

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

April 21, 2004

TO: Michael Graves and Scott Isgar

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2003-2004 #152, concerning hunting and fishing fee increases

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

The purpose of this statutory requirement of the Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Purposes

The major purposes of the proposed amendment appear to be:

1. To require voter approval through a majority vote for increases in resident hunter and other associated fees.
2. To set procedures for the Wildlife Commission to propose an increase in such fees.
3. To require the General Assembly to approve an increase in such fees at least 180 days before a general election.

4. To prohibit the General Assembly from referring such a fee increase to the voters without the Wildlife Commissioners first submitting such an increase to the General Assembly.
5. To require public notice of such a proposed increase through posting by the Division of Wildlife 90 days prior to an election and by publication in the Ballot Information Booklet published by the Legislative Council.
6. To clarify that the Wildlife Commissioners do not need voter approval to raise non-resident license fees if the General Assembly approves such an increase.

Comments and Questions

The form and substance of the proposed initiative raise the following comments and questions:

Technical questions:

1. It appears that the proponents intend to amend the Colorado Constitution. Do the proponents wish to specify where in the Colorado Constitution the initiative would be placed? For example, the proponents may wish to place the provision as Section 13 of Article VII, which is the next available number under the Article titled "Suffrage and Elections."
2. Standard drafting practice in Colorado is to introduce changes to constitutional and statutory provisions by means of an "amending clause." Such clause would typically read, for example,

"Article VII of the state constitution is amended BY THE ADDITION OF A NEW SECTION to read:"

Would the proponents consider incorporating this form of amending clause into the text of the proposed initiative?
3. In the first sentence of subsection (1), the proposal capitalizes the word that follows the comma: "IN ORDER TO PROTECT THE FISHING AND HUNTING HERITAGE OF COLORADO, THE DIVISION ..."
This is not standard English. Would the proponents consider not capitalizing the word "THE" that follows the comma?
4. Subsection (4) contains the following: "... SHALL BE POSTED BY THE DIVISION OF WILDLIFE FOR PUBLIC VIEWING USING WHATEVER TECHNOLOGY IS CURRENT AT THETIMEFOR EXAMPLE, A WEB PAGE, NO LATER ..."
The example clause lacks a necessary comma and is a bit awkward. Would the proponents consider replacing the section with the following: "... SHALL BE POSTED BY THE DIVISION OF WILDLIFE FOR PUBLIC VIEWING USING CURRENT TECHNOLOGY, A WEB PAGE FOR EXAMPLE, NO LATER ..."

Substantive questions:

1. The proposal is unclear as to whether the General Assembly may raise resident hunting fees without voter approval by merely passing a bill to raise such fees. Do the proponents intend to require voter approval for all statutory changes that increase resident hunting and associated fees? If so, the proponents may settle the issue by rewriting subsection (1) to read: "IN ORDER TO PROTECT THE FISHING AND HUNTING HERITAGE OF COLORADO, THE DIVISION OF WILDLIFE COMMISSIONERS AND THE GENERAL ASSEMBLY SHALL BE REQUIRED TO OBTAIN PUBLIC APPROVAL BY A MAJORITY VOTE TO RAISE RESIDENT FISHING OR HUNTING LICENSE FEES OR FEES ASSOCIATED WITH RESIDENT HUNTING AND FISHING."

2. Subsection (4) contains the following: "THE GENERAL ASSEMBLY SHALL APPROVE OR DISAPPROVE ANY RESIDENT FEE INCREASE NO LATER THAN 180 DAYS BEFORE AN EVEN YEAR ELECTION BEGINNING IN 2006." What do the proponents intend to happen if the General Assembly fails to approve or disapprove such an increase before the deadline? Does the proposed measure fail, or is it merely postponed until the next even-year election?