

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0773.01 Ed DeCecco

HOUSE BILL 09-1326

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A BILL FOR AN ACT

101 **CONCERNING THE INTEGRITY OF THE STATEWIDE CITIZEN-INITIATED**
102 **PETITION PROCESS, AND MAKING AN APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

With respect to the form of a ballot question submitted to a vote of the people, requires a ballot issue changing the state constitution to be referred to as an "amendment" and a ballot issue changing the Colorado Revised Statutes to be referred to as a "proposition". Requires notice of such terminology to be printed on the official ballot.

Requires a ballot petition, including any signature addendums, to be filed with the secretary of state 3 weeks earlier. Makes the deadline

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

for the last title board meeting prior to an election one month earlier.

Permits a registered elector who signs a petition to withdraw his or her signature by filing a written request with the secretary of state on or before the date the petition is filed with the secretary.

Adds a notice to the top of each page of an initiative petition that a signature indicates support for the placement of the measure on the ballot as a change to either the state constitution or the Colorado Revised Statutes, as applicable, and that, if a sufficient number of registered electors sign the petition, the measure will appear on the ballot.

With respect to circulators, notaries public, and the notarized affidavit that is attached to a petition:

- ! Requires the circulator to affirm that he or she understands the consequences for violating petition laws and for failing to be available in person or by deposition at a protest.
- ! Prohibits a notary public from notarizing an affidavit unless the circulator is in the physical presence of the notary public, the circulator has dated the affidavit and fully completed all the personal information on the affidavit, and the circulator has presented an acceptable form of identification.
- ! Requires the notary public to specify the form of identification that the circulator presented on a blank line included on the affidavit form.
- ! Requires the date signed by a circulator and the notary public to be the same.
- ! Establishes that the date signed by a notary public will not cure a circulator's failure to sign the affidavit.
- ! Prohibits the secretary of state from accepting any petition section that does not have a valid notarized affidavit that complies with all of the statutory requirements related thereto.
- ! Requires a circulator to appear at any petition protest in person, by telephone, or by any other means permitted under the Colorado rules of civil procedure, and invalidates a petition section if a circulator fails to appear at certain protests.
- ! Requires the proponents of a petition or an issue committee acting on behalf of the proponents to maintain a list of the names and addresses of all their circulators and notaries public and the petition section numbers that each circulated or notarized and to file such list with the secretary of state along with the petition, at which time the list shall be a public record.
- ! Requires the secretary of state to prepare the list if one is not received from the proponents and to charge the

- proponents a fee for such preparation.
- ! Requires a circulator who collects more than 100 signatures for any petition to receive training related to potential fraudulent activities in petition circulation.
- ! Invalidates all petition sections circulated in whole or in part by anyone other than the circulator who signs the affidavit attached to the petition sections.
- ! Permits a circulator who is not present in the state to testify by telephone or any other means permitted under the Colorado rules of civil procedure.
- ! Requires the proponents of a petition or an issue committee acting on behalf of the proponents to file the dates of circulation of all paid circulators, the total hours that each circulator was paid, and the gross amount of wages for such work.

After a statement of sufficiency, requires the secretary of state to make a petition available to the public for copying upon request.

Establishes that a district court shall have jurisdiction to consider a protest challenging the secretary of state's statement of a petition's sufficiency without further agency action. Clarifies that the grounds for challenging individual signatures or petition sections shall include fraud or violations of the laws relating to petitions committed by any person involved in the petition circulation process, the use of a petition form that does not comply with the provisions of the act, and any improprieties related to the statutorily prescribed duties by a circulator or notary public. Permits a district court to consider all signatures in a random sample if a protest is limited to an allegation that there were defects in the secretary of state's statement of sufficiency based on a random sample. Permits attorney fees and costs to be sought if the district court determines that there are invalid signatures or petition sections as a result of fraud. Requires attorney fees and costs to be awarded if a protest or defense is determined to be substantially frivolous, substantially groundless, or substantially vexatious.

Creates new criminal violations for unlawful acts related to initiative petitions.

Establishes that the deadline for a designated representative of the proponents of an initiative petition to withdraw the petition from consideration as a ballot issue is 27 days earlier than under current law.

Requires a petition entity to be licensed by the secretary of state. Prohibits the secretary of state from issuing a license to a petition entity unless:

- ! The secretary of state finds that the petition entity's record of petition circulation is consistent with the prevention of fraud in the state's petition circulation process;
- ! The petition entity agrees that all circulators shall not be

- ! paid on a per signature or petition section basis; and
- ! A current representative of the petition entity has completed training requirements related to potential fraudulent activities in petition circulation.

Requires a petition entity to register with the secretary of state by providing the secretary of state the:

- ! Ballot title of any proposed measure for which a petition will be circulated by circulators coordinated or paid by the petition entity;
- ! Current name, address, telephone number, and electronic mail address of the petition entity; and
- ! Name and signature of the designated agent of the petition entity for the proposed measure.

At the request of the secretary of state, requires the petition entity to provide documentation demonstrating that it is not paying circulators on a per signature or petition section basis. Requires the secretary of state to revoke a license if the petition entity authorized or knowingly permitted certain activities related to ballot petitions. Requires the petition entity to pay a license fee in an amount determined by the secretary of state.

