

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

**PREAMENDED**

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

LLS NO. 11-0089.01 Ed DeCecco

**HOUSE BILL 11-1072**

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**HOUSE SPONSORSHIP**

**McNulty**, Stephens, Liston

**SENATE SPONSORSHIP**

**Morse**,

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**House Committees**

State, Veterans, & Military Affairs

**Senate Committees**

Judiciary

Appropriations

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**A BILL FOR AN ACT**

101 **CONCERNING THE RESPONSIBILITIES OF A DESIGNATED**  
102 **REPRESENTATIVE OF THE PROPONENTS OF AN INITIATIVE**  
103 **PETITION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Currently, proponents of a ballot initiative petition are required to designate 2 persons (designated representatives) to represent the proponents in all matters related to the petition. The bill requires the designated representatives to appear at a title board meeting and to

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.*

HOUSE  
3rd Reading Unamended  
February 9, 2011

HOUSE  
Amended 2nd Reading  
February 8, 2011

certify, by a notarized affidavit signed at the first title board meeting, that they are familiar with the laws related to initiatives and a summary related to the responsibilities of the designated representatives. The secretary of state must prepare this summary and provide a notary public at the title board meeting. If the designated representatives fail to appear at the title board meeting or do not file the affidavit, the title board may not set a ballot title.

In addition, the bill requires the following actions related to the designated representatives:

- ! The designated representatives must file the first printer's proof of the petition sections with the secretary of state;
- ! The secretary of state must notify the designated representatives whether the printer's proof is approved;
- ! The designated representatives must file with the secretary of state the bound volumes of the petition sections with signatures; and
- ! Within 10 days after filing the petition, the designated representatives must file a report with the secretary of state that includes all expenditures made related to petition circulators and any other expenditures (report).

Within 10 days after the report is filed, a registered elector may file a written complaint alleging a violation of the requirements for the report. The designated representatives have 10 days to cure the alleged violation. If the violation is not cured, an administrative law judge shall conduct a hearing on the complaint. Penalties for a violation are equal to 3 times the amount of any expenditures that were omitted from or erroneously included in the report and, in some instances, attorney fees and costs.

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

2 **SECTION 1. Legislative declaration.** According to decisions  
3 of the Colorado supreme court, an address falsely represents a person's  
4 residential address when it does not state the complete street number and  
5 name, apartment or room number, if applicable, city, and state of the  
6 place where a person makes his or her permanent domicile. The  
7 codification of the meaning of "false address" in House Bill 11-1072,  
8 enacted in 2011, is a clarification of existing law for future designated  
9 representatives.

10 **SECTION 2.** 1-40-102, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **1-40-102. Definitions.** As used in this article, unless the context  
3 otherwise requires:

4 (3.7) "DESIGNATED REPRESENTATIVE OF THE PROPONENTS" OR  
5 "DESIGNATED REPRESENTATIVE" MEANS A PERSON DESIGNATED PURSUANT  
6 TO SECTION 1-40-104 TO REPRESENT THE PROPONENTS IN ALL MATTERS  
7 AFFECTING THE PETITION.

8 **SECTION 3.** 1-40-105 (4), Colorado Revised Statutes, is  
9 amended, and the said 1-40-105 is further amended BY THE ADDITION  
10 OF A NEW SUBSECTION, to read:

11 **1-40-105. Filing procedure - review and comment -**  
12 **amendments - filing with secretary of state.** (4) After the conference  
13 provided in subsections (1) and (2) of this section, a copy of the original  
14 typewritten draft submitted to the directors of the legislative council and  
15 the office of legislative legal services, a copy of the amended draft with  
16 changes highlighted or otherwise indicated, if any amendments were  
17 made following the last conference conducted pursuant to subsections (1)  
18 and (2) of this section, and an original final draft which gives the final  
19 language for printing shall be submitted to the secretary of state without  
20 any title, submission clause, or ballot title providing the designation by  
21 which the voters shall express their choice for or against the proposed law  
22 or constitutional amendment. THE DESIGNATED PROPONENTS SHALL  
23 SUBMIT TO THE DIRECTOR OF THE LEGISLATIVE COUNCIL A COPY OF ANY  
24 DOCUMENTS SUBMITTED TO THE SECRETARY OF STATE PURSUANT TO THIS  
25 SUBSECTION (4).

