

**Referendum A
State Personnel System
Legislative Council Staff Responses to Public Comments**

The revisions requested by interested persons are provided below in the following format:

ALL CAPS = Proposed new language

~~Strike Type~~ = Proposed deletions

Standard Type = Current language

All page and line references are to the Final Draft version

BACKGROUND SECTION

1. Responder: Paul Farley, Colorado Department of Personnel and Administration.

Suggested change: Page 3, lines 29 through 32 (far right box):

Allows contracts for all state government functions as long as ~~national~~
INFORMATION TECHNOLOGY security is not compromised.

Basis for suggested change: The limitation in House Bill 04-1373 pertains to
"information technology security" and not "national security."

Staff comment: Agree in part. Revised staff language further conforms with the
language in House Bill 04-1373.

Revised staff language: Allows contracts for all state government functions as
long as ~~national security is~~ THE SECURITY OF STATE, LOCAL, AND NATIONAL INFORMATION
SYSTEMS ARE not compromised.

1 **2. Responder:** Miller Hudson, Colorado Association of Public Employees.

2 **Suggested change:** Page 3, after line 35:

3

Issue	Current Service Contract Law:	House Bill 04-1373:
NOTICE AND APPEAL	NOT ADDRESSED IN LAW.	REQUIRES NOTIFICATION OF THE PUBLIC AND AFFECTED EMPLOYEES PRIOR TO ELIMINATING JOBS IN THE STATE PERSONNEL SYSTEM. ALLOWS EMPLOYEES TO REQUEST A REVIEW OF THE CONTRACT BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION AND THE COURTS.

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6 **Basis for suggested change:** These are important provisions of the act that should
7 be included in the ballot analysis.

8 **Staff comment:** Agree.

9 *****

10 **ARGUMENTS AGAINST**

11 **3. Responder:** Paul Farley

12 **Suggested change:** Page 4, lines 32 and 33:

13 The Governor's administration will be given about 140 additional appointments;
14 ~~doubling the current number.~~

15 **Basis for suggested change:** This proposal will not lead to a doubling of the
16 current number of appointments. There are currently 70 positions in the Senior Executive
17 Service. However, these employees are not exempt employees, so their number would not
18 double.

19 **Staff comment:** Disagree. The doubling of the appointments does not pertain to
20 the Senior Executive Service personnel. The governor currently appoints approximately
21 137 positions. These appointments are executive directors, as well as positions in the
22 Governor's Office, the Office of Information Technology, Office of Economic
23 Development, and Office of Energy Management. Therefore, 140 additional appointments
24 provides about double the number of current appointments.

25 *****

1 **4. Responder: Paul Farley**

2 **Suggested change:** Page 5, lines 2 through 5:

3 ~~The proposal also allows the legislature to shift further power from the state~~
4 ~~personnel board to the executive director. Making the personnel system subject to annual~~
5 ~~changes by the legislature could disrupt the personnel system.~~

6 **Basis for suggested change:** This issue was not raised by opponents during the
7 legislative process. Giving the legislature this authority could help prevent an overreach of
8 power by the executive director of the Department of Personnel and Administration.

9 **Staff comment:** Disagree. Opponents expressed concern about the authority of
10 the General Assembly to change policies currently in the constitution, including the
11 oversight responsibilities of the State Personnel Board and the executive director of the
12 Department of Personnel and Administration.

13 *****

14 **5. Responder: Paul Farley**

15 **Suggested change:** Page 5, lines 11 and 12:

16 ~~Weakening current contracting laws could shift jobs out of Colorado to other states~~
17 ~~and countries~~ TO THE PRIVATE SECTOR.

18 **Basis for suggested change:** Current contracting law does not have any
19 restrictions on overseas outsourcing. The proposal imposes such restrictions. The proposal
20 may make it easier to contract work out of state government, but it makes it more difficult
21 to send contract work out of the state.

22 **Staff comment:** Agree in part. The proposal allows current classified positions to
23 be contracted out. This change could result in more state jobs being shifted to the private
24 sector. The proposal also does not prohibit outsourcing these jobs overseas. The
25 suggested staff language indicates more contracts could go to the private sector, including
26 those located outside of the state.

27 **Revised staff language:** ~~Weakening current contracting laws~~ MORE CONTRACTING
28 WITH PRIVATE COMPANIES could shift jobs out of Colorado to other states and countries.