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

2 **SECTION 1.** 1-5-407 (5), Colorado Revised Statutes, is amended
3 to read:

4 **1-5-407. Form of ballots.** (5) (a) Whenever the approval of a
5 ballot issue or ballot question is submitted to the vote of the people, the
6 ballot issue or question shall be printed upon the ballot following the lists
7 of candidates. Constitutional issues shall be printed first, followed by
8 statewide issues and questions, county issues and questions, municipal
9 issues and questions, school district issues and questions, ballot issues and
10 questions for other political subdivisions which are in more than one
11 county, and then ballot issues and questions for other political
12 subdivisions which are wholly within a county. The measures in each
13 category shall be placed in the following order: Measures to increase
14 taxes; measures to retain revenues in excess of a district's fiscal year

1 spending limit; measures to increase debt; citizen petitions; and referred
2 measures.

3 (b) BEGINNING WITH THE 2010 GENERAL ELECTION:

4 (I) EACH PROPOSED CHANGE TO THE STATE CONSTITUTION,
5 WHETHER INITIATED BY THE PEOPLE OR REFERRED TO THE PEOPLE BY THE
6 GENERAL ASSEMBLY, SHALL BE IDENTIFIED ON THE BALLOT AS AN
7 "AMENDMENT"; AND

8 (II) EACH PROPOSED CHANGE TO THE COLORADO REVISED
9 STATUTES, WHETHER INITIATED BY THE PEOPLE OR REFERRED TO THE
10 PEOPLE BY THE GENERAL ASSEMBLY, SHALL BE IDENTIFIED ON THE BALLOT
11 AS A "PROPOSITION".

12 **SECTION 2.** 1-40-102, Colorado Revised Statutes, is amended
13 BY THE ADDITION OF A NEW SUBSECTION to read:

14 **1-40-102. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (3.5) "CIRCULATOR" MEANS A PERSON WHO PRESENTS TO OTHER
17 PERSONS FOR POSSIBLE SIGNATURE A PETITION TO PLACE A MEASURE ON
18 THE BALLOT BY INITIATIVE OR REFERENDUM.

19 **SECTION 3.** 1-40-106 (1), Colorado Revised Statutes, is
20 amended to read:

21 **1-40-106. Title board - meetings - titles and submission clause.**

22 (1) For ballot issues, beginning with the first submission of a draft after
23 an election, the secretary of state shall convene a title board consisting of
24 the secretary of state, the attorney general, and the director of the office
25 of legislative legal services or the director's designee. The title board, by
26 majority vote, shall proceed to designate and fix a proper fair title for
27 each proposed law or constitutional amendment, together with a

1 submission clause, at public meetings to be held at the hour determined
2 by the title board on the first and third Wednesdays of each month in
3 which a draft or a motion for reconsideration has been submitted to the
4 secretary of state. To be considered at such meeting, a draft shall be
5 submitted to the secretary of state no later than 3 p.m. on the twelfth day
6 before the meeting at which the draft is to be considered by the title
7 board. The first meeting of the title board shall be held no sooner than
8 the first Wednesday in December after an election, and the last meeting
9 shall be held no later than the third Wednesday in ~~May~~ APRIL in the year
10 in which the measure is to be voted on.

11 **SECTION 4.** 1-40-107 (1) and (5), Colorado Revised Statutes,
12 are amended to read:

13 **1-40-107. Rehearing - appeal - fees - signing.** (1) Any person
14 presenting an initiative petition or any registered elector who is not
15 satisfied with a decision of the title board with respect to whether a
16 petition contains more than a single subject pursuant to section
17 1-40-106.5, or who is not satisfied with the titles and submission clause
18 provided by the title board and who claims that they are unfair or that they
19 do not fairly express the true meaning and intent of the proposed state law
20 or constitutional amendment may file a motion for a rehearing with the
21 secretary of state within seven days after the decision is made or the titles
22 and submission clause are set. The motion for rehearing shall be heard
23 at the next regularly scheduled meeting of the title board; except that, if
24 the title board is unable to complete action on all matters scheduled for
25 that day, consideration of any motion for rehearing may be continued to
26 the next available day, and except that, if the titles and submission clause
27 protested were set at the last meeting in ~~May~~ APRIL, the motion shall be

1 heard within forty-eight hours after the expiration of the seven-day period
2 for the filing of such motions.

3 (5) In the event a motion for rehearing is filed in accordance with
4 this section, the period for filing a petition in accordance with section
5 1-40-108 shall not begin until a final decision concerning the motion is
6 rendered by the title board or the Colorado supreme court; except that
7 under no circumstances shall the period for filing a petition be extended
8 beyond three months AND THREE WEEKS prior to the election at which the
9 petition is to be voted upon.

10 **SECTION 5.** 1-40-108 (1), Colorado Revised Statutes, is
11 amended to read:

12 **1-40-108. Petition - time of filing.** (1) No petition for any ballot
13 issue shall be of any effect unless filed with the secretary of state within
14 six months from the date that the titles and submission clause have been
15 fixed and determined pursuant to the provisions of sections 1-40-106 and
16 1-40-107 and unless filed with the secretary of state ~~within the time~~
17 ~~required by the state constitution~~ NO LATER THAN THREE MONTHS AND
18 THREE WEEKS before the election at which it is to be voted upon. A
19 petition for a ballot issue for the election to be held in November of
20 odd-numbered years shall be filed with the secretary of state ~~within the~~
21 ~~same time~~ NO LATER THAN THREE MONTHS AND THREE WEEKS before such
22 odd-year election. ~~as is required by the state constitution for issues to be~~
23 ~~voted on at the general election.~~ All filings under this section must be
24 made by 3 p.m. on the day of filing.

