

## Proposition 104 School Board Meeting Requirements

1 **Proposition 104 proposes amending the Colorado statutes to:**

- 2       ♦ require that local school boards or their representatives negotiate  
3       collective bargaining agreements in open meetings.

### 4 **Summary and Analysis**

5       ***Colorado open meetings law.*** Any meeting at which a state or local  
6 governmental body discusses public business or takes formal action must be open to  
7 the public, with certain exceptions. For example, if a governmental body is meeting to  
8 discuss issues such as personnel matters, security details, or real estate transactions,  
9 a closed meeting known as an executive session may be called. Governmental  
10 bodies may also go into executive session to determine positions on matters subject  
11 to negotiations, to develop negotiation strategy, and to instruct negotiators. A vote of  
12 two-thirds of the members present is required to enter executive session, and the  
13 topics to be discussed must be disclosed. Any final action on matters discussed in  
14 executive session must be taken in public.

15       ***Collective bargaining and local governments.*** Collective bargaining is the  
16 process of negotiating terms of employment between an employer and a group of  
17 employees or employee representatives. Many local governments have collective  
18 bargaining agreements with public employees such as firefighters, police officers, and  
19 public school personnel to determine pay, benefits, and working conditions. Collective  
20 bargaining agreements between school boards and school employees address a  
21 variety of other terms and conditions such as curriculum, instructional materials, and  
22 class size.

23       Under current law, the governing body of a local government may designate an  
24 employee or representative to negotiate a collective bargaining agreement, and there  
25 is no requirement that these negotiations take place in public. While a representative  
26 of a local school board may negotiate collective bargaining agreements in private, any  
27 final collective bargaining agreement must be voted on by the school board in a public  
28 meeting and posted on the Internet.

29       Approximately one-quarter of Colorado's school districts, accounting for about  
30 three-quarters of the state's public school students, have collective bargaining  
31 agreements.

32       ***Changes proposed by Proposition 104.*** Under this measure, school boards  
33 or their representatives are required to negotiate collective bargaining agreements in  
34 meetings that are open to the public. It is unclear whether the measure requires  
35 school boards to discuss their negotiation strategies in public. Proposition 104 only

1 applies to school districts and does not impact how other public bodies negotiate  
2 collective bargaining agreements.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 4, 2014**, 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>

### 3 **Argument For**

4 1) Open meetings and transparency are basic principles of good government.  
5 This measure upholds the public's right to be informed and provides additional public  
6 oversight of government spending. Current law requires that school districts post  
7 completed collective bargaining agreements online; however, negotiations to arrive at  
8 these agreements are largely held in private meetings. Holding collective bargaining  
9 negotiations in a public forum allows for greater understanding by the public and  
10 school employees of these proceedings.

### 11 **Argument Against**

12 1) Voters elect local school board members to determine what is best for the  
13 school district, and this measure removes the board's freedom and flexibility to choose  
14 how to negotiate with employees. Currently, school boards are allowed to discuss  
15 collective bargaining agreements in public, and some choose to do so. Negotiations  
16 over labor contracts can be difficult, complicated, and may include sensitive  
17 employment issues. If school boards are required to have these discussions in public,  
18 they may be at a disadvantage during the negotiations, making it harder to reach a  
19 final agreement.

### 20 **Estimate of Fiscal Impact**

21 Requiring school boards to modify negotiation practices related to collective  
22 bargaining agreements may increase local school districts' administrative workloads.  
23 The proposition applies to school districts and will not affect state spending or  
24 revenue.

# Last Draft as Mailed to Interested Parties

## Initiative #124 School Board Meeting Requirements

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# Last Draft Comments from Interested Parties

## Proposition 104 School Board Meeting Requirements

**Tyler Chafee, representing Local Schools, Local Choices:**

To whom it may concern:

On behalf of the Local Schools, Local Choices committee, I submit the following comments on the second draft of the Blue Book for Initiative 124, Open School Board Meetings.

We appreciate the changes you made to the first two drafts to better clarify current law and the collective bargaining process. There are additional changes that would further clarify this and the impact of the measure.

Page 2, lines 9-16: We appreciate the revisions made to the argument against the measure. We are offering additional revisions to that strengthen the argument and better reflect the matter at hand.

