

## Amendment S State Personnel System

1 **Amendment S proposes amending the Colorado Constitution to:**

- 2       ♦ increase the number and types of state employees who may be exempt  
3       from the state civil service system, also known as the state personnel  
4       system;
- 5       ♦ change testing and hiring procedures for filling vacancies in the state  
6       personnel system;
- 7       ♦ expand hiring preferences for veterans; and
- 8       ♦ adjust the terms of service and duties for members of the State  
9       Personnel Board, and the standard to remove certain members.

10 **Summary and Analysis**

11       Amendment S makes changes to the state personnel system, impacting  
12       approximately 32,500 individuals in full- and part-time permanent positions in state  
13       government. The measure applies only to classified employees in the state personnel  
14       system and does not affect nonclassified employees (about 41,000 individuals), most  
15       of whom work in the legislative and judicial branches and at institutions of higher  
16       education. All employees are covered under applicable state and federal employment  
17       laws, such as those protecting against discrimination.

18       ***State personnel system.*** In 1918, Colorado voters amended the state  
19       constitution to create the state civil service system. In 1970, the system was updated  
20       and renamed the state personnel system. It currently requires that:

- 21       • employees be hired and promoted according to merit and fitness;  
22       • job candidates be scored and ranked using a competitive exam;  
23       • hiring decisions be made from among job candidates with the  
24       three highest scores on competitive exams;  
25       • eligible veterans be able to receive a hiring preference for only  
26       one position;  
27       • positions be filled by Colorado residents unless certain conditions are  
28       met; and  
29       • employees provide 12 months of satisfactory service before becoming  
30       certified as classified.

31       Other portions of the system are governed by state law or rule, including  
32       processes to evaluate candidates and job performance, respond to grievances, and  
33       terminate employment. The system is administered by the state personnel director

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1 (head of the Department of Personnel and Administration), with oversight from the  
2 independent State Personnel Board.

3 **Exemption from the state personnel system.** Exempted positions are  
4 specifically listed in the state constitution and include most employees of the state  
5 courts, the legislature, and the state's institutions of higher education, as well as  
6 department heads and members of certain boards and commissions. Political  
7 appointees serving the administration of the Governor and Lieutenant Governor are  
8 also exempt. Similar to the private sector, exempted employees and their state  
9 agency employers may each end the employment relationship at any time. In these  
10 positions, there are no universal standards for evaluating candidates, assessing job  
11 performance, or responding to grievances.

12 Amendment S allows the state personnel director to exempt certain additional  
13 management and support positions, up to 1 percent of the total number of employees  
14 in the state personnel system. Based on the current figure of about 32,500 classified  
15 employees, the measure allows an estimated 325 new positions to be exempted.  
16 Currently, most departments have only one exempt position, the department head. If  
17 voters approve Amendment S, additional exemptions may include deputy department  
18 heads, chief financial officers, public information officers, legislative liaisons, human  
19 resource directors, executive assistants to department heads, and members of the  
20 senior executive service (SES). The SES is a performance pay plan authorized by  
21 state statute to compensate up to 125 positions with a high level of management  
22 responsibility. SES positions are currently allocated according to department size, and  
23 new exemptions may be similarly distributed.

24 **Evaluating and hiring job candidates.** Currently, candidates must be ranked  
25 based on the results of a competitive exam using criteria set by each department and  
26 following rules issued by the State Personnel Board. In practice, each candidate is  
27 awarded up to 100 points based on the results of his or her exam, with additional  
28 points awarded if he or she qualifies for a veterans' preference. The measure allows  
29 for the use of other objective methods to evaluate, compare, and rank job candidates.  
30 These other methods may include written exams, oral boards, search committees, or  
31 the use of non-numerical criteria, as long as they meet professionally accepted  
32 standards.

33 Current law requires hiring managers to choose among the three candidates with  
34 the highest scores. Amendment S allows the top six candidates to be considered,  
35 regardless of the evaluation and ranking method used. Under the measure, the state  
36 personnel director, rather than the State Personnel Board, will be required to issue  
37 rules for the evaluation and ranking of candidates through the public rule-making  
38 process.

39 **Hiring preferences for veterans.** Under the current evaluation process, an  
40 eligible veteran or his or her surviving spouse receives five additional points on his or  
41 her competitive exam score. A disabled veteran receives ten additional points. Once  
42 an individual has been hired by the state using a veterans' preference, he or she may  
43 not apply the preference again to another position. Amendment S allows a veteran to

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1 continue to use preference points when applying for most other positions in the  
2 system.

3 **Hiring temporary employees.** Colorado's constitution allows for temporary  
4 employment of persons for up to 6 months to address a short-term or urgent hiring  
5 need. State rules clarify that a temporary appointment may not exceed 6 months  
6 within a 12-month period. The measure extends the time limit for temporary  
7 employment to 9 months, and state rules may be adjusted accordingly.

