

STATE OF COLORADO

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MEMORANDUM

January 17, 2006

TO: John K. Andrews and Kathleen A. LeCrone

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2005-2006 #75, concerning term limits on Court of Appeals and Supreme Court Judges

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Purposes

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To establish that future terms of office for appellate court judges and supreme court justices shall be four years and shall end on November 15 of even-numbered years;
 2. To limit appellate court judges and supreme court justices to three future terms at each court level;
 3. To clarify that completion of a partial term of office shall constitute a term of office;
- and

4. To specify that any person who has already served eight years or more on a court shall only be eligible for one future term on that court.

Comments and Questions

The form and substance of the proposed initiative raise the following comments and questions:

Technical questions:

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by initiative:

"Be it Enacted by the People of the State of Colorado:"

To comply with Colorado's constitutional requirement, the proponents should include the enacting clause above in its entirety at the beginning of the proposed initiative. Would the proponents consider including the phrase above at the beginning of the proposed initiative?

2. The proposed initiative contains a new section 27 of article VI and repeals section 7 of article VI. The proposed initiative contains amending clauses, but standard drafting practice would begin each of these amending clauses with the word "Section" and the number "1." or "2." Would the proponents consider adding these to the measure?
3. Standard drafting practice has the section number of the constitution and the headnote in indented and in bold letters and new language appears in all caps, such as:

**"Section 27. Terms of office and term limits. FUTURE TERMS OF OFFICE FOR
COURT OF APPEALS AND"**

Would the proponents consider making these changes.

4. Under standard drafting practice, repealed language appears in strike type as follows: "~~The full term of office . . .~~" Would the proponents consider using this style?

Substantive questions:

1. The measure refers to "future" terms of office. Although the proponent's intent may be that "future" indicate sometime after the effective date of the measure. This intent may be more precisely stated by indicating a date, such as "After November 15, 2006, ". Would the proponents consider this change?

2. Currently, under Section 20 of Article VI of the state constitution, justices and judges are appointed by the governor to serve a provisional term of "two years and then until the second Tuesday in January following the next general election."
 - a. Do the proponents intend to have newly appointed justices and judges serve a provisional term under Section 20 of article VI of the state constitution?
 - i. If so, do the proponents intend to have this provisional term count as one of the three terms of office? If so, what would be a "partial term" and what would "completing the term of another judge" mean?
 - ii. If not, would the proponents consider amending Section 20 to reflect this change?
 - b. Under Section 20 of article VI of the state constitution, the provisional term ends, and, if a justice or judge is retained by the voters pursuant to Section 25 of Article VI, the regular term of a justice or judge commences on the "second Tuesday in January following the next general election." The measure changes the end of a judge's term to November 15 of an "even-numbered year".
 - i. If the proponents want the term to end as of November 15, would they consider amending Section 20 to reflect this change?
 - ii. Generally, election results are not proclaimed by the governor until late December or early January following the election? Does this impact the November 15 date for starting and ending terms?
3. Do the proponents intend that a judge or justice currently serving may complete the term of office for which the judge or justice was appointed or retained?
4. Does the General Assembly have the authority to enact implementing legislation?
5. What do the proponents believe is the single subject of this measure?