

Amendment 38 Petitions

1 **Ballot Title:** An amendment to the Colorado constitution concerning initiative and
2 referendum petitions, and, in connection therewith, changing petition rights and
3 procedures; allowing petitions to be submitted at all levels of Colorado government;
4 limiting initiative ballot titles to 75 words; changing single subject requirements and
5 procedures; limiting the annual number of new laws that governments may exclude
6 from possible referendum petitions; establishing standards for review of filed petitions;
7 specifying that petitions may be voted on at any November election; limiting the use of
8 government resources to discuss a petition; requiring voter approval for future petition
9 laws and rules and for changes to certain voter approved petitions; and authorizing
10 measures to enforce the amendment.

11 **Text of Proposal:**

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

13 Article VII, section 2

14 **Petitions.**

15 **(1) Enforcement.** This section shall create fundamental rights to strengthen citizen
16 control of government. It shall be self-executing and severable. It shall supersede
17 conflicting constitutional, charter, and other state and local laws. Time limits shall
18 extend only to expire on district workdays. The state shall enforce strictest compliance
19 with this section by all districts. Individual and class action suits shall be filed within
20 one year of violations. Only plaintiffs may demand jury trial verdicts on all matters of
21 law, fact, and damages. District violations shall not void petitions, nor be balanced or
22 harmonized, nor excused by substantial compliance, good faith, ignorance, or
23 emergencies, but shall require strictest scrutiny and full enforcement. Successful
24 plaintiffs shall recover from defendants who are not petition agents all costs and
25 attorney fees, contingent or not. Defendants who are not petition agents may recover
26 only if a jury unanimously finds a suit frivolous.

27 **(2) Definitions.** Within this section: **(a)** "Ballot titles" means all language on ballots
28 describing specific petitions.

29 **(b)** "Districts" means the state and all local governments, and includes all enterprises,
30 authorities, and other governmental entities.

1 (c) "Petitions" means citizen-sponsored initiatives and referenda on legislative policy,
2 not on specific uses of administrative procedure.

3 (d) "Shall" means mandatory.

4 **(3) Petition rights. (a)** Petition rights shall exist in all districts. Required district
5 registered elector petition entries shall not exceed 5% of all district votes for secretary
6 of state candidates in the last full-term general election for that office. The general
7 assembly may reduce that number for proposed statutes. Any review and comment
8 hearing shall be held within 7 days of filing initiative drafts. Initiative ballot titles shall
9 not exceed 75 words, shall be set within 7 days of requests made at any time, and may
10 also be set by any state district court. Ballot title setters shall be disqualified for bias or
11 other good cause. No summary or fiscal note shall be made at ballot title settings. Local
12 single-subject requirements for petitions shall exist by voter-approved petitions only.
13 All ballot title disputes and all single-subject challenges shall be filed with the supreme
14 court within 5 days of such settings, finally decided within 7 days of filing, and very
15 broadly construed to aid initiatives. Unless otherwise decided within 7 days of filing,
16 initiatives shall conclusively be properly-titled single subjects. Decisions that initiatives
17 contain multiple subjects shall list in writing all words not part of single subjects.
18 Revisions that delete those words, and add no others, shall conclusively be single
19 subjects. Decisions shall also provide ballot titles for initiatives and revisions. No other
20 ballot title or single-subject rehearing, appeal, challenge, or decision shall be made.
21 Within 7 days of requests for petition forms, districts shall print and deliver them and
22 may charge actual costs up to one dollar per 100-entry form. All districts shall use the
23 1988 state petition forms, modified to comply with all final federal court rulings, but
24 without summaries or county entry spaces. Errors in petition forms or ballot titles shall
25 not affect petitions. Peaceful petitioning at exits of all buildings owned or leased by any
26 district and then open to the public shall be protected. Except for petition form charges,
27 no petition process permit, badge, bond, licensing, training, or fee for petition agents or
28 circulators shall be required. Any adult in Colorado may circulate any petition. Using
29 paid circulators shall create no extra legal duty.