### **11 Argument Against**

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13 school district, and this measure removes the board's freedom and flexibility to  
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16 over labor contracts can be difficult, complicated, and may include sensitive  
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STRATEGIC~~

~~18 discussions ABOUT NEGOTIATIONS in public they may WILL be at a  
disadvantage during~~

~~19 the negotiations, making it harder to reach a final agreement THAT BENEFITS THE  
20 DISTRICT AND OUR SCHOOLS.~~

Thank you for the opportunity to comment. Please contact me with any questions.

Sincerely,

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720-436-7065

**PROPOSITION #104**  
**SCHOOL BOARD MEETING REQUIREMENTS**  
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**Proposition 104**  
**School Board Meeting Requirements**

1 **Ballot Title:** Shall there be a change to the Colorado Revised Statutes requiring any meeting of a board  
2 of education, or any meeting between any representative of a school district and any representative of  
3 employees, at which a collective bargaining agreement is discussed to be open to the public?

4 *Be it Enacted by the People of the State of Colorado:*

5 **SECTION 1.** 24-6-402 (1) (a) and (4) (e), Colorado Revised Statutes, are amended to read:

6 **24-6-402. Meetings - open to public.** (1) For the purposes of this section:

7 (a) (I) "Local public body" means any board, committee, commission, authority, or other advisory,  
8 policy-making, rule-making, or formally constituted body of any political subdivision of the state and any  
9 public or private entity to which a political subdivision, or an official thereof, has delegated a governmental  
10 decision-making function but does not include persons on the administrative staff of the local public body.

11 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (A), IN ORDER TO  
12 ASSURE SCHOOL BOARD TRANSPARENCY "LOCAL PUBLIC BODY" SHALL INCLUDE MEMBERS OF A BOARD OF  
13 EDUCATION, SCHOOL ADMINISTRATION PERSONNEL, OR A COMBINATION THEREOF WHO ARE INVOLVED IN A  
14 MEETING WITH A REPRESENTATIVE OF EMPLOYEES AT WHICH A COLLECTIVE BARGAINING AGREEMENT IS  
15 DISCUSSED.

16 (4) The members of a local public body subject to this part 4, upon the announcement by the local  
17 public body to the public of the topic for discussion in the executive session, including specific citation to  
18 the provision of this subsection (4) authorizing the body to meet in an executive session and identification  
19 of the particular matter to be discussed in as much detail as possible without compromising the purpose  
20 for which the executive session is authorized, and the affirmative vote of two-thirds of the quorum present,  
21 after such announcement, may hold an executive session only at a regular or special meeting and for the  
22 sole purpose of considering any of the following matters; except that no adoption of any proposed policy,  
23 position, resolution, rule, regulation, or formal action, except the review, approval, and amendment of the  
24 minutes of an executive session recorded pursuant to subparagraph (II) of paragraph (d.5) of subsection  
25 (2) of this section, shall occur at any executive session that is not open to the public:

26 (e) (I) Determining positions relative to matters that may be subject to negotiations; developing  
27 strategy for negotiations; and instructing negotiators.

28 (II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (E) SHALL NOT APPLY TO A MEETING OF  
29 THE MEMBERS OF A BOARD OF EDUCATION OF A SCHOOL DISTRICT:

30 (A) DURING WHICH NEGOTIATIONS RELATING TO COLLECTIVE BARGAINING, AS DEFINED IN SECTION 8-3-  
31 104 (3), C.R.S., ARE DISCUSSED; OR

32 (B) DURING WHICH NEGOTIATIONS FOR EMPLOYMENT CONTRACTS, OTHER THAN NEGOTIATIONS FOR AN  
33 INDIVIDUAL EMPLOYEE'S CONTRACT, ARE DISCUSSED.

34 **SECTION 2.** 22-32-109.4, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW  
35 SUBSECTION to read:

36           **22-32-109.4. "Colorado School Collective Bargaining Agreement Sunshine Act" - board of**  
37 **education - specific duties.** (4) ANY MEETING OF A BOARD OF EDUCATION AT WHICH A COLLECTIVE  
38 BARGAINING AGREEMENT IS DISCUSSED SHALL BE OPEN TO THE PUBLIC AND ANY NOTICE REQUIRED BY SECTION  
39 24-6-402(2) (c), C.R.S., SHALL BE GIVEN PRIOR TO THE MEETING.