

**Referendum O
Citizen-Initiated State Laws**

1 **Referendum O proposes amending the Colorado Constitution to:**

- 2 ♦ decrease the number of signatures required to place a statutory
- 3 initiative on the ballot;
- 4 ♦ increase the number of signatures required to place a constitutional
- 5 initiative on the ballot;
- 6 ♦ require that eight percent of signatures for constitutional initiatives be
- 7 gathered from each congressional district;
- 8 ♦ require that drafts of proposed constitutional initiatives be submitted for
- 9 review earlier in the year;
- 10 ♦ extend the time period for collecting signatures for statutory initiatives;
- 11 ♦ increase the number of votes required for the legislature to change a
- 12 statutory initiative for five years after the statute takes effect; and
- 13 ♦ allow the public and state legislators to comment on proposed initiatives
- 14 at a public meeting.

15 **Summary and Analysis**

16 In Colorado, citizens may propose new state laws or changes to existing laws
17 through the initiative process. Under this process, proposed laws are put on the ballot
18 by citizens instead of being proposed within the state legislature. Initiatives must be
19 approved by voters to take effect.

20 Citizens may initiate changes either to the state constitution or state statutes. In
21 general, the constitution defines the powers of the legislative, executive, and judicial
22 branches of government and contains the bill of rights. The constitution may be
23 changed only with approval of the state's voters at an election, and therefore is a more
24 permanent set of laws. Statutes, on the other hand, are more easily changed because
25 they may be amended through any of the following ways:

- 26 ♦ a bill passed by the state legislature and approved by the governor;
- 27 ♦ a bill passed by the state legislature and approved by the voters; or
- 28 ♦ an initiative approved by the voters.

29 When conflicts arise between the constitution and statutes, the constitution prevails.

30 Referendum O changes the requirements for proposing statutory and constitutional
31 initiatives, making it easier to propose statutory initiatives and more difficult to propose
32 constitutional initiatives.

1 **Signature requirements.** To place an initiative on the ballot, proponents must
 2 collect a certain number of signatures from registered voters. Currently, there is no
 3 difference in the signature requirements for constitutional and statutory measures.
 4 Referendum O differentiates between the two types, requiring 50 percent more
 5 signatures for constitutional initiatives than statutory initiatives, giving proponents of
 6 statutory initiatives an additional 3 months to collect signatures, and requiring
 7 proponents of constitutional initiatives to collect signatures throughout the state. Table 1
 8 compares the current signature requirements to those proposed by Referendum O.

9 **Table 1: Current and Proposed Signature Requirements**

Issue	Current Initiative Process	Referendum O Initiative Process
How many valid signatures are required to place an initiative on the ballot?	An amount equal to 5 percent of all votes cast for secretary of state at the most recent election; 76,047 signatures required for 2008.	<u>Constitutional</u> - An amount equal to 6 percent of all votes cast for governor at the most recent election; 93,497 signatures required for 2008. <u>Statutory</u> - An amount equal to 4 percent of all votes cast for governor at the most recent election; 62,331 signatures required for 2008.
Where must signatures be collected?	Anywhere in the state.	<u>Constitutional</u> - At least 8 percent of the minimum required number of signatures must be collected from each congressional district; 7,480 signatures required from each of the 7 congressional districts (52,360 of the 93,497 total required signatures) for 2008. <u>Statutory</u> - No change
What is the maximum time allowed for collecting signatures?	6 months	<u>Constitutional</u> - No change <u>Statutory</u> - 9 months

29 **Review of initiatives.** Under current law, initiatives must be submitted to the
 30 nonpartisan legislative staff for review. This review helps to ensure that the initiative's
 31 wording expresses the proponents' intent and notifies the public that an initiative has
 32 been submitted. The staff prepare written comments that address the wording, intent,
 33 and purpose of the initiative and discuss those comments at a meeting with the
 34 proponents. The public may attend the meeting, but may not testify. Referendum O
 35 requires that constitutional initiatives be submitted to legislative staff earlier than
 36 statutory initiatives and that an opportunity for public comment be provided at the
 37 meeting. Table 2 compares the current and proposed process for reviewing initiatives.