25 **SECTION 6.** 1-40-109 (3), Colorado Revised Statutes, is
26 amended to read:

27 **1-40-109. Signatures required - withdrawal.** (3) Any person

1 who is a registered elector may sign a petition for any ballot issue for
2 which the elector is eligible to vote. A REGISTERED ELECTOR WHO SIGNS
3 A PETITION MAY WITHDRAW HIS OR HER SIGNATURE FROM THE PETITION BY
4 FILING A WRITTEN REQUEST FOR SUCH WITHDRAWAL WITH THE SECRETARY
5 OF STATE AT ANY TIME ON OR BEFORE THE DAY THAT THE PETITION IS
6 FILED WITH THE SECRETARY OF STATE.

7 **SECTION 7.** 1-40-110 (1), Colorado Revised Statutes, is
8 amended to read:

9 **1-40-110. Warning - ballot title.** (1) At the top of each page of
10 every initiative or referendum petition section shall be printed, in a form
11 as prescribed by the secretary of state, the following:

12 **"WARNING:**

13 **IT IS AGAINST THE LAW:**

14 **For anyone to sign any initiative or referendum petition**
15 **with any name other than his or her own or to**
16 **knowingly sign his or her name more than once for the**
17 **same measure or to knowingly sign a petition when not**
18 **a registered elector who is eligible to vote on the**
19 **measure.**

20 **DO NOT SIGN THIS PETITION UNLESS YOU ARE**
21 **A REGISTERED ELECTOR AND ELIGIBLE TO**
22 **VOTE ON THIS MEASURE. TO BE A**
23 **REGISTERED ELECTOR, YOU MUST BE A**
24 **CITIZEN OF COLORADO AND REGISTERED TO**
25 **VOTE.**

26 **Before signing this petition, you are encouraged to read**
27 **the text or the title of the proposed initiative or referred**

1 **measure.**
2 **BY SIGNING THIS PETITION, YOU ARE INDICATING THAT**
3 **YOU WANT THIS MEASURE TO BE INCLUDED ON THE**
4 **BALLOT AS A PROPOSED CHANGE TO THE (COLORADO**
5 **CONSTITUTION/COLORADO REVISED STATUTES). IF A**
6 **SUFFICIENT NUMBER OF REGISTERED ELECTORS SIGN**
7 **THIS PETITION, THIS MEASURE WILL APPEAR ON THE**
8 **BALLOT AT THE NOVEMBER (YEAR) ELECTION."**

9 **SECTION 8.** 1-40-111 (2), Colorado Revised Statutes, is
10 amended, and the said 1-40-111 is further amended BY THE ADDITION
11 OF THE FOLLOWING NEW SUBSECTIONS, to read:

12 **1-40-111. Signatures - affidavits - notarization - list of**
13 **circulators and notaries.** (2) (a) To each petition section shall be
14 attached a signed, notarized, and dated affidavit executed by the person
15 who circulated the petition section, which shall include his or her printed
16 name, the address at which he or she resides, including the street name
17 and number, the city or town, the county, and the date he or she signed the
18 affidavit; that he or she has read and understands the laws governing the
19 circulation of petitions; that he or she was a resident of the state, a citizen
20 of the United States, and at least eighteen years of age at the time the
21 section of the petition was circulated and signed by the listed electors;
22 that he or she circulated the section of the petition; that each signature
23 thereon was affixed in the circulator's presence; that each signature
24 thereon is the signature of the person whose name it purports to be; that
25 to the best of the circulator's knowledge and belief each of the persons
26 signing the petition section was, at the time of signing, a registered
27 elector; ~~and~~ that he or she has not paid or will not in the future pay and

1 that he or she believes that no other person has paid or will pay, directly
2 or indirectly, any money or other thing of value to any signer for the
3 purpose of inducing or causing such signer to affix his or her signature to
4 the petition; THAT HE OR SHE UNDERSTANDS THAT HE OR SHE CAN BE
5 PROSECUTED FOR VIOLATING THE LAWS GOVERNING THE CIRCULATION OF
6 PETITIONS, INCLUDING THE REQUIREMENT THAT A CIRCULATOR
7 TRUTHFULLY COMPLETED THE AFFIDAVIT AND THAT EACH SIGNATURE
8 THEREON WAS AFFIXED IN THE CIRCULATOR'S PRESENCE; AND THAT HE OR
9 SHE UNDERSTANDS THAT FAILING TO MAKE HIMSELF OR HERSELF
10 AVAILABLE TO BE DEPOSED AND TO PROVIDE TESTIMONY IN THE EVENT OF
11 A PROTEST MAY INVALIDATE THE PETITION SECTION.

12 (b) (I) A NOTARY PUBLIC SHALL NOT NOTARIZE AN AFFIDAVIT
13 REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), UNLESS:

14 (A) THE CIRCULATOR IS IN THE PHYSICAL PRESENCE OF THE
15 NOTARY PUBLIC;

16 (B) THE CIRCULATOR HAS DATED THE AFFIDAVIT AND FULLY AND
17 ACCURATELY COMPLETED ALL OF THE PERSONAL INFORMATION ON THE
18 AFFIDAVIT REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION
19 (2); AND

20 (C) THE CIRCULATOR PRESENTS A FORM OF IDENTIFICATION, AS
21 SUCH TERM IS DEFINED IN SECTION 1-1-104 (19.5). A NOTARY PUBLIC
22 SHALL SPECIFY THE FORM OF IDENTIFICATION PRESENTED TO HIM OR HER
23 ON A BLANK LINE, WHICH SHALL BE PART OF THE AFFIDAVIT FORM.

24 (II) AN AFFIDAVIT THAT IS NOTARIZED IN VIOLATION OF ANY
25 PROVISION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE
26 INVALID.

