

STATE OF COLORADO

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MEMORANDUM

March 7, 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 #90, 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.

Special Note

An earlier version of this initiative, Proposal Number 2005-06 #75 submitted by the same proponents, was the subject of a memorandum dated January 17, 2006. A hearing was held on January 19, 2006, to address the earlier memorandum. The comments and questions raised in this memorandum will be limited so as not to duplicate comments and questions that were addressed at the earlier hearing unless it is necessary to fully address the issues in the revised measure. However, the comments and questions that have not been addressed by changes in the proposal continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

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

1. To establish that, after January 1, 2007, terms of office for appellate court judges and supreme court justices shall be four years;
2. To require an incumbent serving on that date to stand for retention at the next general election unless at that time the person has served for ten years or more years at that court level;
3. To prohibit a person from serving more than three terms of office at each court level;
4. To clarify that serving of a provisional term of office shall constitute a term of office;
and
5. To specify that any person who has served ten years or more at one appellate court level shall not be eligible for a future term at that court level.

Comments and Questions

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

Technical questions:

1. Standard drafting practice has new language appears in all caps. Would the proponents use small caps for the new language in proposed section 27?
2. Would the proponents insert a space between "Coloradois" in the first amending clause and between "courtjudges" in the second line of the proposed section 27?

Substantive questions:

1. By the phrase "Incumbents as of that date", do the proponents intend to refer to all court of appeals judges and supreme court justices serving as of January 1, 2007? Would this include judges or justices serving a provisional term as of that date? Would this include the five judges of the court of appeals who had been retained for office in the election in November of 2004?
2. By the phrase "provisional term" do the proponents intend to refer to the provisional term established in Section 20 of Article VI of the state constitution?
3. Do the proponents intend that a person who has served for ten or more years at a court level be forever barred from serving on that court?
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?