8 **Residency.** Colorado's constitution requires that positions within the personnel  
9 system be filled by residents of Colorado unless the State Personnel Board finds the  
10 position requires special education or special qualifications and the position cannot be  
11 readily filled by a Colorado resident. Amendment S gives the state personnel director  
12 the authority to waive residency requirements as well. It also eliminates the residency  
13 requirement for positions located within 30 miles of the state border.

14 **State personnel system oversight.** The five-member State Personnel Board,  
15 which includes three members appointed by the Governor and two members elected  
16 by classified employees, sets policy for the system. None of the members may be a  
17 state employee. Currently, board members may serve an unlimited number of  
18 five-year terms and may only be removed for cause. The board is responsible for  
19 setting rules for conducting competitive exams used to evaluate candidates for  
20 positions in the system, approving exemptions from residency requirements, and  
21 hearing appeals to certain decisions made by the state personnel director.

22 If approved, Amendment S:

- 23
- 24 • reduces board terms from five years to three years for members  
25 appointed or elected after January 1, 2013;
  - 26 • limits board members from serving more than two terms;
  - 27 • allows two appointees to serve or be removed at the Governor's  
28 pleasure;
  - 29 • removes the authority of the board to set rules for the process and  
30 criteria used to evaluate and hire candidates for positions in the system;  
31 and
  - 32 • allows the state personnel director to set the rules for evaluating and  
hiring candidates and to approve residency exemptions.

*For information on those issue committees that support or oppose the  
measures on the ballot at the November 6, 2012, election, go to the  
Colorado Secretary of State's elections center web site hyperlink for ballot  
and initiative information:*

*<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>*

## 1 Arguments For

2 1) State employees provide a wide variety of services to meet the needs of  
3 citizens, and the public deserves the most qualified employees to do the job. The  
4 current hiring process limits the pool of eligible candidates and may favor the best  
5 test-takers over applicants with practical experience. The measure expands the pool  
6 of eligible candidates and allows state agencies to consider other objective methods  
7 for evaluating job applicants. An improved applicant evaluation process increases the  
8 ability of state to hire the best candidate for each position.

9 2) The measure updates the state personnel system to better align the state with  
10 current business practices and make it more efficient and accountable to Colorado  
11 taxpayers. It gives the Governor the ability to hire key staff, allowing for a quicker  
12 implementation of the policy agenda he or she is elected to enact. Under the  
13 measure, the state is better equipped to complete special projects and respond to  
14 seasonal demands with temporary employees who are allowed to work nine months  
15 rather than six. It also allows for the hiring of nonresidents in positions located close  
16 to the state border, helping state agencies to identify the best candidates for  
17 difficult-to-fill positions in a timely manner and from a wider applicant pool.  
18 Additionally, the measure recognizes the sacrifice of veterans, allowing them to use a  
19 hiring preference whenever they apply for a state position, rather than only once.

## 20 Arguments Against

21 1) The measure gives the Governor and political appointees, including the state  
22 personnel director, too much power over the state's personnel system. The  
23 Governor's administration will be able to exempt about 325 additional positions from  
24 the system, and members of the constitutionally independent State Personnel Board  
25 could be removed without cause. Also, the state personnel director, appointed by the  
26 Governor, will now have policymaking authority over areas of the system that the  
27 board has traditionally overseen, including job candidate evaluation and exemption  
28 from residency requirements. This overlap in authority could lead to potential conflicts  
29 between the director and the board and create confusion for candidates and  
30 employees.

31 2) The state personnel system exists, in part, to protect state employees from  
32 undue political influence, and this measure removes some of those protections,  
33 making the system more vulnerable to favoritism and abuse. Evaluating qualifications,  
34 rather than using numerical exam scores, makes it more difficult for state agencies to  
35 objectively compare candidates. The new system could make it easier to hire persons  
36 based on political or personal connections rather than merit and result in more  
37 appeals of hiring decisions. In addition, the new exemptions could displace  
38 experienced existing state employees with political appointees. This may result in the  
39 loss of institutional knowledge and subject traditionally neutral positions, such as chief  
40 financial officers and human resource directors, to political pressure.

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## 1 **Estimate of Fiscal Impact**

2       Allowing certain state jobs to be filled by nonresidents could affect state and local  
3 government revenue, mainly sales taxes and vehicle fees. Positions filled by a  
4 nonresident that would have otherwise been filled by a Colorado resident will reduce  
5 revenue, and positions that would have otherwise gone unfilled will increase revenue.  
6 Changing the rules for hiring state employees could also affect expenditures, but the  
7 overall impact is not expected to be significant.