27 (III) IF THE DATE SIGNED BY A CIRCULATOR ON AN AFFIDAVIT

1 REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IS
2 DIFFERENT FROM THE DATE SIGNED BY THE NOTARY PUBLIC, THE
3 AFFIDAVIT SHALL BE INVALID. IF, NOTWITHSTANDING SUB-SUBPARAGRAPH
4 (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), A NOTARY PUBLIC
5 NOTARIZES AN AFFIDAVIT THAT HAS NOT BEEN DATED BY THE
6 CIRCULATOR, THE NOTARIZATION DATE SHALL NOT CURE THE
7 CIRCULATOR'S FAILURE TO SIGN THE AFFIDAVIT AND THE AFFIDAVIT SHALL
8 BE INVALID.

9 (c) The secretary of state shall not accept for filing any section of
10 a petition that does not have attached thereto ~~the~~ A VALID notarized
11 affidavit ~~required by this section~~ THAT COMPLIES WITH ALL OF THE
12 REQUIREMENTS SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS
13 SUBSECTION (2). Any signature added to a section of a petition after the
14 affidavit has been executed shall be invalid.

15 (3) AS PART OF ANY COURT PROCEEDING OR HEARING CONDUCTED
16 BY THE SECRETARY OF STATE RELATED TO A PROTEST OF ALL OR PART OF
17 A PETITION SECTION, THE CIRCULATOR OF SUCH PETITION SECTION SHALL
18 BE REQUIRED TO MAKE HIMSELF OR HERSELF AVAILABLE TO BE DEPOSED
19 AND TO TESTIFY IN PERSON, BY TELEPHONE, OR BY ANY OTHER MEANS
20 PERMITTED UNDER THE COLORADO RULES OF CIVIL PROCEDURE. THE
21 PETITION SECTION THAT IS THE SUBJECT OF THE PROTEST SHALL BE
22 INVALID IF A CIRCULATOR FAILS TO COMPLY WITH THE REQUIREMENT SET
23 FORTH IN THIS SUBSECTION (3) FOR ANY PROTEST THAT INCLUDES AN
24 ALLEGATION OF ANY OF THE FOLLOWING:

- 25 (a) FORGERY OF A REGISTERED ELECTOR'S SIGNATURE;
- 26 (b) CIRCULATION OF A PETITION SECTION, IN WHOLE OR PART, BY
27 ANYONE OTHER THAN THE PERSON WHO SIGNS THE AFFIDAVIT ATTACHED

1 TO THE PETITION SECTION;

2 (c) USE OF A FALSE CIRCULATOR NAME OR ADDRESS IN THE
3 AFFIDAVIT;

4 (d) PAYMENT OF MONEY OR OTHER THINGS OF VALUE TO ANY
5 PERSON FOR THE PURPOSE OF INDUCING THE PERSON TO SIGN THE
6 PETITION;

7 (e) PAYMENT TO A CIRCULATOR ON A PER SIGNATURE OR PETITION
8 SECTION BASIS; OR

9 (f) COLLECTING MORE THAN ONE HUNDRED SIGNATURES WITHOUT
10 COMPLETING THE TRAINING REQUIRED PURSUANT TO SECTION 1-40-112
11 (3).

12 (4) THE PROPONENTS OF A PETITION OR AN ISSUE COMMITTEE
13 ACTING ON THE PROPONENTS' BEHALF SHALL MAINTAIN A LIST OF THE
14 NAMES AND ADDRESSES OF ALL CIRCULATORS WHO CIRCULATED PETITION
15 SECTIONS ON BEHALF OF THE PROPONENTS AND NOTARIES PUBLIC WHO
16 NOTARIZED PETITION SECTIONS ON BEHALF OF THE PROPONENTS AND THE
17 PETITION SECTION NUMBERS THAT EACH CIRCULATOR CIRCULATED AND
18 THAT EACH NOTARY PUBLIC NOTARIZED. A COPY OF THE LIST SHALL BE
19 FILED WITH THE SECRETARY OF STATE ALONG WITH THE PETITION. IF A
20 COPY OF THE LIST IS NOT FILED, THE SECRETARY OF STATE SHALL PREPARE
21 THE LIST AND CHARGE THE PROPONENTS A FEE, WHICH SHALL BE
22 DETERMINED AND COLLECTED PURSUANT TO SECTION 24-21-104 (3),
23 C.R.S., TO COVER THE COST OF THE PREPARATION. ONCE FILED OR
24 PREPARED BY THE SECRETARY OF STATE, THE LIST SHALL BE A PUBLIC
25 RECORD FOR PURPOSES OF ARTICLE 72 OF TITLE 24, C.R.S.

26 **SECTION 9.** 1-40-112, Colorado Revised Statutes, is amended
27 **BY THE ADDITION OF A NEW SUBSECTION** to read:

1 **1-40-112. Circulators - requirements - training - rules.** (3) NO
2 CIRCULATOR SHALL COLLECT MORE THAN ONE HUNDRED SIGNATURES FOR
3 ANY PETITION UNLESS THE CIRCULATOR FIRST SATISFIES THE TRAINING
4 REQUIREMENTS RELATED TO POTENTIAL FRAUDULENT ACTIVITIES IN
5 PETITION CIRCULATION, AS ESTABLISHED BY THE SECRETARY OF STATE BY
6 RULES PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.
7 THE TRAINING MAY BE CONDUCTED BY THE SECRETARY OF STATE OR BY
8 ANY PERSON WHO HAS COMPLETED THE SECRETARY OF STATE'S TRAINING.
9 THE SECRETARY OF STATE SHALL CHARGE A FEE FOR SUCH TRAINING
10 PROVIDED BY THE SECRETARY'S OFFICE, WHICH FEE SHALL BE DETERMINED
11 AND COLLECTED PURSUANT TO SECTION 24-21-104 (3), C.R.S., TO COVER
12 THE COST OF THE TRAINING. ANY SIGNATURE COLLECTED IN VIOLATION OF
13 THIS SUBSECTION (3) SHALL BE INVALID.