29 *****

1 **6. Responder:** Paul Farley

2 **Suggested change:** Page 5, lines 13 and 14:

3 State contracts awarded by ~~political appointees~~ EXEMPT EMPLOYEES may lead to
4 abuses if contracts are used as political favors.

5 Page 5, lines 15 and 17:

6 4) More ~~political appointees~~ EXEMPT EMPLOYEES in management positions may not
7 lead to better state government. Instead, institutional knowledge will be lost as experienced
8 senior personnel system employees are displaced by ~~political appointees~~ EXEMPT
9 EMPLOYEES who may not have the necessary skills to perform the job.

10 **Basis for suggested change:** Exempt employees are not necessarily political
11 appointees.

12 **Staff comment:** Agree in part. Staff agrees that not all exempt employees are
13 selected based on political considerations. However, the additional 140 appointments will
14 be made by either a governor, a partisan position, or the executive directors of the various
15 departments, who themselves are appointed by a governor. In some instances, political
16 affiliation will be considered.

17 **Revised staff language:** Page 5, lines 13 and 14:

18 State contracts awarded by ~~political~~ appointees may lead to abuses if contracts are
19 used as political favors.

20 Page 5, lines 15 through 18:

21 4) THIS PROPOSAL COULD RESULT IN MORE POLITICAL APPOINTEES. More political
22 appointees in management positions may not lead to better state government. Instead,
23 institutional knowledge will be lost as experienced senior personnel system employees are
24 displaced by ~~political~~ appointees who may not have the necessary skills to perform the job.

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1 ESTIMATE OF FISCAL IMPACT

2 7. **Responder:** Paul Farley

3 **Suggested change:** Page 5, line 20:

4 This proposal ~~is not expected to significantly affect~~ WILL NOT HAVE ANY
5 FORESEEABLE IMPACT UPON state or local expenditures .

6 **Basis for suggested change:** There is no basis for suggesting that there could be
7 any fiscal impact at all.

8 **Staff comment:** Disagree. The proposal does require, for instance, the
9 promulgation of new rules and for additional candidates to be interviewed. This could
10 impact a department's expenditures, although not significantly.

11 *****

12 TECHNICAL CHANGES

13 8. **Responder:** Staff

14 **Suggested change:** Page 4, lines 15 through 17:

15 This ~~proposal~~ PROPOSAL helps ensure that the best candidate is hired by expanding
16 the pool of eligible candidates and allowing a more effective comparison of desired job
17 qualifications.

18 **Staff comment:** Typographical error.

19 *****

20 9. **Responder:** Paul Farley and Staff

21 **Suggested change:** Page 4, lines 18 and 19, lines 21 and 22, and lines 32 through
22 35; Page 5, line 1.

23 **Basis for suggested change:** Be consistent and use either "Governor" or
24 "governor." Suggests discussing the proposal in terms of "a governor" or "a governor's
25 administration" since the proposal does not refer to a particular governor but rather any
26 future governor of Colorado.

27 **Staff comment:** Agree.

28 **Revised staff language:** Page 4, lines 18 through 24.

1 This proposal allows ~~the Governor's~~ A GOVERNOR'S administration to select about
2 140 more individuals who share the ~~Governor's~~ GOVERNOR'S values to carry out the
3 administration's policies. The state personnel system has grown from about 1,000
4 employees in 1916 to over 31,000 in 2004. However, the ability of ~~the Governor's~~ A
5 GOVERNOR AND THE administration to appoint high-level state administrators has not
6 changed. With this proposal, future governors will be able to get off to a quick start on
7 their policy initiatives because senior personnel from past administrations can be easily
8 replaced.

9 Page 4, lines 31 through 35, and page 5, line 1:

10 This proposal gives ~~the Governor~~ GOVERNORS AND THEIR ~~and political~~ appointees
11 too much power to control state government. ~~The Governor's~~ EACH administration will
12 be given about 140 additional appointments, doubling the current number. Also, the
13 Executive Director of the Department of Personnel and Administration, appointed by the
14 Governor, will now have policy-making authority over the areas of the personnel system
15 that the state personnel board has traditionally overseen.

16 *****

17 **10. Responder:** Staff

18 **Suggested change:** Initial cap "State Personnel Board" throughout the document.

19 *****

21 **11. Responder:** Staff

22 **Suggested change:** Lower case "executive director" throughout the document.