Table 2: Current and Proposed Review Procedures

Issue	Current Initiative Process	Referendum O Initiative Process
What is the deadline for submitting the text of initiatives?	The date changes annually, but generally falls in the second half of April; April 25 for the 2008 election.	<u>Constitutional</u> - No later than the 60th day of the legislative session prior to the election; March 8 for the 2008 election. <u>Statutory</u> - No change
When must staff provide written comments and hold a public meeting?	Within 2 weeks after the measure is submitted	Written comments must be provided to proponents within 2 weeks and the meeting must be held within 3 weeks after the measure is submitted.
Who may provide comments at the meeting?	Only legislative staff and proponents	Members of the public and state legislators, as well as proponents and legislative staff

Protection for statutory initiatives. Under current law, once a statutory initiative is passed by the voters, the legislature can pass a bill at any time to change that statute with a majority vote (33 representatives and 18 senators). Referendum O requires a two-thirds vote in the legislature (44 representatives and 24 senators) to pass a bill changing an initiated statute within five years of the statute taking effect.

Arguments For

1) Laws sometimes need to be updated to keep pace with a changing world. Referendum O encourages citizens to propose statutory initiatives, which can be changed more easily than constitutional initiatives. Statutory initiatives preserve the citizens' right to initiate laws, while giving the legislature flexibility to react when laws require clarification or when problems or unforeseen circumstances arise.

2) Currently, the requirements for proposing constitutional initiatives are no different than the requirements for proposing statutory initiatives, making the constitution susceptible to detailed provisions that cannot be changed without voter approval. In addition, some issues are limited to even-year ballots, and the political will to change a constitutional amendment passed by the voters often does not exist, even when problems become apparent. Requiring more signatures for constitutional initiatives makes it more difficult to propose constitutional amendments, thereby making the Colorado Constitution a more enduring framework for state government.

3) Requiring that signatures for constitutional initiatives be gathered from each congressional district ensures that citizens from across the state support measures before they are placed on the ballot. Due to the relative ease of collecting signatures in heavily populated urban areas compared to sparsely populated rural areas, rural citizens may currently be unaware of proposed ballot measures until late in the election season.

1 4) Allowing the public and state legislators to comment on an initiative at a public
2 meeting early in the process makes the review process more open and helps interest
3 groups and voters gain a better understanding of the measure. It also helps proponents
4 identify potential problems, make sure that the measure clearly expresses their intent,
5 and avoid unintended consequences.

6 5) Limiting the ability of the legislature to change initiated statutes strikes a balance
7 between protecting voter-approved statutes and permitting the legislature to address
8 problems that may arise. The two-thirds legislative approval requirement is stringent
9 enough to protect voter intent, but still allows for non-controversial changes that clarify,
10 correct, or improve a statute.

11 **Arguments Against**

12 1) Referendum O limits the ability of citizens to amend the constitution, which is the
13 only set of laws that requires voter approval to be changed. Constitutional initiatives are
14 the best way for citizens to set fundamental policies of the state that govern the
15 legislature, the executive branch, and the courts. They also allow the public to address
16 issues that the government has not addressed to the public's satisfaction. Requiring 22
17 percent more signatures to qualify for the ballot makes it more difficult and expensive for
18 citizens to exercise their right to petition for constitutional changes.

19 2) The protections in Referendum O for statutory initiatives may not be sufficient to
20 preserve voter-approved statutes from changes by the legislature. With a two-thirds
21 vote, the legislature can overturn the decision of a majority of the state's voters almost
22 immediately. Further, after only five years, the statute can be changed or repealed by
23 majority vote.

24 3) The requirement to collect signatures from each congressional district could
25 enable one part of the state to block a change favored by the rest of the state. Also, it
26 becomes more difficult to meet the signature requirement if the number of congressional
27 districts increases. Ultimately, this measure makes it mathematically impossible for
28 citizens to place constitutional initiatives on the ballot if the state's population grows
29 large enough to include thirteen congressional districts.

30 4) Requiring constitutional initiatives to be filed halfway through the legislative
31 session limits the ability of citizens to respond to action, or inaction, by the legislature on
32 issues of importance to the voters. This change puts citizens at a disadvantage
33 compared to the legislature, which can still propose competing alternatives or bills that
34 weaken an initiative after it has been filed.

35 5) Restricting the ability of the legislature to amend or repeal initiated statutes for
36 five years erodes representative government. Voters elect their representatives to
37 respond to changing priorities, including amending statutes approved by voters.

1 **Estimate of Fiscal Impact**

2 Requiring that signatures be collected from each congressional district for
3 constitutional initiatives will increase state costs to verify signatures. Costs are
4 estimated to increase at least **\$40,200 in the 2010 budget year** and **\$106,000 in the**
5 **2011 budget year**, but the actual increase will depend on the number of constitutional
6 initiatives submitted and the number requiring verification of each signature instead of a
7 random sampling of signatures.