14 **SECTION 10.** 1-40-113 (1), Colorado Revised Statutes, is
15 amended to read:

16 **1-40-113. Form - representatives of signers.** (1) Each section
17 of a petition shall be printed on a form as prescribed by the secretary of
18 state. No petition shall be printed, published, or otherwise circulated
19 unless the form and the first printer's proof of the petition have been
20 approved by the secretary of state. Each petition section shall designate
21 by name and mailing address two persons who shall represent the signers
22 thereof in all matters affecting the same. The secretary of state shall
23 assure that the petition contains only the matters required by this article
24 and contains no extraneous material. All sections of any petition shall be
25 prenumbered serially, and the circulation of any petition section described
26 by this article other than personally by a circulator is prohibited. ANY
27 PETITION SECTION CIRCULATED IN WHOLE OR IN PART BY ANYONE OTHER

1 THAN THE PERSON WHO SIGNS THE AFFIDAVIT ATTACHED TO THE PETITION
2 SECTION SHALL BE INVALID. Any petition section that fails to conform to
3 the requirements of this article or is circulated in a manner other than that
4 permitted in this article shall be invalid.

5 **SECTION 11.** 1-40-115 (2), Colorado Revised Statutes, is
6 amended to read:

7 **1-40-115. Ballot - voting - publication.** (2) All ballot issues shall
8 be printed on the official ballot in that order, together with their respective
9 letters and numbers prefixed in bold-faced type. Each ballot shall have
10 the following explanation printed one time at the beginning of such ballot
11 issues: "Ballot issues referred by the general assembly or any political
12 subdivision are listed by letter, and ballot issues initiated by the people are
13 listed numerically. A BALLOT ISSUE LISTED AS AN 'AMENDMENT' PROPOSES
14 A CHANGE TO THE COLORADO CONSTITUTION, AND A BALLOT ISSUE LISTED
15 AS A 'PROPOSITION' PROPOSES A CHANGE TO THE COLORADO REVISED
16 STATUTES. A 'yes' vote on any ballot issue is a vote in favor of changing
17 current law or existing circumstances, and a 'no' vote on any ballot issue
18 is a vote against changing current law or existing circumstances." Each
19 ballot title shall appear on the official ballot but once and SHALL BE
20 PRECEDED BY THE FOLLOWING STATEMENT IN BOLD-FACE TYPE:

21 **THE FOLLOWING BALLOT ISSUE PROPOSES A CHANGE TO**
22 **THE (COLORADO CONSTITUTION/COLORADO REVISED**
23 **STATUTES).**

24 EACH BALLOT TITLE shall be separated from the other ballot titles next to
25 it by heavy black lines and shall be followed by the words "yes" and "no"
26 with blank spaces to the right and opposite the same as follows:

27 **(HERE SHALL APPEAR THE**

1 **BALLOT TITLE IN FULL)**

2 YES _____ NO _____

3 **SECTION 12.** 1-40-117 (3) (b), Colorado Revised Statutes, is
4 amended to read:

5 **1-40-117. Statement of sufficiency - statewide issues.** (3) (b) In
6 the event the secretary of state issues a statement declaring that a petition,
7 having first been submitted with the required number of signatures,
8 appears not to have a sufficient number of valid signatures, the
9 representatives designated by the proponents pursuant to section 1-40-104
10 may cure the insufficiency by filing an addendum to the original petition
11 for the purpose of offering such number of additional signatures as will
12 cure the insufficiency. No addendum offered as a cure shall be considered
13 unless the addendum conforms to requirements for petitions outlined in
14 sections 1-40-110, 1-40-111, and 1-40-113, and unless the addendum is
15 filed with the secretary of state within the fifteen-day period after the
16 insufficiency is declared and unless filed with the secretary of state ~~within~~
17 ~~the time required by the state constitution~~ NO LATER THAN THREE MONTHS
18 AND THREE WEEKS before the election at which the initiative petition is to
19 be voted on. All filings under this paragraph (b) shall be made by 3 p.m.
20 on the day of filing. Upon submission of a timely filed addendum, the
21 secretary of state shall order the examination and verification of each
22 signature on the addendum. The addendum shall not be available to the
23 public for a period of up to ten calendar days for such examination. After
24 examining the petition, the secretary of state shall, within ten calendar
25 days, issue a statement as to whether the addendum cures the insufficiency
26 found in the original petition.

