

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: ols.ga@state.co.us

MEMORANDUM

March 31, 2014

TO: Craig Hall, Paula Rhoads Hook, and Brian Memeth

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2013-2014 #109 and #110, concerning Removal of Administrative Law Judges Harr and DiMarino from Office

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 amendment to the Colorado constitution or Colorado Revised Statutes appear to be:

1. To remove Michael Harr and Thomas DiMarino from their positions as administrative law judges in the office of administrative courts;

2. To prohibit Michael Harr and Thomas DiMarino from being employed by any governmental entity in 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. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In the constitution of the state of Colorado, **add** section __ to article X as follows:". Or, for example, if you intend to add a new article to title 39 of the Colorado Revised Statutes, you would include the following amending clause: "In Colorado Revised Statutes, **add** article __ to title 39 as follows:".
2. It is standard drafting practice to number each section, part, etc. that is being amended or added with a section number (e.g., **SECTION 1.**, **SECTION 2.**) before the amending clause. For example:

SECTION 1. In Colorado Revised Statutes, **add** article 39 to title 8 as follows:

3. To show language being added to the Colorado constitution or Colorado Revised Statutes, it is standard drafting practice to use SMALL CAPITAL LETTERS.

Substantive Comments and Questions

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

1. Pursuant to article V, section 1 (2) of the Colorado constitution, proposed initiatives must amend either the Colorado constitution or state law (i.e., the Colorado Revised Statutes). The proposed initiative should be revised to indicate whether it amends the Colorado constitution or the Colorado Revised Statutes and to show where in the constitution or statutes its provisions should be inserted.

2. Under article V, section 1 (5) of the Colorado constitution, the proponent of an initiative is directed to submit the text of a proposed constitutional amendment for review and comment. You have submitted an idea for a ballot question rather than the actual language that would be added to the Colorado constitution or Colorado Revised Statutes. You should amend your proposal to include the actual text of your proposed constitutional or statutory change.
3. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado:". To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
4. 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?