

**Initiative #96
Requirements for Constitutional Amendments**

1 **Amendment ? proposes amending the Colorado Constitution to:**

- 2 ◆ require that a certain number of signatures be gathered from each state
3 senate district to place a constitutional initiative on the ballot; and
- 4 ◆ increase the percentage of votes required to adopt a constitutional
5 amendment, except for proposals that only repeal part of the state
6 constitution.

7 **Summary and Analysis**

8 **Background.** In Colorado, citizens have the power to propose changes to the
9 state constitution and statutes through the citizen-initiative process. Under this
10 process, proponents must collect a certain number of signatures to place an initiative
11 on the ballot. The state legislature may refer constitutional changes to the voters with
12 a two-thirds vote of both houses. State statutes can be changed by the legislature
13 without a vote of the people, but amending the constitution, whether by citizen initiative
14 or legislative referendum, requires a majority of the votes cast in an election.

15 In order to place a citizen initiative on the ballot to change the constitution or state
16 statutes, proponents must collect enough signatures to equal at least 5 percent of the
17 votes cast in the most recent election for Secretary of State. In 2016, this requirement
18 is 98,492 signatures. Proponents have up to six months to gather and submit
19 signatures to the Secretary of State's Office for verification.

20 **Changes under Amendment ?.** Amendment ? adds a requirement that
21 signatures be collected statewide for the citizen-initiative process and increases the
22 percentage of votes required to adopt changes to the constitution in most situations.
23 Amendment ? does not alter the process or requirements for citizen initiatives that
24 propose changes to state statutes.

25 **Signature requirements.** Amendment ? creates an additional signature-gathering
26 requirement to place a constitutional initiative on the ballot. Of the total required
27 signatures, some must be collected from each of the state's 35 senate districts in an
28 amount of at least 2 percent of the registered voters in each district.

29 Table 1 shows a sample of state senate districts and the minimum number of
30 signatures that would be needed to place a measure on the ballot under
31 Amendment ?, based on the 2 percent requirement and the number of registered
32 voters in these districts.

Table 1. Sample Signature Collection Requirements Under Amendment ?, as of May 1, 2016

State Senate District	Location	Number of Registered Voters	2 Percent of Registered Voters
District 1	11 counties in northeast Colorado	90,983	1,820
District 7	Mesa County	110,167	2,203
District 20	a portion of Jefferson County	118,644	2,373
District 29	a portion of Arapahoe County	82,963	1,659
District 35	16 counties in south and southeast Colorado	88,962	1,779

Source: Colorado Office of Secretary of State with Legislative Council Staff calculations.

Percent of vote required to adopt changes to the constitution. Under current law, changes to the constitution require a simple majority of all votes cast, or 50 percent plus one vote. Amendment ? changes this requirement to 55 percent of all votes cast, except when a proposed amendment repeals rather than changes part of the constitution, in which case a simple majority of votes is required.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 8, 2016**, 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>

Arguments For

1) It should be difficult to change the constitution because it is a foundational document for the state. Because the current requirements for proposing and adopting constitutional and statutory amendments are the same, the constitution has seen the addition of detailed provisions that cannot be changed without an election. Amendment ? is expected to encourage citizen-initiated changes to law in statute by making it harder to amend the constitution. Statutory changes allow the legislature to react when laws require clarification or when problems or unforeseen circumstances arise.

2) Requiring that signatures for constitutional initiatives be gathered from each state senate district ensures that citizens from across the state have a say in which measures are placed on the ballot. Due to the relative ease of collecting signatures in heavily populated urban areas compared to sparsely populated rural areas, rural citizens currently have a limited voice in determining which issues appear on the ballot.

1 **Arguments Against**

2 1) Amendment ? makes it too difficult for citizens to exercise their right to initiate
3 constitutional changes. Sometimes the will of the people or issues of broad public
4 interest are not adequately addressed by the political process. While statutory
5 changes may be amended or repealed without the approval of the voters, the power to
6 amend the Colorado constitution lies solely with its citizens. It is critical to preserve
7 the current process and to protect the rights of citizens to change the constitution.

8 2) Requiring proponents to collect signatures statewide for proposed
9 constitutional changes makes the process of placing an amendment on the ballot even
10 more difficult and costly. Amendment ? unduly restricts ballot access for average
11 Coloradans, leaving an important democratic tool accessible only to those able to bear
12 the higher costs associated with a complicated signature-gathering process.

13 **Estimate of Fiscal Impact**

14 ***State government spending.*** Amendment ? will increase costs for the Secretary
15 of State's Office to implement the changes.

Last Draft as Mailed to Interested Parties

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2 1) Amendment ? makes it too difficult for citizens to exercise their right to initiate
3 constitutional changes. Sometimes the will of the people or issues of broad public
4 interest are not adequately addressed by the political process. It is critical to protect
5 the right of the voters to change the constitution because such changes can only be
6 amended in a future election, and this level of protection should be maintained.