27 **SECTION 13.** 1-40-118 (1) and (2), Colorado Revised Statutes,

1 are amended, and the said 1-40-118 is further amended BY THE
2 ADDITION OF A NEW SUBSECTION, to read:

3 **1-40-118. Protest.** (1) A protest in writing, under oath, together
4 with three copies thereof, may be filed in the district court for the county
5 in which the petition has been filed by some registered elector, within
6 thirty days after the secretary of state issues a statement as to whether the
7 petition has a sufficient number of valid signatures, which statement shall
8 be issued no later than thirty calendar days after the petition has been
9 filed. If the secretary of state fails to issue a statement within thirty
10 calendar days, the petition shall be deemed sufficient. REGARDLESS OF
11 WHETHER THE SECRETARY OF STATE HAS ISSUED A STATEMENT OF
12 SUFFICIENCY OR IF THE PETITION IS DEEMED SUFFICIENT BECAUSE THE
13 SECRETARY OF STATE HAS FAILED TO ISSUE A STATEMENT OF SUFFICIENCY
14 WITHIN THIRTY CALENDAR DAYS, NO FURTHER AGENCY ACTION SHALL BE
15 NECESSARY FOR THE DISTRICT COURT TO HAVE JURISDICTION TO CONSIDER
16 THE PROTEST. During the period a petition is being examined by the
17 secretary of state for sufficiency, the petition shall not be available to the
18 public; except that such period shall not exceed thirty calendar days.
19 IMMEDIATELY AFTER THE SECRETARY OF STATE ISSUES A STATEMENT OF
20 SUFFICIENCY OR, IF THE PETITION IS DEEMED SUFFICIENT BECAUSE THE
21 SECRETARY OF STATE HAS FAILED TO ISSUE THE STATEMENT, AFTER THIRTY
22 CALENDAR DAYS, THE SECRETARY OF STATE SHALL MAKE THE PETITION
23 AVAILABLE TO THE PUBLIC FOR COPYING UPON REQUEST.

24 (2) (a) If the secretary of state conducted a random sample of the
25 petitions and did not verify each signature, the protest shall specifically
26 allege the defects in the procedure used by the secretary of state in the
27 verification of the petition or the grounds for challenging individual

1 signatures OR PETITION SECTIONS. If the secretary of state verified each
2 name on the petition sections, the protest shall set forth with particularity
3 the grounds of the protest and the INDIVIDUAL signatures OR PETITION
4 SECTIONS protested.

5 (b) REGARDLESS OF THE METHOD USED BY THE SECRETARY OF
6 STATE TO VERIFY SIGNATURES, THE GROUNDS FOR CHALLENGING
7 INDIVIDUAL SIGNATURES OR PETITION SECTIONS PURSUANT TO PARAGRAPH
8 (a) OF THIS SUBSECTION (2) SHALL INCLUDE, BUT ARE NOT LIMITED TO,
9 FRAUD OR VIOLATIONS OF THIS ARTICLE COMMITTED BY ANY PERSON
10 INVOLVED IN THE PETITION CIRCULATION PROCESS, THE USE OF A PETITION
11 FORM THAT DOES NOT COMPLY WITH THE PROVISIONS OF THIS ARTICLE,
12 AND ANY IMPROPRIETIES RELATED TO THE STATUTORILY PRESCRIBED
13 DUTIES BY A CIRCULATOR OR NOTARY PUBLIC.

14 (c) IF THE PROTEST IS LIMITED TO AN ALLEGATION THAT THERE
15 WERE DEFECTS IN THE SECRETARY OF STATE'S STATEMENT OF SUFFICIENCY
16 BASED ON A RANDOM SAMPLE TO VERIFY SIGNATURES, THE DISTRICT
17 COURT MAY REVIEW ALL SIGNATURES IN THE RANDOM SAMPLE.

18 (d) No signature may be challenged that is not identified in the
19 protest by section number, line number, name, and reason why the
20 secretary of state is in error. If any party is protesting the finding of the
21 secretary of state regarding the registration of a signer, the protest shall be
22 accompanied by an affidavit of the elector or a copy of the election record
23 of the signer.

24 (2.5) (a) IF A DISTRICT COURT FINDS THAT THERE ARE INVALID
25 SIGNATURES OR PETITION SECTIONS AS A RESULT OF FRAUD COMMITTED BY
26 ANY PERSON INVOLVED IN THE PETITION CIRCULATION PROCESS, THE
27 REGISTERED ELECTOR WHO INSTITUTED THE PROCEEDINGS MAY COMMENCE

1 A CIVIL ACTION TO RECOVER REASONABLE ATTORNEY FEES AND COSTS
2 FROM THE PERSON RESPONSIBLE FOR SUCH INVALID SIGNATURES OR
3 PETITION SECTIONS.

4 (b) A REGISTERED ELECTOR WHO FILES A PROTEST SHALL BE
5 ENTITLED TO THE RECOVERY OF REASONABLE ATTORNEY FEES AND COSTS
6 FROM A PROPONENT OF AN INITIATIVE PETITION WHO DEFENDS THE
7 PETITION AGAINST A PROTEST OR THE PROPONENT'S ATTORNEY, UPON A
8 DETERMINATION BY THE DISTRICT COURT THAT THE DEFENSE, OR ANY PART
9 THEREOF, LACKED SUBSTANTIAL JUSTIFICATION OR THAT THE DEFENSE, OR
10 ANY PART THEREOF, WAS INTERPOSED FOR DELAY OR HARASSMENT. A
11 PROPONENT WHO DEFENDS A PETITION AGAINST A PROTEST SHALL BE
12 ENTITLED TO THE RECOVERY OF REASONABLE ATTORNEY FEES AND COSTS
13 FROM THE REGISTERED ELECTOR WHO FILES A PROTEST OR THE REGISTERED
14 ELECTOR'S ATTORNEY, UPON A DETERMINATION BY THE DISTRICT COURT
15 THAT THE PROTEST, OR ANY PART THEREOF, LACKED SUBSTANTIAL
16 JUSTIFICATION OR THAT THE PROTEST, OR ANY PART THEREOF, WAS
17 INTERPOSED FOR DELAY OR HARASSMENT. NO ATTORNEY FEES MAY BE
18 AWARDED UNDER THIS PARAGRAPH (b) UNLESS THE DISTRICT COURT HAS
19 FIRST CONSIDERED THE PROVISIONS OF SECTION 13-17-102 (5) AND (6),
20 C.R.S. FOR PURPOSES OF THIS PARAGRAPH (b), "LACKED SUBSTANTIAL
21 JUSTIFICATION" MEANS SUBSTANTIALLY FRIVOLOUS, SUBSTANTIALLY
22 GROUNDLESS, OR SUBSTANTIALLY VEXATIOUS.

