

# Final Draft with Responses

## State Personnel System

### 1     **The proposed amendment to the Colorado Constitution:**

- 2             ♦       exempts about 140 additional state employees from the state civil service  
3                     system, also known as the state personnel system;
- 4             ♦       changes testing and hiring procedures for filling vacancies in the state  
5                     personnel system;
- 6             ♦       transfers certain oversight responsibilities from the State Personnel Board  
7                     to the executive director of the Department of Personnel and  
8                     Administration;
- 9             ♦       allows the legislature to change certain state personnel policies and  
10                    procedures by law; and
- 11            ♦       expands veterans' hiring preferences to include members of the National  
12                    Guard.

### 13    **Background**

14            *What is the state personnel system?* Colorado voters amended the state  
15            constitution in 1918 to create the state personnel system. It requires that state employees  
16            be hired and promoted according to merit. This proposal makes a number of changes to  
17            the constitution and in certain instances gives the legislature the authority to change the  
18            personnel system.

19            Currently, there are about 31,000 state employees in the state personnel system.  
20            Most are employees of the state's 19 departments, and some are employees of state higher  
21            education institutions. About 29,000 additional state employees are exempt from the state  
22            personnel system, including department heads, faculty of public universities, and employees  
23            of the legislature, the Governor's Office, and the state courts. This proposal exempts an  
24            additional 0.45 percent of the number of employees in the state personnel system, or about  
25            140 senior state officers and support staff combined. Table 1 shows the personnel system  
26            employment requirements under the constitution and this proposal.

**Table 1: Current and Proposed State Personnel System**

Issue	The Current Personnel System:	The Proposed Personnel System:
Hiring and Promotions	Prohibits discrimination based on race, religion, and political affiliation.	Adds prohibitions on discrimination based on sex and age, unless otherwise permitted by law.
Residency	Requires state employees to reside in Colorado.	Allows the legislature to make exceptions to the Colorado residency requirement, provided employees are United States residents.
Discipline	Sets criteria for disciplining an employee in the constitution.	Allows the legislature to address certain disciplinary policies in law.
Temporary Employees	Limits temporary employment to six months.	Limits temporary employment to nine months in any 12-month period.

***How is the state personnel system governed?*** The five-member State Personnel Board sets the policy for the state personnel system, and the executive director of the Department of Personnel and Administration takes care of day-to-day operations. Table 2 describes the current duties of the board and the executive director and the proposed changes.

**Table 2: Oversight of State Personnel System**

Issue	The Current Personnel System:	The Proposed Personnel System:
Board Membership	Limits members' terms to five years. Prohibits state employees from serving on the board.	Limits members' terms to two five-year terms. Allows state employees to serve on the board.
Board Duties	Requires the board to make rules governing the state personnel system and to hear appeals from employees and job applicants.	Transfers the board's rule-making authority over hiring, job classifications, compensation, performance standards, and voluntary departures to the executive director. Retains the board's powers over grievances, discipline, involuntary dismissals, and appeals. Allows the legislature to transfer duties between the board and executive director.
Executive Director Duties	Manages the state personnel system and approves temporary employment of up to six months.	Expands the executive director's duties to include rule-making over hiring, job classifications, compensation, performance standards, and voluntary departures.

1           ***How are job applicants hired?*** Current law identifies how employees are hired and  
2 promoted. Table 3 describes current law pertaining to testing and hiring procedures and  
3 the proposed changes.

4                           **Table 3: Hiring of State Personnel System Employees**

5 <b>Issue</b>	<b>The Current Personnel System:</b>	<b>The Proposed Personnel System:</b>
6           Testing	Requires applicants for jobs in the 7 state personnel system to be hired 8 based on competitive testing.	Requires job applicants to be hired 9 based on a comparison of 10 qualifications. Requires the legislature to determine the methods for comparing applicants.
11          Interview 12          Eligibility List	Limits the eligibility list to the three highest scoring applicants.	Increases the eligibility list to six applicants.
13          Veterans' 14          Preference	Adds preference points to the 15 passing test scores of veterans who 16 served during war time.	Extends the preference to National 17 Guard veterans who served during 18 war time. Requires that all veterans who served during war time be interviewed if scored testing is not used.

19           ***How will this proposal be implemented?*** During the 2004 legislative session, a  
20 state law was passed that defines procedures and sets limits on issues addressed in this  
21 proposal. Most of the law will go into effect only if this proposal is adopted. Among other  
22 provisions, the bill prohibits more than 15 exempt officers and employees in any department  
23 and changes the laws regulating contracts for services. Table 4 shows the current limits on  
24 such contracts and the new requirements.

