

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

January 3, 2014

**TO:** Chris Forsyth and Laurie Forsyth

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

**SUBJECT:** Proposed initiative measure 2013-2014 #54, concerning election of justices and 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 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 require justices and judges to receive at least a two-thirds majority of the votes cast at an election to be retained in office.
2. To define how a two-thirds majority is calculated.
3. To specify that the provision applies to elections conducted as of and after November 1, 2014.

#### 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.

None

**Substantive Comments and Questions**

The substance of the proposed initiative raises the following 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 measure purports to impact the election conducted in November of 2014. At the time that the votes are cast, electors would not know what majority would be required for justices and judges up for retention at that election. Have the proponents considered whether the measure would raise an issue of due process or retrospective legislation?