26 (5) LEGISLATIVE COUNCIL STAFF SHALL PREPARE A FISCAL NOTE  
27 FOR EACH INITIATIVE PETITION SUBMITTED TO THE SECRETARY OF STATE

1 BY A DESIGNATED REPRESENTATIVE PURSUANT TO SUBSECTION (4) OF THIS  
2 SECTION. THE FISCAL NOTE SHALL INCLUDE THE SAME ANALYSIS AS IS  
3 REQUIRED FOR A LEGISLATIVE MEASURE PURSUANT TO SECTION 2-2-322,  
4 C.R.S., AND ANY RULES ADOPTED BY THE GENERAL ASSEMBLY. THE  
5 FISCAL NOTE SHALL BE BASED ON THE AMENDED DRAFT, IF ANY, AND ON  
6 THE ORIGINAL DRAFT IN ALL OTHER CASES.

7 **SECTION 4.** 1-40-106 (1) and (3) (b), Colorado Revised  
8 Statutes, are amended, and the said 1-40-106 is further amended BY THE  
9 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

10 **1-40-106. Title board - meetings - titles and submission clause.**

11 (1) For ballot issues, beginning with the first submission of a draft after  
12 an election, the secretary of state shall convene a title board consisting of  
13 the secretary of state, the attorney general, and the director of the office  
14 of legislative legal services or the director's designee. The title board, by  
15 majority vote, shall proceed to designate and fix a proper fair title for  
16 each proposed law or constitutional amendment, together with a  
17 submission clause, at public meetings to be held at the hour determined  
18 by the title board on the first and third Wednesdays of each month in  
19 which a draft or a motion for reconsideration has been submitted to the  
20 secretary of state. To be considered at such meeting, a draft shall be  
21 submitted to the secretary of state no later than 3 p.m. on the twelfth day  
22 before the meeting at which the draft is to be considered by the title board  
23 AND THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS MUST  
24 COMPLY WITH THE REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION.  
25 The first meeting of the title board shall be held no sooner than the first  
26 Wednesday in December after an election, and the last meeting shall be  
27 held no later than the third Wednesday in April in the year in which the

1 measure is to be voted on.

2 (3) (b) In setting a title, the title board shall consider the public  
3 confusion that might be caused by misleading titles and shall, whenever  
4 practicable, avoid titles for which the general understanding of the effect  
5 of a "yes" or "no" vote will be unclear. The title for the proposed law or  
6 constitutional amendment, which shall correctly and fairly express the  
7 true intent and meaning thereof, together with the ballot title and  
8 submission clause, shall be completed within two weeks after the first  
9 meeting of the title board. Immediately upon completion, the secretary  
10 of state shall deliver the same with the original to the ~~parties presenting~~  
11 ~~it~~ DESIGNATED REPRESENTATIVES OF THE PROPONENTS, keeping the copy  
12 with a record of the action taken thereon. Ballot titles shall be brief, shall  
13 not conflict with those selected for any petition previously filed for the  
14 same election, and shall be in the form of a question which may be  
15 answered "yes" (to vote in favor of the proposed law or constitutional  
16 amendment) or "no" (to vote against the proposed law or constitutional  
17 amendment) and which shall unambiguously state the principle of the  
18 provision sought to be added, amended, or repealed.

19 (4) (a) EACH DESIGNATED REPRESENTATIVE OF THE PROPONENTS  
20 SHALL APPEAR AT ANY TITLE BOARD MEETING AT WHICH THE DESIGNATED  
21 REPRESENTATIVE'S BALLOT ISSUE IS CONSIDERED.

22 (b) EACH DESIGNATED REPRESENTATIVE OF THE PROPONENTS  
23 SHALL CERTIFY BY A NOTARIZED AFFIDAVIT THAT THE DESIGNATED  
24 REPRESENTATIVE IS FAMILIAR WITH THE PROVISIONS OF THIS ARTICLE,  
25 INCLUDING BUT NOT LIMITED TO THE PROHIBITION ON CIRCULATORS' USE  
26 OF FALSE ADDRESSES IN COMPLETING CIRCULATOR AFFIDAVITS, AND THE  
27 SUMMARY PREPARED BY THE SECRETARY OF STATE PURSUANT TO

1 PARAGRAPH (c) OF THIS SUBSECTION (4). THE AFFIDAVIT SHALL INCLUDE  
2 A PHYSICAL ADDRESS AT WHICH PROCESS MAY BE SERVED ON THE  
3 DESIGNATED REPRESENTATIVE. THE DESIGNATED REPRESENTATIVE SHALL  
4 SIGN AND FILE THE AFFIDAVIT WITH THE SECRETARY OF STATE AT THE  
5 FIRST TITLE BOARD MEETING AT WHICH THE DESIGNATED  
6 REPRESENTATIVE'S BALLOT ISSUE IS CONSIDERED.

