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MEMORANDUM

October 7, 2011

TO: Trenton Parker and Earl Brauch

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2011-2012 #44 concerning Colorado citizens' right to elect Colorado judges

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. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Purpose

The major purpose of the proposed initiative appears to be:

To allow for the free and open election of all Colorado state, county, and municipal judges by the voters of Colorado.

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. It is standard drafting practice to include an amending clause telling the reader what is being added to or amended in the state constitution or Colorado Revised Statutes. For example, if your intention is to add a new article 23 to title 26 of the Colorado Revised Statutes, you would include an amending clause that reads as follows: "In Colorado Revised Statutes, **add** article 23 to title 26 as follows:". Please consider adding an appropriate amending clause(s).

2. The first sentence of the proposed initiative includes the language: "NO. 4: COLORADO CITIZENS' RIGHT TO ELECT COLORADO JUDGES INITIATIVE". Keeping in mind that every word in a ballot initiative must appear in the section of the state constitution or statute that it amends, please consider removing "NO. 4" from the language of the proposed initiative or ballot title.

3. To reflect standard drafting practice, please do not capitalize any word other than the first word in the headnote of the proposed new section or article. E.g., using the language provided, the headnote would read "**xx-xx-xxx. Colorado citizens' right to elect Colorado judges initiative.**".

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Subsection (5.5) of section 1 of article V of the state constitution requires each proposed initiative to have a single subject. What is the single subject of the proponents' initiative proposal?

2. The proposed initiative appears to be just a ballot title and does not include an amending clause or any indication as to what part of the state constitution or Colorado Revised Statutes is to be amended. Please determine what part(s) of the state constitution or statutes you intend to amend and add an appropriate amending clause(s) and language to reflect that determination.

3. What would be the effective date of the proposed initiative?

4. What election year would the election of judges begin?

5. Would all judgeships be up for election in the first election year or would the implementation be staggered?

6. Once elected, how long would each judge's term run? Would there be any term limits?

7. There are several constitutional and statutory provisions in the state constitution concerning judges (e.g., filling of vacancies, retirement and removal, judicial nominations, terms of office, etc.). Is it the proponents' intention to amend or repeal all such provisions?

8. How would judicial campaigns fit under the existing campaign finance regime in the state?