

Petitions.

(1) General provisions. This section shall create fundamental rights to strengthen citizen control of government. It shall be self-executing and severable and supersede conflicting constitutional, charter, and other state and local laws. Time limits shall be delayed only to expire on district business days. The state shall enforce strictest compliance with this section by all districts. All individual and class action suits shall be filed within one year of violations. Plaintiffs may require jury trial verdicts on all matters of law, fact, and damages. District violations shall not void petitions, nor be balanced or harmonized, nor excused by substantial compliance, good faith, ignorance, or emergencies, but shall require strictest scrutiny and full enforcement. Successful plaintiffs shall also recover from defendant districts and (3)(d) violators all costs and attorney fees, contingent or not, but defendants who are not petition agents may recover only if juries find suits frivolous.

(2) Definitions. Within this section: **(a)** "Ballot titles" means all language on ballots describing specific petitions.

(b) "Districts" means the state and all local governments, including enterprises, authorities, and other governmental entities.

(c) "Petitions" means citizen-sponsored referenda and initiatives on legislative policy, not on specific uses of administrative procedure.

(d) "Shall" means mandatory.

(3) Petition rights. **(a)** Petition rights shall exist in all districts. Required district registered elector petition entries shall not exceed 5% of all district votes for secretary of state candidates in the last full-term general election for that office. The general assembly may reduce that number for proposed statutes. Any review and comment hearing shall be held within 7 days of filing initiative drafts. Initiative ballot titles shall not exceed 75 words, shall be set within 7 days of requests made at any time, and may also be set by any state district court. Except on courts, lawyers shall not be ballot title setters. Ballot title setters shall also be disqualified for bias or other good cause. Future single-subject requirements for petitions shall exist by voter-approved petitions only. No summary or fiscal note shall be made at ballot title settings. Ballot title disputes and all single-subject challenges shall be filed with the supreme court within 5 days of such settings, finally decided within 7 days of filings, and very broadly construed to aid initiatives. Unless otherwise decided within 7 days of filings, initiatives shall conclusively be properly-titled single subjects. Decisions that initiatives contain multiple subjects shall list in writing all words not part of single subjects. Revisions that delete those words, and add no others, shall conclusively be single subjects. Decisions shall also provide ballot titles for initiatives and revisions. No other ballot title or single-subject rehearing, appeal, challenge, or decision shall be made. Within 7 days of requests for petition forms, districts shall print and deliver them and may charge actual costs up to one dollar per 100-entry form. All districts shall adapt the 1988 state petition forms without summaries or county entry spaces. Errors in petition forms or ballot titles shall not affect petitions. Peaceful petitioning at exits of buildings owned or leased by any district and then open to the public shall be protected. Except for petition form charges, no petition process fee, badge, bond, licensing, or training for petition agents or circulators shall be required. Any adult in Colorado may circulate any petition. Using paid circulators shall create no extra legal duty.

(b) In each district, no more than 12 legislative measures passed each year shall be excepted from possible referendum petitions. Excepted measures, and detailed descriptions of emergencies justifying exceptions, shall each be passed by 3/4ths or more of all members of the elected local board or of each house of the general assembly. State measures not excepted shall take effect 91 days or more after the general assembly session passing them finally adjourns, and such local measures 91 days or more after post-passage publication. Initial filing of referendum petitions with sufficient gross entries before that 91st day shall delay the effective date until the election or final petition invalidation. Measures rejected by voters shall then be void, and measures wholly or mostly similar shall then be passed again with voter approval only. Referendum petition ballot titles shall read, "SHALL (DISPUTED SECTIONS OF) (types of measures and numbers only) BE APPROVED?" Referendum petitions may begin at any time. They shall have no ballot title setting, appeal, or single-subject challenge, nor print texts of measures on petition forms. Only appropriations for district support are exempt from referendum petitions. This section shall not apply to referendum petitions reducing private property rights, such as zoning issues, which petitions may still lawfully exist.

(c) Within 12 months of petition form delivery, petitions shall be initially filed with sufficient gross entries. Petitions not initially filed 3 months or more before elections may be filed for the next election. Signers of petitions later notarized or verified shall be presumed district registered electors making valid entries until disproved in protests by clear and convincing evidence. Technical defects, minor variations, and minor omissions shall be very broadly construed to aid petitions. Listing mailing addresses shown on registration records shall be valid. All protests shall be filed within 10 days of petition filings and not amended. Hearings shall be public, limited to reasons itemized in protests, and decided within 10 days of protest filings, using state judicial rules of evidence and procedure. Results of random sampling or machine reading of entries shall be excluded. Each protested entry shall be examined separately at the hearing. If districts do not review equally all petitions before elections, no district review results shall be used to invalidate any such petition. Petitioners shall have 10 days after all validation procedures and appeals to refile with corrections and added petition entries made at any time, to which all procedures and appeals shall also apply. Third filings are barred. When initially filed, petitions with sufficient gross entries shall receive ballot numbers and ballot placement, which remain through all procedures and appeals.