7 2) Requiring proponents to collect signatures statewide for proposed
8 constitutional changes makes the process of placing a measure on the ballot even
9 more difficult and costly. Amendment ? unduly restricts ballot access for average
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Last Draft Comments from Interested Parties

Initiative 96 Requirements for Constitutional Amendments

Kaye Fissenger, representing herself:

Without specifically mentioning the consequence of the 2% signature threshold from each senate district as a condition for getting on the ballot, you are seriously misleading the public. The omission constitutes a bias in favor of the initiative. Even if the measure secured signatures enormously higher than the initiative's stated overall requirement, that would turn out to be irrelevant. That provision goes well beyond minority rule. Our nation was founded on majority rule. This is the most important argument against Initiative #96.

Your Summary and Analysis fails to highlight the difference in the number of signatures required with the current rule of 5% of those who voted in the last Secretary of State Office election and the new requirement of using registered voters as the baseline. The difference between that number of votes for the Secretary of State and the number of votes required for all registered voters is enormous.

The bottom line is that your analysis, by its exclusions, promotes Initiative #96. You are required by law to be impartial.

Kaye Fissinger

Michele Papale, representing herself:

Initiative #96 serves to further place the constitutional initiative process out of reach for all but the wealthy. Some petition gatherers for #96 received \$3 per signature - ironically, in order to prevent others from running future constitutional ballot initiatives, the backers of #96 are spending a huge amount to pass theirs.

The cost and requirements of the constitutional initiative process are already prohibitive for most people. Without substantial funds (common wisdom holds at least \$250,000) to hire petition gatherers, it is impossible to collect the requisite 98,000+ signatures within 5 to 6 months. Initiative #96 represents yet another effort by oil & gas and friends of industry to decimate the last vestige of democracy, the Citizen Ballot Initiative.

If anything belongs in the Constitution it is the right of the people to govern themselves. The state, acting as surrogate for the State Oil & Gas Association and the Colorado Mining Association, currently claims right to preempt local government regarding safety, health and welfare of the people and protection of water and the environment. Initiative #96 is an attempt to further reinforce the power of money/industry that uses the state as surrogate to preempt the right of people to govern themselves. Whereas, the Colorado Constitution states that all law emanates from the people for the good of the people.

Initiative #96 invites abuse and contention regarding what constitutes 2 percent of registered voters in any particular senate district over any particular period of time.

Last Draft Comments from Interested Parties

Michele Papale, representing herself (Cont.):

TABOR is often cited as reason to make amending the Constitution more difficult. However, TABOR was a complex constitutional amendment passed in 1992, containing at least four different subjects and written before the single-subject rule for initiatives was instituted. To favor and pass only a single element of TABOR was not possible without passage of the whole initiative with all its complex elements.

If the legislature wishes to encourage statutory instead of constitutional initiatives, it should be made more difficult for the legislature to overturn statutory initiatives. Currently, the legislature is able to immediately overturn a statute with a simple majority vote. As it stands, all power resides with the legislature which is dominated by industry lobbyists, leaving little to no power for the people. In short, democracy is already greatly diminished from the perspective of the people.

Submitted by: Michele Papale, 2637 Grape St. Denver, CO 80207.

Dennis Polhill, representing the Independence Institute:

Hi Kori,

You asked for nit-picking ... here goes a little.

- 1) we discussed thoroughly in the meeting. page 1, line 8 "must" should change to "reserved the power to ..." or similar words akin to language in Article 5, section 1 ... avoiding building on the perception that GA has authority to grant or remove.
- 2) I wish we had given this one some discussion. Page 2, line 16. A proposition might delete a single word (e.g. "not") and reverse the previous meaning. Since this is a deletion it would need only a simple majority to become law.
- 3) page 3 line 2, "it" should be changed to "the already daunting process."
- 4) page 3 line 10 "democratic" should be changed to "accountability" I would be equally content with "check on excess"

Try as I might, I discovered no misplaced commas, which is always possible. The summary also lacks any discussion of the many efforts by the GA to hobble the process and the hundreds (probably thousands) of safety clause abuses that demonstrate their disregard for both the citizenry, the constitution and the weight-of-conscience they place on their oaths of office. Any elected official supporting 96 is (let's be soft) disingenuous (less soft, I would say unworthy of the office he/she holds).

I've asserted and you can read about it in my 2 IPs that the number of initiatives is a measure of how well, unwell, legislators do their legislative jobs. The process is so daunting, it is undertaken only as a last resort. Terry Considine, then a state Senator, could not get his buddies in the Senate to pass his term limits bill out of committee, so he used I&R spawning the modern term limits movement. We could have waited 1000 years and the GA would have never addressed the issue. Ditto TABOR. Ditto CFR. Ditto many other reforms.

Last Draft Comments from Interested Parties

Dennis Polhill, representing the Independence Institute as an opponent (Cont.):

The discussion of Common Cause's Campaign Finance Reform going into constitution increasing the size of our constitution by close to 10% in one shot, thanks to the GA, is on page 6 of my 2007 IP.

I'm gonna give more thought to the point we discussed somewhat on page 1, line 28 about the 2% yielding a bigger number than the 5%. It can happen and will.

