An Act

HOUSE BILL 08-1193

BY REPRESENTATIVE(S) Levy, Gardner B., Hodge, Jahn, Labuda, Lambert, Lundberg, Middleton, Scanlan, Stafford, Todd, and Weissmann; also SENATOR(S) Shaffer.

CONCERNING PROHIBITING A JUDGE FROM PRESIDING OVER A CASE IN WHICH A JUDGE OF THE SAME COURT IS A PARTY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 5 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

13-5-143. Judge as party to a case - recusal of judge upon motion. (1) IF A JUDGE OR FORMER JUDGE OF A DISTRICT COURT IS A PARTY IN HIS OR HER INDIVIDUAL AND PRIVATE CAPACITY IN A CASE THAT IS TO BE TRIED WITHIN ANY DISTRICT COURT IN THE SAME JUDICIAL DISTRICT IN WHICH THE JUDGE OR FORMER JUDGE IS OR WAS A JUDGE OF A DISTRICT COURT, ANY PARTY TO THE CASE MAY FILE A TIMELY MOTION REQUESTING THAT THE JUDGE WHO IS APPOINTED TO PRESIDE OVER THE CASE RECUSE HIMSELF OR HERSELF FROM THE CASE.

(2) IF A DISTRICT COURT RECEIVES A MOTION FILED BY A PARTY PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE JUDGE WHO IS

_____

APPOINTED TO PRESIDE OVER THE CASE SHALL RECUSE HIMSELF OR HERSELF IF HE OR SHE IS A JUDGE OF A DISTRICT COURT IN THE SAME JUDICIAL DISTRICT IN WHICH THE JUDGE OR FORMER JUDGE WHO IS A PARTY TO THE CASE IN HIS OR HER INDIVIDUAL AND PRIVATE CAPACITY IS OR WAS A JUDGE OF A DISTRICT COURT.

(3) IF A JUDGE RECUSES HIMSELF OR HERSELF PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT OR HIS OR HER DESIGNEE SHALL APPOINT A JUDGE FROM OUTSIDE THE JUDICIAL DISTRICT TO PRESIDE OVER THE CASE.

(4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO A WATER JUDGE OR REFEREE WHEN HE OR SHE IS ACTING WITHIN HIS OR HER EXCLUSIVE JURISDICTION OVER WATER MATTERS PURSUANT TO SECTION 37-92-203, C.R.S.

SECTION 2. Part 2 of article 6 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

13-6-219. Judge as party to a case - recusal of judge upon motion. (1) IF A JUDGE OR FORMER JUDGE OF A COUNTY COURT IS A PARTY IN HIS OR HER INDIVIDUAL AND PRIVATE CAPACITY IN A CASE THAT IS TO BE TRIED WITHIN ANY COUNTY COURT IN THE SAME JUDICIAL DISTRICT IN WHICH THE JUDGE OR FORMER JUDGE IS OR WAS A JUDGE OF A COUNTY COURT, ANY PARTY TO THE CASE MAY FILE A TIMELY MOTION REQUESTING THAT THE JUDGE WHO IS APPOINTED TO PRESIDE OVER THE CASE RECUSE HIMSELF OR HERSELF FROM THE CASE.

(2) IF A COUNTY COURT RECEIVES A MOTION FILED BY A PARTY PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE JUDGE WHO IS APPOINTED TO PRESIDE OVER THE CASE SHALL RECUSE HIMSELF OR HERSELF IF HE OR SHE IS A JUDGE OF A COUNTY COURT IN THE SAME JUDICIAL DISTRICT IN WHICH THE JUDGE OR FORMER JUDGE WHO IS A PARTY TO THE CASE IN HIS OR HER INDIVIDUAL AND PRIVATE CAPACITY IS OR WAS A JUDGE OF A COUNTY COURT.

(3) IF A JUDGE RECUSES HIMSELF OR HERSELF PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT OR HIS OR HER DESIGNEE SHALL APPOINT A JUDGE FROM OUTSIDE THE JUDICIAL DISTRICT TO PRESIDE OVER THE CASE.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to cases filed on or after the applicable effective date of this act.

_____   _____
Andrew Romanoff   Peter C. Groff
SPEAKER OF THE HOUSE   PRESIDENT OF
OF REPRESENTATIVES   THE SENATE

_____   _____
Marilyn Eddins   Karen Goldman
CHIEF CLERK OF THE HOUSE   SECRETARY OF
OF REPRESENTATIVES   THE SENATE

    APPROVED_____

        _____
        Bill Ritter, Jr.
        GOVERNOR OF THE STATE OF COLORADO