requirement for voters for all elections.

1 **Argument For**

2 1) The proposal continues an effort to update the constitution by deleting
3 unconstitutional and outdated language. Unconstitutional language can be confusing and
4 misleading to readers who do not know the language has been nullified by a court.
5 Outdated language clutters the constitution.

6 **Argument Against**

7 1) All provisions of the constitution have historical significance. Removing these
8 provisions may diminish the historical character of the constitution and make research of
9 constitutional provisions and state laws more difficult.

10 **Estimate of Fiscal Impact**

11 The proposal does not affect state or local revenues or expenditures.