

# STATE OF COLORADO

## Colorado General Assembly

Mike Mauer, Director  
Legislative Council Staff

**Colorado Legislative Council**  
029 State Capitol Building  
Denver, Colorado 80203-1784  
Telephone (303) 866-3521  
Facsimile (303) 866-3855  
TDD (303) 866-3472  
E-Mail: lcs.ga@state.co.us



Dan L. Cartin, Director  
Office of Legislative Legal Services

**Office Of Legislative Legal Services**  
091 State Capitol Building  
Denver, Colorado 80203-1782  
Telephone (303) 866-2045  
Facsimile (303) 866-4157  
E-Mail: olls.ga@state.co.us

### MEMORANDUM

March 15, 2011

**TO:** Aimee Rathburn and Cliff Dodge

**FROM:** Legislative Council Staff and Office of Legislative Legal Services

**SUBJECT:** Proposed initiative measure 2011-2012 #21, concerning voting requirements.

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 initiative appear to be:

1. To require the geographic distribution of signatures of registered electors for a ballot petition for an initiated constitutional amendment or statutory tax increase;
2. To require a 60% vote for the General Assembly to amend, repeal, or supersede a future initiated law for a period of 3 years from the date the law takes effect;
3. To require approval of at least 60% of the votes cast for an initiated or referred constitutional amendment to become part of the Colorado constitution and for an initiated statutory tax increase to become part of the Colorado Revised Statutes; except that this requirement does

not apply to an amendment that is limited to repealing, in whole or in part, one or more constitutional amendments approved by voters prior to the 2013 odd-year election, excluding the proposed initiative.

### **Technical Comments:**

No technical comments were raised by this proposed initiative.

### **Substantive Comments and Questions**

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

1. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. The following questions relate to the meaning of the phrase "statutory tax increase."
  - a. Does the term have the same meaning in both instances in which it is used?
  - b. Would it include any of the following: A rate increase; a change in the tax base; the elimination of a tax credit or exemption; the extension of an expiring tax; a mill levy increase; a valuation for assessment ratio increase for a property class; or any other tax policy changes?
  - c. Does the term include only changes to an existing tax as opposed to the creation of a new tax?
  - d. Does the term include changes related to the administration of the tax that result in greater collections?
  - e. In order to avoid any ambiguity, would the proponents consider defining this term?
3. Must exactly sixty percent of all the members elected to each house, which is 39 votes in the House of Representatives and 21 votes in the Senate, approve a change to initiated statutory law approved at an election after 2012 for the first three years after the law is effective? Does this provision mean "at least sixty percent"?
4. After the three-year period set forth in section 1 (4) (a) of article V, could the general assembly amend, repeal, or otherwise supersede an initiated statutory law with the approval of a majority of all the members elected to each house?
5. What is an "other state law," as used in section 1 (4) (b) (I) of article V of the proposed initiative? Does it have the same meaning as the term "laws" used in section 1 (1) of article V of the Colorado constitution, "initiated statutory law" used in section 1 (4) (a) of the same article, or "initiated laws" used in section 1 (5) of the same article?
6. Was it your intention that any measure, regardless of whether it is referred or initiated, that repeals any part of the proposed initiative would require at least sixty percent of the votes cast thereon?

7. The following questions relate to section 1 (4) (b) (II) of the Colorado constitution:
  - a. Can an initiated constitutional amendment repeal an "other state law"? Was it your intention that the exception applies to an initiated statute that repeals an "other state law approved by voters prior to the 2013 odd-year election"?
  - b. If the answer to the last question is yes, are there any prior state laws approved by voters prior to the 2013 odd-year election that, if repealed, would constitute a statutory tax increase? Is there any instance where the exception could apply to a statutory tax increase?
  - c. Does the phrase "prior to the 2013 odd-year election" modify both amendments to this constitution and any "other state law", or just an "other state law"?
8. The exception to the sixty percent vote requirement for an initiated or referred measure does not appear to apply to a measure that repeals an original provision of the Colorado constitution. Is that your intention?
9. It appears that a measure that meets either the exception set forth in section 1 (4) (b) (II) of article V or section 2 (1) (b) (II) of article XIX of the Colorado constitution, as set forth in the proposed initiative, would only require approval by a majority of the votes cast thereon in order for it to become part of the constitution. Is that correct?
10. The requirement for sixty-percent voter approval does not appear to apply to a referred statutory tax increase. Is that correct?
11. Currently, the general assembly is considering Senate Concurrent Resolution 11-001, which is similar to the proposed initiative. If both measures were referred to and approved by the voters at the 2012 general election, would any of the provisions be inconsistent with one another?