30 **(b)** In each district, no more than 12 legislative measures passed each year shall be
31 excepted from possible referendum petitions. Excepted measures, with detailed
32 descriptions of emergencies justifying the exceptions, shall be passed by 3/4ths or more
33 of all members of the elected local board or of each house of the general assembly. State
34 measures not excepted shall take effect 91 days or more after the general assembly
35 session passing them finally adjourns, and such local measures 91 days or more after
36 post-passage publication. Initial filing of referendum petitions with sufficient gross
37 entries before that 91st day shall delay the effective date until the election or final
38 petition invalidation. Measures rejected by voters shall then be void, and measures
39 wholly or mostly similar shall then be passed again with voter approval only.
40 Referendum petition ballot titles shall read, "SHALL (DISPUTED SECTIONS OF)
41 (types of measures and numbers only) BE APPROVED?" Referendum petitions may
42 begin at any time. They shall have no ballot title setting, appeal, or single-subject

1 challenge, nor print texts of measures on petition forms. Only appropriations for district
2 support are exempt from referendum petitions. This section shall not apply to
3 referendum petitions to reduce private property rights, such as zoning challenges, which
4 petitions may still lawfully exist.

5 (c) Within 12 months of petition form delivery, petitions shall be initially filed with
6 sufficient gross entries. Such petitions shall receive ballot numbers and ballot
7 placement, which remain until all protests and appeals end. Petitions not initially filed
8 3 months or more before elections may be filed for the next election. Signers of
9 petitions later notarized or verified shall be presumed district registered electors making
10 valid entries until disproved in protests by clear and convincing evidence. Technical
11 defects, minor variations, and minor omissions shall be very broadly construed to aid
12 petitions. Listing mailing addresses shown on registration records shall be valid.
13 Protests shall be filed in state district court within 10 days of petition filing, and not
14 amended. Hearings shall be public, limited to itemized entries, and decided within 10
15 days of protest filing, using judicial rules of evidence and procedure. Results of random
16 sampling or machine reading of entries shall be excluded. Each itemized entry shall be
17 examined separately at the hearing. If a district does not protest equally all petitions
18 filed for its election, no district protest or research shall help to invalidate any petition
19 in that election. Only petition agents defeating the protest shall be deemed successful
20 plaintiffs under (1). Petition agents shall have 10 days after protest hearings and appeals
21 to refile with corrections and added petition entries made at any time. All protests and
22 appeals shall apply to those corrections and added entries. Third filings are barred.

23 (d) All state and local petitions on any subject shall be Article X, section 20 (3) ballot
24 issues at any November election. Petition agents may file up to 1,000 words for ballot
25 information booklets and election notices sent to all active registered elector addresses.
26 The length of actual filings shall be the maximum for summaries of comments filed by
27 opponents. For petitions, those booklets and notices shall be limited to such written
28 comments filed by 45 days before elections and other information required by Article
29 X, section 20 (3)(b). Article V, section 1 (7.5)(a)(II) and the last sentence of Article X,
30 section 20 (3)(b)(v) shall not apply to petitions. Except for court cases, or petition or
31 election procedures and materials required by statute, no district or district staff shall
32 aid spending district resources, or using any district procedure, equipment, or staff time,
33 to discuss pending petitions after petition forms are delivered. No district resources or
34 staff time shall aid accused violators or repay expenses. Each district and other violator
35 shall separately pay the state general fund at once, per event and without offset, the
36 greater of \$3,000 or 3 times the value of such spending, use, aid, and/or repayment.
37 Unless stated in the texts or unless the texts be unlawful, future voter-approved
38 initiatives shall be in effect until changed by voters. This section may be amended,
39 superseded, or repealed by voter-approved petitions only. Except for state statutes
40 subject to possible referendum petitions and enacted by March 1, 2007, all future state
41 and local petition laws, rules, and regulations shall be Article X, section 20 (3) ballot
42 issues at any November election.