Thanks.
Dennis

Katelyn Roberts, representing EIS Solutions/Raise the Bar as a proponent:

We want to thank the Legislative Council Staff for their diligent work on Initiative #96. They are both very thorough and fair in their approach to this valuable service to the people of Colorado.

As the proponents of this initiative we are asking for some minor changes in language to better reflect word choices that the citizenry of Colorado regularly use as opposed to the language those who work in and around the Capitol use. "Capitol speak" sometimes sounds like a different dialect of English than what is heard in coffee shops across Colorado.

The suggested changes we ask of Legislative Council Committee:

On page 1 at line 19 after "verification." add "Currently, the requirements to change state law and the constitution are exactly the same."

Our reason is that this should be clear in the background information.

On page 1 at line 24 strike "amend statute" and substitute "change state law"
This reflects language used by average citizens.

On page 2 at line 18 before "difficult" insert "more"

On page 2 at line 18 after "constitution" insert "than state law"

On page 2 at line 18 strike "because it" and insert "because the constitution"

Line 18 would read: "It should be more difficult to change the constitution than state law because the constitution is a"

These minor changes just make it more clear what Amendment 71 will do.

On page 3 at line 4 strike "political" insert "legislative"

Our thought on this is that what the General Assembly does is legislative, political is what happens in elections.

On page 3 at line 8, strike "a measure" insert "an amendment"

Again, this reflects language actually used by regular citizens.

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Initiative 96
Requirements for Constitutional Amendments

1 **Ballot Title:** Shall there be an amendment to the Colorado constitution making it more difficult to
2 amend the Colorado constitution by requiring that any petition for a citizen-initiated constitutional
3 amendment be signed by at least two percent of the registered electors who reside in each state
4 senate district for the amendment to be placed on the ballot and increasing the percentage of votes
5 needed to pass any proposed constitutional amendment from a majority to at least fifty-five percent
6 of the votes cast, unless the proposed constitutional amendment only repeals, in whole or in part,
7 any provision of the constitution?

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

9 **SECTION 1.** In the constitution of the state of Colorado, Section 1(4) of article V is amended
10 and said section 1 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

11 **Section 1. General assembly - initiative and referendum.**

12 (2.5) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, A PETITION FOR AN
13 INITIATED CONSTITUTIONAL AMENDMENT SHALL BE SIGNED BY REGISTERED ELECTORS WHO RESIDE IN EACH
14 STATE SENATE DISTRICT IN COLORADO IN AN AMOUNT EQUAL TO AT LEAST TWO PERCENT OF THE TOTAL
15 REGISTERED ELECTORS IN THE SENATE DISTRICT PROVIDED THAT THE TOTAL NUMBER OF SIGNATURES OF
16 REGISTERED ELECTORS ON THE PETITION SHALL AT LEAST EQUAL THE NUMBER OF SIGNATURES REQUIRED
17 BY SUBSECTION (2) OF THIS SECTION. FOR PURPOSES OF THIS SUBSECTION (2.5), THE NUMBER AND
18 BOUNDARIES OF THE SENATE DISTRICTS AND THE NUMBER OF REGISTERED ELECTORS IN THE SENATE
19 DISTRICTS SHALL BE THOSE IN EFFECT AT THE TIME THE FORM OF THE PETITION HAS BEEN APPROVED FOR
20 CIRCULATION AS PROVIDED BY LAW.

21 (4) (a) The veto power of the governor shall not extend to measures initiated by or referred
22 to the people. All elections on measures initiated by or referred to the people of the state shall be
23 held at the biennial regular general election, and all such measures shall become the law or a part
24 of the constitution, when approved by a majority of the votes cast thereon OR, IF APPLICABLE THE
25 NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), and not otherwise,
26 and shall take effect from and after the date of the official declaration of the vote thereon by
27 proclamation of the governor, but not later than thirty days after the vote has been canvassed. This
28 section shall not be construed to deprive the general assembly of the power to enact any measure.

29 (b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, AN INITIATED
30 CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT
31 IS APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; EXCEPT THAT THIS
32 PARAGRAPH (b) SHALL NOT APPLY TO AN INITIATED CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO
33 REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

34 **SECTION 2.** In the constitution of the state of Colorado, Section 2(1) of article XIX is
35 amended to read:

36 **Section 2. Amendments to constitution - how adopted.** (1) (a) Any amendment or
37 amendments to this constitution may be proposed in either house of the general assembly, and,
38 if the same shall be voted for by two-thirds of all the members elected to each house, such

1 proposed amendment or amendments, together with the ayes and noes of each house thereon,
2 shall be entered in full on their respective journals. The proposed amendment or amendments shall
3 be published with the laws of that session of the general assembly. At the next general election for
4 members of the general assembly, the said amendment or amendments shall be submitted to the
5 registered electors of the state for their approval or rejection, and such as are approved by a
6 majority of those voting thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO
7 PARAGRAPH (b) OF THIS SUBSECTION (1), shall become part of this constitution.

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9 AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY
10 AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT
11 APPLY TO A CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY
12 PROVISION OF THIS CONSTITUTION.