(d) All state and local petitions on any subject shall be Article X, section 20 (3) ballot issues at any November election. Petition agents may file up to 1,000 words for ballot information booklets and election notices sent to all active registered elector addresses. The length of such filings shall be the maximum for summaries of comments filed by opponents. For petitions, those booklets and notices shall be limited to such written comments filed by 45 days before elections and other information required by Article X, section 20 (3)(b). Article V, section 1 (7.5)(a)(II) and the last sentence of Article X, section 20 (3)(b)(v) shall not apply to petitions. Except for court cases, or petition or election procedures and materials required by law, no district or district employee shall aid spending district resources, or using any district procedure, equipment, or employee time, to comment on pending petitions after ballot titles are set, or to defend accused violators or reimburse fines. Each district and each other violator shall separately pay the state general fund at once, per event and without offset, the greater of \$3,000 or three times such illegally-spent district resources. Unless otherwise stated in their texts or unless their texts be unlawful, future voter-approved initiatives shall be in effect until changed by voters. This section may be amended, superseded, or repealed by voter-approved petitions only. Except for state statutes subject to possible referendum petitions and enacted by March 1, 2005, all future state and local petition laws, rules, and regulations shall be Article X, section 20 (3) ballot issues at any November election.

1. Add “for petitions” after “single-subject requirements” in 3a.
2. Add “summaries or” in front of “county entry spaces” in 3a. One might say 1988 forms provide for it, even if not created at title setting. Some local clerks, such as Littleton, inject their own summary, arguably not during a title -setting hearing.
3. Delete “local” after “Future” in 3a. Do you think that is a problem? By its own terms, it does not apply to existing s-s requirements? We could use it later to argue against future expansion of the s-s rule by legislation or court opinion. Right now, the “local” qualification is practically an invitation to expand the state s-s rule.
4. Change 10 to 12 in the first sentence of 3b. I just re-read 1994 and 1996 Blue Book arguments and League of WV pamphlets. They said there could be more than 6 or 9 emergencies. With the 3/4ths vote, let’s give local governments an “emergency of the month” and the general assembly one every 10 days while in session. If they still complain that is not enough, they will look ridiculous.
5. Change 3c sentence to “Technical defects, minor variations, and minor omissions shall...” I think it is clear that “minor” now refers to both, but we need not have to explain that. We don’t want opponents to say any omissions are excused, such as name and address.
5. In 3d, change THREE sentences to TWO as indicated. Note deletion of superfluous “all” in third sentence. We want to include district use of public resources, like their cable TV channel. I changed “public” to “district” in each location in BOTH sentences. This covers any person spending district resources (paper, staff time, etc.) AND the DISTRICT USING identified district means, even if there is no tangible cost, such as cable shows, coverage of council meetings, FAXs, press conferences, and resolutions. Private persons can still hold meetings on ballot issues in city parks and buildings because you can’t “spend” a park or other space. Also, some people might not get that “public resources” means government or taxpayer resources, not private resources of members of the public. “District” is defined here already as meaning governmental entities. Include “aid spending...using....making” to cover abettors who don’t directly pay the cost or bills because they don’t write the checks.
7. Change \$2,000 to \$3,000. Since PRA will cover cases where the district uses district resources that don’t cost taxpayers money, such as a public auditorium or city cable TV program, we want the penalty to be strong. It applies per violation, by the way, so it is \$5,000 for each airing of a cable TV show commenting on a petition. Note the addition of “per event” but that there is no adjustment for inflation. Remember, “comment” means to mention; it need not be hostile or favorable. Balanced comments are still comments. What we want from governments that have used our tax money in petition campaigns is SILENCE.

SEND ME YOUR CORRECTED VERSION FOR REVIEW BEFORE YOU RE-FILE WITH LLS AND LC.

I hope you don’t mind. I think this is an improvement, particularly in strengthening the penalty for use of tax money against petitions.

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P.S. Two other corrections are required. First, change “District violations” in (1) to “Violations shall not...” since we want to cover violations by employees as well.

Second, shorten the prohibition sentence in 3d. It was redundant and hard to read. See above revision of both changes. Note the change to “district employee,” so it doesn’t cover private citizens speaking against a petition at a council meeting. “Outlet” would have reminded the reader of a light socket. A process would include a district press release, council meeting, employee newsletter, etc. A device would include a district FAX or photocopier machine, telephone, car, computer email, etc. A media agent would include a public relations officer, etc. This makes it much tighter. Opponents will not be able to say we are interfering with private citizens’ right to free speech. They will say we are muzzling government’s ability to persuade us how to vote, and we will reply, “That’s not government’s job.”

I also removed the “to” in front of “reimburse fines.” in 3d.

Note the typo in the prior email notes, above. The \$5,000 should be \$3,000.

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