

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

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

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35 school boards to discuss their negotiation strategies in public. The measure only

Last Draft as Mailed to Interested Parties

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3 **Argument For**

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11 **Argument Against**

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13 school district, and this measure removes the board's freedom and flexibility to choose
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16 over labor contracts can be difficult, complicated, and may include sensitive
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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 initiative applies to school districts and will not affect state spending or revenue.

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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~~18 employment issues. If school boards are required to have these THEIR~~
~~19 STRATEGIC~~
~~20 discussions ABOUT NEGOTIATIONS in public they may WILL be at a~~
~~disadvantage during~~
~~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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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.