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MEMORANDUM

November 5, 2013

TO: Ken Toltz and Heather Coogan

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2013-2014 #49, concerning eliminating the authority of a concealed handgun permit holder to carry a concealed handgun on the real property, or into any improvements erected thereon, of a public college or university

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 purpose of the proposed amendment to the Colorado constitution appears to be:

1. To eliminate the authority of a concealed handgun permit holder to carry a concealed handgun on the real property, or into any improvements erected thereon, of a public college or university.

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. Section 1 (8) of article V of the Colorado constitution states, "The style of all laws adopted by the people through the initiative shall be, 'Be it Enacted by the People of the State of Colorado'." To conform to this constitutional requirement, the proponents should begin the language of their proposal with this phrase.
2. For the sake of clarity, the proponents should delete the headings and other text that precedes the language of their drafted initiative.
3. After the enacting clause (described at #1, above), the proponents should include an amending clause that conforms to standard drafting practice, such as the following:

SECTION 1. In Colorado Revised Statutes, 18-12-214, **amend** (3) as follows:

4. The language appears to be in the form of a title that would appear on the ballot rather than the actual text of the proposed statutory change. The title of the measure will be set by the title board at a later date.
5. Standard drafting practice is to indicate deleted text in strike-type (i.e., ~~strike-type~~) and new text in small caps (i.e., SMALL CAPS), with deleted text preceding new text where such text appears adjacent to one another. So, after the amending clause (described at #3, above), the proponents should indicate the amended text of subsection 18-12-214(3), C.R.S., as follows:

18-12-214. Authority granted by permit - carrying restrictions. (3) A permit issued pursuant to this part 2 does not authorize a person to carry a concealed handgun onto the real property, or into any improvements erected thereon, of a public elementary, middle, junior high, or high school OR A PUBLIC COLLEGE OR UNIVERSITY; except that:

Substantive Comments and Questions

The substance of the proposed initiative raises the following question:

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. In their proposal, the proponents use the phrase "public college *and* university" (emphasis added). For the sake of clarity, the proponents should substitute the phrase "public college *or* university" (emphasis added). (In this memo, we have assumed that the proponents intended to use the phrase "public college or university".)
3. In their proposed language, the proponents indicate changes to only the introductory portion of subsection (3) of section 18-12-214, C.R.S. The proponents have omitted from this

introductory portion the phrase "except that:" and the paragraphs (a), (b), and (c) that follow this introductory portion in existing law. The proponents may wish to consider amending these paragraphs (a), (b), and (c) in a manner that is consistent with their proposed amendment to the introductory portion. For example:

SECTION 1. In Colorado Revised Statutes, 18-12-214, **amend** (3) as follows:

18-12-214. Authority granted by permit - carrying restrictions. (3) A permit issued pursuant to this part 2 does not authorize a person to carry a concealed handgun onto the real property, or into any improvements erected thereon, of a public elementary, middle, junior high, or high school OR A PUBLIC COLLEGE OR UNIVERSITY; except that:

(a) A permittee may have a handgun on the real property of the public school OR PUBLIC COLLEGE OR UNIVERSITY so long as the handgun remains in his or her vehicle and, if the permittee is not in the vehicle, the handgun is in a compartment within the vehicle and the vehicle is locked;

(b) A permittee who is employed or retained by contract by a school district OR BY THE ADMINISTRATION OF A PUBLIC COLLEGE OR UNIVERSITY as a school security officer may carry a concealed handgun onto the real property, or into any improvement erected thereon, of a public elementary, middle, junior high, or high school OR A PUBLIC COLLEGE OR UNIVERSITY while the permittee is on duty;

(c) A permittee may carry a concealed handgun on undeveloped real property owned by a school district ~~that~~ OR OWNED BY A PUBLIC COLLEGE OR UNIVERSITY IF THE PROPERTY is used for hunting or other shooting sports.

If, however, the proponents intend to amend *only* the introductory portion of 18-12-214 (3), C.R.S., and they do not intend to make any amendments to the paragraphs (a), (b), and (c), then the proponents should draft the amending clause of their proposed initiative accordingly. For example:

SECTION 1. In Colorado Revised Statutes, 18-12-214, **amend** (3) introductory portion as follows: