

**Amendment 38  
Petitions**

1 **Amendment 38 is an amendment to the Colorado Constitution that:**

- 2       ♦ expands the ability of citizens to propose changes to laws to all levels  
3       of government in the state;
- 4       ♦ modifies current procedures for proposing changes to laws;
- 5       ♦ limits elected officials' ability to change or revisit measures that voters  
6       have previously decided; and
- 7       ♦ limits the number of measures elected officials may exempt from  
8       voter challenge.

9 **Summary and Analysis**

10       The Colorado Constitution currently provides two ways for citizens to propose  
11       changes to state, city, or town laws. In both processes, citizens collect a certain number  
12       of signatures on a petition to place a law change on the ballot. For one process, citizens  
13       *propose* a change that becomes law if voters approve it. For the second process, citizens  
14       *challenge* a law approved by elected officials. A challenged law takes effect only if voters  
15       approve it.

16       Amendment 38 expands the ability of citizens to propose and challenge laws to all  
17       other levels of government in Colorado, including school districts, counties, special  
18       districts, authorities, and other special purpose government entities. Amendment 38 also  
19       changes many of the existing procedures for placing a measure on the ballot and makes  
20       these procedures apply to all levels of government. Tables 1 through 3 summarize the  
21       major differences between current procedures and the proposal.

22       ***Table 1 — procedures related to title, petition forms, and signatures.*** Before a  
23       proposed or challenged law appears on the ballot, a title for the measure is set. A title tells  
24       voters how the law will change if the measure passes. It appears on petition forms and on  
25       the ballot. Once the title is set, proponents of the measure collect signatures on petition  
26       forms approved by elected officials. A certain number of signatures of registered Colorado  
27       voters must be collected to place a measure on the ballot. The signatures are then counted  
28       and verified, and any protests are resolved, before the measure appears on the ballot.

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**Table 1. Petition Procedures**

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Issue	Current Process for State and Municipal Governments	Amendment 38 Process for All Governments
How are ballot title disputes resolved?	<p><u>State</u> – Title is reconsidered by a three-member title board, then appealed to the Supreme Court and resolved promptly.</p> <p><u>Municipal</u> – The process is established at the local level and disputes are appealed through the courts.</p>	Supreme Court decides all title disputes within 7 days of filing; no other appeals are allowed.
Is the length of a ballot title limited?	No	Yes, 75 words
What information is on the petition form?	<p><u>State</u> – The ballot title appears on every page.</p> <p><u>Municipal</u> – A summary of the measure appears on every page.</p>	The ballot title may only appear on the first page. A summary of the measure may not appear on the form.
How many signatures are required to place a measure on the ballot?	<p><u>State</u> – 5 percent of votes cast for secretary of state in the last general election, including vacancy elections;</p> <p><u>Municipal</u> – Between 5 and 15 percent of registered electors</p>	Not more than 5 percent of votes cast in the district for secretary of state in the last full-term general election for the office
How are signatures checked?	Signatures are counted and verified against voter registration files to ensure the signer is a registered voter and that the information provided, such as the signer's name and address, is accurate.	Signatures are counted. They are presumed to be valid by state and local election officials.
In what circumstances may a signature be removed?	A duplicate or incomplete signature, or a signature of an individual who is not a registered voter may be removed during the 30-day period when signatures are counted and verified by election officials.	An individual signature must be protested and proven invalid before being removed. Signatures cannot be disqualified for technical defects or minor variations or omissions.
When can a protest of signatures be filed?	<p><u>State</u> – A protest must be submitted within 30 days after the secretary of state verifies the petition signatures.</p> <p><u>Municipal</u> – A protest must be filed within 40 days of petition filing.</p>	A protest must be submitted within 10 days of petition filing.
How much time are proponents allowed to gather signatures to propose laws?	Up to 6 months	12 months
What happens if proponents fail to turn in the required number of signatures by the deadline for the upcoming election?	The proposed measure is not placed on the ballot and signatures are discarded.	The signatures may be submitted for the next year's election.

1 **Table 2 — challenges to laws enacted by elected officials.** Voters may challenge  
 2 a law passed by elected officials unless the measure contains a "safety clause" stating that  
 3 it is necessary for the immediate preservation of the public peace, health, and safety.

4 **Table 2. Requirements for Voter Challenges**

Issue	Current Process for State and Municipal Governments	Proposed Process for All Governments
How are measures exempted from voter challenge?	<p>State – A measure contains a safety clause;</p> <p>Municipal – Three-fourths of the governing body passes a measure with a description of the emergency justifying the exception</p>	Three-fourths of the governing body passes a measure with a description of the emergency justifying the exception
How many measures may elected officials exempt from voter challenge?	No limit	12 per year
If a measure is rejected in an election, may elected officials enact a mostly similar measure in the future?	Yes	Only with voter approval

20 **Table 3 — elections and voter information materials.** A proposed law change is  
 21 placed on the ballot when it receives the required number of valid signatures. Specific  
 22 voter information materials are required at the state and municipal level.

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**Table 3. Elections and Voter Information Materials for Measures Placed on the Ballot by Petition**

Issue	Current Process for State and Municipal Governments	Proposed Process for All Governments
What types of measures may appear on the ballot by petition in November elections?	Any measure in even-numbered years; only fiscal measures in odd-numbered years	Any measure at any November election
May voter-approved laws be changed by an elected body?	Yes	Only with voter approval
What voter information materials are required?	<u>State</u> – An analysis written by the General Assembly's nonpartisan staff that includes arguments for and against each measure; <u>Municipal</u> –For fiscal measures only, two summaries, up to 500 words each, of comments written by the proponents and opponents	Comments from proponents of up to 1,000 words, and comments from opponents, limited to the number of words submitted by proponents
May government officials and employees discuss pending ballot measures?	As long as they are not advocating for a particular measure, government officials and employees may respond to questions from the public and provide factual summaries, including arguments for and against a proposal.	Government officials and employees may not discuss or use government resources to discuss any measure when the petition forms are ready for signatures; procedural information required by law or court cases is permitted.

**Arguments For**

1) Amendment 38 makes local elected officials more responsive to constituents by extending the petition process to all levels of government in the state. It ensures that state and local issues will be addressed at the appropriate level of government. Local and regional concerns would no longer have to be addressed through a statewide measure. Citizens will gain an expanded voice in government actions that affect their lives with a greater likelihood that officials will focus on their concerns.

2) The proposal streamlines petition procedures and creates a uniform process. The procedural changes make the petition process more workable for proponents and more helpful to voters. Specifically, the proposal limits the length of ballot titles, clarifies the requirements for petition signatures, and simplifies and shortens time frames related to court challenges. Additionally, it allows proponents and opponents of a measure, rather than government staff, to write the information that is distributed to voters for all state issues placed on the ballot by petition.

1           3) Amendment 38 supports the constitutional right of the people to reject new laws  
2 passed by elected officials in Colorado. In the past five years, over 60 percent of enacted  
3 state laws could not be challenged by voters because they contained a safety clause.  
4 Amendment 38 limits the number of laws that may be exempted from possible challenge.  
5 Further, Amendment 38 requires governing bodies to respect voters who successfully  
6 propose or challenge a policy through the petition process by requiring a vote of the people  
7 before changing a voter-approved policy.

8           4) Amendment 38 may encourage proponents to propose statutory, rather than  
9 constitutional, changes. Under the proposal, statutes approved by voters will be similar to  
10 constitutional amendments in that voter approval will be required to modify them.  
11 Amendment 38 also allows the legislature to reduce the number of signatures needed to  
12 propose changes to state statute, further encouraging statutory changes.

### 13   **Arguments Against**

14           1) Amendment 38 weakens representative government. Citizens elect  
15 representatives to consider all points of view on issues, to make policy decisions, and to  
16 change those decisions when necessary. Under Amendment 38, more laws may be enacted  
17 that have not received sufficient consideration, debate, or refinement and that cannot be  
18 changed without another vote of the people. Voters will ultimately be ill-served by  
19 expanded petition powers that limit the role of their elected governing bodies.

20           2) The proposal invites abuse of the petition process by eliminating current  
21 safeguards. For example, presuming signatures to be valid, and shortening the time for  
22 filing protests, may encourage fraud and manipulation of the process. By easing current  
23 requirements, the citizen petition process could become a tool for special interests to place  
24 numerous measures on the ballot. Taxpayers, rather than the proponents of the measure,  
25 would pay for the forms for signature collection. A sound petition process should include  
26 sufficient checks and balances to maintain public trust.

27           3) The proposal may result in voters having to decide an increasing number of  
28 complex issues with less analysis than they have today. Voters will only receive  
29 information only from individuals with an interest in the success or failure of the measure.  
30 Further, proponents will determine how much information is provided on both sides of the  
31 issue. An impartial analysis or summary of a proposed measure is not permitted, and  
32 government officials and employees could not discuss a measure once petition forms are  
33 delivered for circulation.

34           4) Amendment 38 limits governments' ability to respond to changing  
35 circumstances, economic conditions, or emergencies. Lawmakers cannot amend any law  
36 adopted by voters, even if an event occurs that requires a change. Rather, the voters would  
37 have to wait until the next election and vote on the issue again. Further, under the  
38 provisions for challenging laws, timetables for holding elections can delay the  
39 implementation of laws and create a way for a small group of citizens to stall the legislative  
40 process.

1     **Estimate of Fiscal Impact**

2             Amendment 38 is expected to increase the number of statewide ballot issues  
3 proposed, which will increase state expenditures for state courts to review disputes over  
4 ballot titles and for the Secretary of State to print, review, and approve petitions. In total,  
5 state expenditures are expected to increase by \$243,000 in even-numbered years  
6 (for general election years) and by \$393,000 in other years. The proposal also imposes a  
7 \$3,000 fine for certain offenses related to government officials discussing pending ballot  
8 issue, which may increase fine revenue to the state.

9             Local governments that do not currently have a petition process in place will be  
10 required to establish such a process, incurring administrative and computer programming  
11 costs. Those governments with a process in place may expect an increase in the amount  
12 of petitions received. Costs depend upon the number of petitions filed.