23 (c) A DISTRICT COURT CONDUCTING A HEARING PURSUANT TO THIS
24 ARTICLE SHALL PERMIT A CIRCULATOR WHO IS NOT PRESENT IN THE STATE
25 AT THE TIME OF THE HEARING TO TESTIFY BY TELEPHONE OR BY ANY OTHER
26 MEANS PERMITTED UNDER THE COLORADO RULES OF CIVIL PROCEDURE.

27 **SECTION 14.** 1-40-121 (1), Colorado Revised Statutes, is

1 amended to read:

2 **1-40-121. Receiving money to circulate petitions - filing.**

3 (1) The proponents of the petition OR AN ISSUE COMMITTEE ACTING ON
4 BEHALF OF THE PROPONENTS shall file with the official who receives
5 filings under the "Fair Campaign Practices Act", article 45 of this title, for
6 the election a report stating the ~~total amount paid to all persons~~ DATES OF
7 CIRCULATION BY ALL CIRCULATORS who were paid to circulate a section
8 of the petition, THE TOTAL HOURS FOR WHICH EACH CIRCULATOR WAS PAID
9 TO CIRCULATE A SECTION OF THE PETITION, AND THE GROSS AMOUNT OF
10 WAGES PAID FOR SUCH HOURS. The filing shall be made at the same time
11 the petition is filed with the secretary of state. A payment made to a
12 circulator is an expenditure under article 45 of this title.

13 **SECTION 15.** 1-40-130 (1) (h) and (2), Colorado Revised
14 Statutes, are amended, and the said 1-40-130 (1) is further amended BY
15 THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

16 **1-40-130. Unlawful acts - penalty.** (1) It is unlawful:

17 (h) For any officer or person to violate willfully any provision of
18 ~~this article.~~ ARTICLE;

19 (i) FOR ANY PERSON TO CERTIFY AN AFFIDAVIT ATTACHED TO A
20 PETITION IN VIOLATION OF SECTION 1-40-111 (2) (b) (I);

21 (j) FOR ANY PERSON TO SIGN ANY AFFIDAVIT AS A CIRCULATOR,
22 UNLESS EACH SIGNATURE IN THE PETITION SECTION TO WHICH THE
23 AFFIDAVIT IS ATTACHED WAS AFFIXED IN THE PRESENCE OF THE
24 CIRCULATOR;

25 (k) FOR ANY PERSON TO CIRCULATE IN WHOLE OR IN PART A
26 PETITION SECTION, UNLESS SUCH PERSON IS THE CIRCULATOR WHO SIGNS
27 THE AFFIDAVIT ATTACHED TO THE PETITION SECTION.

1 (2) Any person, upon conviction of a violation of any provision of
2 this section, shall be punished by a fine of not more than ONE THOUSAND
3 five hundred dollars, or by imprisonment for not more than one year in the
4 county jail, or by both such fine and imprisonment.

5 **SECTION 16.** 1-40-134, Colorado Revised Statutes, is amended
6 to read:

7 **1-40-134. Withdrawal of initiative petition.** The designated
8 representatives of the proponents of an initiative petition may withdraw
9 the petition from consideration as a ballot issue by filing a letter with the
10 secretary of state requesting that the petition not be placed on the ballot.
11 The letter shall be signed and acknowledged by both designated
12 representatives before an officer authorized to take acknowledgments and
13 shall be filed no later than ~~thirty-three~~ SIXTY days prior to the election at
14 which the initiative is to be voted upon.

15 **SECTION 17.** Article 40 of title 1, Colorado Revised Statutes, is
16 amended BY THE ADDITION OF A NEW SECTION to read:

17 **1-40-135. Petition entities - requirements - definitions.** (1) AS
18 USED IN THIS SECTION, "PETITION ENTITY" MEANS ANY PERSON OR ISSUE
19 COMMITTEE THAT PROVIDES COMPENSATION TO A CIRCULATOR TO
20 CIRCULATE A BALLOT PETITION.

21 (2) (a) IT IS UNLAWFUL FOR ANY PETITION ENTITY TO PROVIDE
22 COMPENSATION TO A CIRCULATOR TO CIRCULATE A BALLOT ISSUE PETITION
23 WITHOUT FIRST OBTAINING A LICENSE THEREFOR, WHICH LICENSE SHALL BE
24 GRANTED AND ISSUED BY THE SECRETARY OF STATE. NO PETITION ENTITY
25 SHALL BE GRANTED A LICENSE UNLESS:

26 (I) THE SECRETARY OF STATE FINDS THAT THE PETITION ENTITY'S
27 RECORD OF PETITION CIRCULATION IS CONSISTENT WITH THE PREVENTION

1 OF FRAUD IN THE STATE'S PETITION CIRCULATION PROCESS;

2 (II) THE PETITION ENTITY AGREES THAT ALL CIRCULATORS SHALL
3 NOT BE PAID ON A PER SIGNATURE OR PETITION SECTION BASIS; AND

4 (III) AT LEAST ONE CURRENT REPRESENTATIVE OF THE PETITION
5 ENTITY HAS COMPLETED THE TRAINING REQUIREMENTS RELATED TO
6 POTENTIAL FRAUDULENT ACTIVITIES IN PETITION CIRCULATION, AS
7 ESTABLISHED BY THE SECRETARY OF STATE, PURSUANT TO SECTION
8 1-40-112 (3).