7 (c) THE SECRETARY OF STATE SHALL PREPARE A SUMMARY FOR  
8 THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS'  
9 RESPONSIBILITIES THAT ARE SET FORTH IN THIS ARTICLE.

10 (d) THE TITLE BOARD SHALL NOT SET A TITLE FOR A BALLOT ISSUE  
11 IF EITHER DESIGNATED REPRESENTATIVE OF THE PROPONENTS FAILS TO  
12 APPEAR AT A TITLE BOARD MEETING OR FILE THE AFFIDAVIT AS REQUIRED  
13 BY PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (4). THE TITLE BOARD  
14 MAY CONSIDER THE BALLOT ISSUE AT ITS NEXT MEETING, BUT THE  
15 REQUIREMENTS OF THIS SUBSECTION (4) SHALL CONTINUE TO APPLY.

16 (e) THE SECRETARY OF STATE SHALL PROVIDE A NOTARY PUBLIC  
17 FOR THE DESIGNATED REPRESENTATIVES AT THE TITLE BOARD MEETING.

18 (5) (a) THE TITLE BOARD SHALL INCLUDE IN THE TITLE THE  
19 FOLLOWING INFORMATION RELATED TO THE PROPOSED MEASURE, IF  
20 APPLICABLE:

21 (I) THE AMOUNT OF THE STATE'S ADMINISTRATIVE COSTS OR  
22 SAVINGS; AND

23 (II) THE AMOUNT OF THE INCREASE OR DECREASE IN STATE  
24 REVENUE.

25 (b) THE INFORMATION REQUIRED PURSUANT TO PARAGRAPH (a) OF  
26 THIS SUBSECTION (5) SHALL BE BASED ON THE FISCAL NOTE PREPARED BY  
27 LEGISLATIVE COUNCIL STAFF PURSUANT TO SECTION 1-40-105 (5) FOR

1 EACH YEAR THAT THE INFORMATION IS INCLUDED IN THE FISCAL NOTE.

2 **SECTION 5.** 1-40-113 (1) (a) and (3), Colorado Revised Statutes,  
3 are amended to read:

4 **1-40-113. Form - representatives of signers.** (1) (a) Each  
5 section of a petition shall be printed on a form as prescribed by the  
6 secretary of state. No petition shall be printed, published, or otherwise  
7 circulated unless the form and the first printer's proof of the petition have  
8 been approved by the secretary of state. THE DESIGNATED  
9 REPRESENTATIVES OF THE PROPONENT ARE RESPONSIBLE FOR FILING THE  
10 PRINTER'S PROOF WITH THE SECRETARY OF STATE, AND THE SECRETARY OF  
11 STATE SHALL NOTIFY THE DESIGNATED REPRESENTATIVES WHETHER THE  
12 PRINTER'S PROOF IS APPROVED. Each petition section shall designate by  
13 name and mailing address two persons who shall represent the signers  
14 thereof in all matters affecting the same. The secretary of state shall  
15 assure that the petition contains only the matters required by this article  
16 and contains no extraneous material. All sections of any petition shall be  
17 prenumbered serially, and the circulation of any petition section described  
18 by this article other than personally by a circulator is prohibited. Any  
19 petition section circulated in whole or in part by anyone other than the  
20 person who signs the affidavit attached to the petition section shall be  
21 invalid. Any petition section that fails to conform to the requirements of  
22 this article or is circulated in a manner other than that permitted in this  
23 article shall be invalid.

24 (3) Prior to the time of filing, the persons designated in the  
25 petition to represent the signers shall bind the sections of the petition in  
26 convenient volumes consisting of one hundred sections of the petition if  
27 one hundred or more sections are available or, if less than one hundred

1 sections are available to make a volume, consisting of all sections that are  
2 available. Each volume consisting of less than one hundred sections shall  
3 be marked on the first page of the volume. However, any volume that  
4 contains more or less than one hundred sections, due only to the oversight  
5 of the designated representatives of the signers or their staff, shall not  
6 result in a finding of insufficiency of signatures therein. Each section of  
7 each volume shall include the affidavits required by section 1-40-111 (2),  
8 together with the sheets containing the signatures accompanying the  
9 same. These bound volumes shall be filed with the secretary of state BY  
10 THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS.