25                           **Table 4: Contracts for Services**

26 <b>Issue</b>	<b>Current Service Contract Law:</b>	<b>House Bill 04-1373:</b>
27          Service 28          Contracts	Permits contracting only for state 29 government functions not traditionally performed by 30 employees in the state personnel 31 system. Prohibits contracts that 32 eliminate a position within the state 33 personnel system.	Repeals current law pertaining to when the state may use contracts for 34 services. Allows contracts for all state government functions as long 35 as the security of state, local, and national information systems are not compromised. Allows positions to be eliminated as long as employees are moved to new positions within the state personnel system.

Issue	Current Service Contract Law:	House Bill 04-1373:
1 Notice and 2 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.
3 Contract 4 Oversight	Requires contract approval by the Department of Personnel and Administration executive director.	Requires approval by the contracting department's executive director.
6 Foreign 7 Contractors	Not addressed in law.	Permits, if the contract maintains quality of service, protects privacy, and discloses work performed outside the United States.

## 10 Arguments For

11 1) The constitution needs to be updated to allow the state's workforce to keep pace  
12 with the work environment of the 21<sup>st</sup> Century. The state personnel system has not changed  
13 significantly in the past 85 years. This proposal increases the flexibility of the personnel  
14 system by eliminating unnecessary detail from the constitution and allowing the legislature  
15 to adjust the system to respond to changing circumstances. Colorado is one of only 15  
16 states whose personnel system is tied to the state constitution. Requiring a vote of the  
17 people every time an aspect of the system becomes outdated or unworkable is inefficient.

18 2) Taxpayer money should be used to hire the best candidate for a job. The current  
19 personnel system favors people who are the best test takers, not necessarily the most  
20 qualified candidates. This proposal helps ensure that the best candidate is hired by  
21 expanding the pool of eligible candidates and allowing a more effective comparison of  
22 desired job qualifications.

23 3) This proposal allows a governor's administration to select about 140 more  
24 individuals who share the governor's values to carry out the administration's policies. The  
25 state personnel system has grown from about 1,000 employees in 1916 to over 31,000 in  
26 2004. However, the ability of a governor and the administration to appoint high-level state  
27 administrators has not changed. With this proposal, future governors will be able to get off  
28 to a quick start on their policy initiatives because senior personnel from past administrations  
29 can be easily replaced.

30 4) The state will better spend taxpayer money if it can hire the best employees and  
31 improve the use of service contracts, resulting in an efficient personnel system that provides  
32 high quality services. Further, all state contracts will continue to be subject to current

1 purchasing, financial, employee conduct, and disclosure requirements. These requirements  
2 protect the new system against awarding contracts as political favors.

### 3 **Arguments Against**

4 1) This proposal gives governors and their appointees too much power to control  
5 state government. Each administration will be given about 140 additional appointments,  
6 doubling the current number. Also, the governor-appointed executive director of the  
7 Department of Personnel and Administration will now have policy-making authority over  
8 areas of the personnel system that the State Personnel Board has traditionally overseen.  
9 Those areas include hiring, job classifications, compensation, performance standards and  
10 voluntary departures. The proposal also allows the legislature to shift further power from  
11 the State Personnel Board to the executive director. Making the personnel system subject  
12 to annual changes by the legislature could disrupt the personnel system. These changes  
13 combined may make the state personnel system less predictable and vulnerable to abuse.

14 2) Comparing applicant qualifications, rather than testing, could be manipulated to  
15 allow state employees to be hired based on their political connections and not on merit.  
16 Testing candidates to determine the best candidate for a job is the most efficient and fair  
17 way to hire employees.

18 3) More contracting with private companies could shift jobs out of Colorado to  
19 other states and countries. Also, there is no guarantee that unregulated contract workers  
20 will provide services to the state in the most cost-effective manner. State contracts  
21 awarded by appointees may lead to abuses if contracts are used as political favors.

22 4) This proposal could result in more political appointees. More political  
23 appointees in management positions may not lead to better state government. Instead,  
24 institutional knowledge will be lost as experienced senior personnel system employees are  
25 displaced by appointees who may not have the necessary skills to perform the job.

### 26 **Estimate of Fiscal Impact**

27 This proposal is not expected to significantly affect state or local expenditures.