9 (b) THE SECRETARY OF STATE MAY AT ANY TIME REQUEST THE
10 PETITION ENTITY TO PROVIDE DOCUMENTATION THAT DEMONSTRATES
11 COMPLIANCE WITH SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS
12 SUBSECTION (2).

13 (c) THE SECRETARY OF STATE SHALL REVOKE THE PETITION
14 LICENSE IF, AT ANY TIME AFTER RECEIVING A LICENSE, A PETITION ENTITY
15 IS NO LONGER IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN
16 PARAGRAPH (a) OF THIS SUBSECTION (2) OR IF THE PETITION ENTITY
17 AUTHORIZED OR KNOWINGLY PERMITTED:

18 (I) FORGERY OF A REGISTERED ELECTOR'S SIGNATURE;

19 (II) CIRCULATION OF A PETITION SECTION, IN WHOLE OR PART, BY
20 ANYONE OTHER THAN THE CIRCULATOR WHO SIGNS THE AFFIDAVIT
21 ATTACHED TO THE PETITION SECTION;

22 (III) USE OF A FALSE CIRCULATOR NAME OR ADDRESS IN THE
23 AFFIDAVIT;

24 (IV) PAYMENT OF MONEY OR OTHER THINGS OF VALUE TO ANY
25 PERSON FOR THE PURPOSE OF INDUCING THE PERSON TO SIGN THE PETITION;

26 (V) PAYMENT TO A CIRCULATOR ON A PER SIGNATURE OR PETITION
27 SECTION BASIS;

1 (VI) A CIRCULATOR TO COLLECT MORE THAN ONE HUNDRED
2 SIGNATURES WITHOUT COMPLETING THE TRAINING REQUIRED PURSUANT TO
3 SECTION 1-40-112 (3); OR

4 (VII) A NOTARY PUBLIC'S NOTARIZATION OF A PETITION SECTION
5 OUTSIDE OF THE PRESENCE OF THE CIRCULATOR OR WITHOUT THE
6 PRODUCTION OF THE REQUIRED IDENTIFICATION FOR NOTARIZATION OF A
7 PETITION SECTION.

8 (3) NO LICENSE SHALL BE ISSUED WITHOUT PAYMENT OF A
9 NONREFUNDABLE LICENSE FEE TO THE SECRETARY OF STATE, WHICH
10 LICENSE FEE SHALL BE DETERMINED AND COLLECTED PURSUANT TO
11 SECTION 24-21-104 (3), C.R.S., TO COVER THE COST OF ADMINISTERING
12 THIS SECTION.

13 (4) (a) A LICENSED PETITION ENTITY SHALL REGISTER WITH THE
14 SECRETARY OF STATE BY PROVIDING TO THE SECRETARY OF STATE:

15 (I) THE BALLOT TITLE OF ANY PROPOSED MEASURE FOR WHICH A
16 PETITION WILL BE CIRCULATED BY CIRCULATORS COORDINATED OR PAID BY
17 THE PETITION ENTITY;

18 (II) THE CURRENT NAME, ADDRESS, TELEPHONE NUMBER, AND
19 ELECTRONIC MAIL ADDRESS OF THE PETITION ENTITY; AND

20 (III) THE NAME AND SIGNATURE OF THE DESIGNATED AGENT OF THE
21 PETITION ENTITY FOR THE PROPOSED MEASURE.

22 (b) A PETITION ENTITY SHALL NOTIFY THE SECRETARY OF STATE
23 WITHIN TWENTY DAYS OF ANY CHANGE IN THE INFORMATION SUBMITTED
24 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4).

25 **SECTION 18. Severability.** If any provision of this act or the
26 application thereof to any person or circumstance is held invalid for any
27 reason, such invalidity shall not affect other provisions or applications of

1 the act that can be given effect without the invalid provision or
2 application, and to this end the provisions of the act are declared to be
3 severable.

4 **SECTION 19. Appropriation.** (1) In addition to any other
5 appropriation, there is hereby appropriated, out of any moneys in the
6 department of state cash fund created in section 24-21-104 (3) (b),
7 Colorado Revised Statutes, not otherwise appropriated, to the department
8 of state, for allocation to the information technology division, for the
9 fiscal year beginning July 1, 2009, the sum of one hundred four thousand
10 four hundred dollars (\$104,400) cash funds, or so much thereof as may be
11 necessary, for the implementation of this act.

12 (2) In addition to any other appropriation, there is hereby
13 appropriated to the department of personnel, division of administrative
14 hearings, for the fiscal year beginning July 1, 2009, the sum of two
15 thousand dollars (\$2,000), or so much thereof as may be necessary, for the
16 provision of administrative law judge services to the department of state
17 related to the implementation of this act. Said sum shall be from
18 reappropriated funds received from the department of state out of the
19 appropriation made in subsection (1) of this section.

20 **SECTION 20. Effective date - applicability.** This act shall take
21 effect July 1, 2009, and shall apply to any ballot issue petition that has a
22 ballot title fixed by the title board on or after the applicable effective date
23 of this act; except that section 11 of this act shall take effect on January 1,
24 2010.

25 **SECTION 21. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.