11 **SECTION 6.** 1-40-117 (3) (b), Colorado Revised Statutes, is  
12 amended to read:

13 **1-40-117. Statement of sufficiency - statewide issues.** (3) (b) In  
14 the event the secretary of state issues a statement declaring that a petition,  
15 having first been submitted with the required number of signatures,  
16 appears not to have a sufficient number of valid signatures, the  
17 ~~representatives designated by the proponents pursuant to section 1-40-104~~  
18 DESIGNATED REPRESENTATIVES OF THE PROPONENTS may cure the  
19 insufficiency by filing an addendum to the original petition for the  
20 purpose of offering such number of additional signatures as will cure the  
21 insufficiency. No addendum offered as a cure shall be considered unless  
22 the addendum conforms to requirements for petitions outlined in sections  
23 1-40-110, 1-40-111, and 1-40-113 and unless the addendum is filed with  
24 the secretary of state within the fifteen-day period after the insufficiency  
25 is declared and unless filed with the secretary of state no later than three  
26 months and three weeks before the election at which the initiative petition  
27 is to be voted on. All filings under this paragraph (b) shall be made by 3



1 p.m. on the day of filing. Upon submission of a timely filed addendum,  
2 the secretary of state shall order the examination and verification of each  
3 signature on the addendum. The addendum shall not be available to the  
4 public for a period of up to ten calendar days for such examination. After  
5 examining the petition, the secretary of state shall, within ten calendar  
6 days, issue a statement as to whether the addendum cures the  
7 insufficiency found in the original petition.

8 **SECTION 7.** 1-40-121, Colorado Revised Statutes, is  
9 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

10 **1-40-121. Designated representatives - expenditures related to**  
11 **petition circulation - report - penalty - definitions.** (1) AS USED IN  
12 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

13 (a) "EXPENDITURE" SHALL HAVE THE SAME MEANING AS SET  
14 FORTH IN SECTION 2 (8) OF ARTICLE XXVIII OF THE STATE CONSTITUTION  
15 AND INCLUDES A PAYMENT TO A CIRCULATOR.

16 (b) "FALSE ADDRESS" MEANS THE STREET ADDRESS, POST OFFICE  
17 BOX, CITY, STATE, OR ANY OTHER DESIGNATION OF PLACE USED IN A  
18 CIRCULATOR'S AFFIDAVIT THAT DOES NOT REPRESENT THE CIRCULATOR'S  
19 CORRECT ADDRESS OF PERMANENT DOMICILE AT THE TIME HE OR SHE  
20 CIRCULATED PETITIONS. "FALSE ADDRESS" DOES NOT INCLUDE AN  
21 ADDRESS THAT MERELY OMITS THE DESIGNATION OF "STREET," "AVENUE,"  
22 "BOULEVARD," OR ANY COMPARABLE TERM.

23 (c) "REPORT" MEANS THE REPORT REQUIRED TO BE FILED  
24 PURSUANT TO SUBSECTION (2) OF THIS SECTION.


25 (2) NO LATER THAN TEN DAYS AFTER THE DATE THAT THE  
26 PETITION IS FILED WITH THE SECRETARY OF STATE, THE DESIGNATED  
27 REPRESENTATIVES OF THE PROPONENTS MUST SUBMIT TO THE SECRETARY

1 OF STATE A REPORT THAT:

2 (a) STATES THE DATES OF CIRCULATION BY ALL CIRCULATORS WHO  
3 WERE PAID TO CIRCULATE A SECTION OF THE PETITION, THE TOTAL HOURS  
4 FOR WHICH EACH CIRCULATOR WAS PAID TO CIRCULATE A SECTION OF THE  
5 PETITION, THE GROSS AMOUNT OF WAGES PAID FOR SUCH HOURS, AND  
6 ANY ADDRESSES USED BY CIRCULATORS ON THEIR AFFIDAVITS THAT THE  
7 DESIGNATED REPRESENTATIVES OR THEIR AGENTS HAVE DETERMINED,  
8 PRIOR TO PETITION FILING, TO BE FALSE ADDRESSES;

9 (b) INCLUDES ANY OTHER EXPENDITURES MADE BY ANY PERSON OR  
10 ISSUE COMMITTEE RELATED TO THE CIRCULATION OF PETITIONS FOR  
11 SIGNATURES. SUCH INFORMATION SHALL INCLUDE THE NAME OF THE  
12 PERSON OR ISSUE COMMITTEE AND THE AMOUNT OF THE EXPENDITURE.

13 (3) (a) WITHIN TEN DAYS AFTER THE DATE THE REPORT IS FILED,  
14 A REGISTERED ELECTOR MAY FILE A COMPLAINT ALLEGING A VIOLATION  
15 OF THE REQUIREMENTS FOR THE REPORT SET FORTH IN SUBSECTION (2) OF  
16 THIS SECTION. THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS  
17 MAY CURE THE ALLEGED VIOLATION BY FILING A REPORT OR AN  
18 ADDENDUM TO THE ORIGINAL REPORT WITHIN TEN DAYS AFTER THE DATE  
19 THE COMPLAINT IS FILED. IF THE VIOLATION IS NOT CURED, AN  
20 ADMINISTRATIVE LAW JUDGE SHALL CONDUCT A HEARING ON THE  
21 COMPLAINT WITHIN FOURTEEN DAYS AFTER THE DATE OF THE ADDITIONAL  
22 FILING OR THE DEADLINE FOR THE ADDITIONAL FILING, WHICHEVER IS  
23 SOONER.

24   
25 (b) (I) AFTER A HEARING IS HELD, IF THE ADMINISTRATIVE LAW  
26 JUDGE DETERMINES THAT A VIOLATION OCCURRED, THE DESIGNATED  
27 REPRESENTATIVES OF THE PROPONENTS SHALL BE SUBJECT TO A PENALTY

1 THAT IS EQUAL TO THREE TIMES THE AMOUNT OF ANY EXPENDITURES THAT  
2 WERE OMITTED FROM OR ERRONEOUSLY INCLUDED IN THE REPORT.

3 (II) IF THE ADMINISTRATIVE LAW JUDGE DETERMINES THAT THE  
4 DESIGNATED REPRESENTATIVES KNOWINGLY MISSTATED A MATERIAL FACT  
5 IN THE REPORT OR OMITTED A MATERIAL FACT FROM THE REPORT, OR IF  
6 THE DESIGNATED REPRESENTATIVES NEVER FILED A REPORT, THE  
7 REGISTERED ELECTOR WHO INSTITUTED THE PROCEEDINGS MAY  
8 COMMENCE A CIVIL ACTION TO RECOVER REASONABLE ATTORNEY FEES  
9 AND COSTS FROM THE DESIGNATED REPRESENTATIVES OF THE  
10 PROPONENTS.

11 (c) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY  
12 PROCEDURES RELATED TO A COMPLAINT SHALL BE GOVERNED BY THE  
13 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,  
14 C.R.S.

15 **SECTION 8.** 1-40-135 (3) (a), Colorado Revised Statutes, is  
16 amended to read:

17 **1-40-135. Petition entities - requirements - definitions.**

18 (3) (a) Any procedures by which alleged violations involving petition  
19 entities are heard and adjudicated shall be governed by the "State  
20 Administrative Procedure Act", article 4 of title 24, C.R.S. If a complaint  
21 is filed with the secretary of state pursuant to section 1-40-132 (1)  
22 alleging that a petition entity was not licensed when it compensated any  
23 circulator, the secretary may use information that the entity is required to  
24 produce pursuant to ~~section 1-40-121(1)~~ SECTION 1-40-121 and any other  
25 information to which the secretary may reasonably gain access, including  
26 documentation produced pursuant to paragraph (b) of subsection (2) of  
27 this section, at a hearing. After a hearing is held, if a violation is

1 determined to have occurred, such petition entity shall be fined by the  
2 secretary in an amount not to exceed one hundred dollars per circulator  
3 for each day that the named individual or individuals circulated petition  
4 sections on behalf of the unlicensed petition entity. If the secretary finds  
5 that a petition entity violated a provision of paragraph (c) of subsection  
6 (2) of this section, the secretary shall revoke the entity's license for not  
7 less than ninety days or more than one hundred eighty days. Upon finding  
8 any subsequent violation of a provision of paragraph (c) of subsection (2)  
9 of this section, the secretary shall revoke the petition entity's license for  
10 not less than one hundred eighty days or more than one year. The  
11 secretary shall consider all circumstances surrounding the violations in  
12 fixing the length of the revocations.

13           **SECTION 9. Act subject to petition - effective date.** This act  
14 shall take effect at 12:01 a.m. on the day following the expiration of the  
15 ninety-day period after final adjournment of the general assembly (August  
16 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a  
17 referendum petition is filed pursuant to section 1 (3) of article V of the  
18 state constitution against this act or an item, section, or part of this act  
19 within such period, then the act, item, section, or part shall not take effect  
20 unless approved by the people at the general election to be held in  
21 November 2012 and shall take effect on the date of the official  
22 declaration of the vote thereon by the governor.