

Referendum O Citizen-Initiated State Laws

1 **Referendum O proposes amending the Colorado Constitution to:**

- 2 ◆ decrease the number of signatures required to place a statutory
3 initiative on the ballot, and increase the number of signatures required
4 to place a constitutional initiative on the ballot;
- 5 ◆ require that eight percent of signatures for constitutional initiatives be
6 gathered from each congressional district;
- 7 ◆ require that drafts of proposed constitutional initiatives be submitted for
8 review earlier in the year;
- 9 ◆ extend the time period for collecting signatures for statutory initiatives;
- 10 ◆ increase the number of votes required for the legislature to change a
11 statutory initiative for five years after the statute takes effect; and
- 12 ◆ allow the public and state legislators to comment on proposed initiatives
13 at a public meeting.

14 **Summary and Analysis**

15 In Colorado, citizens may propose new state laws or changes to existing laws
16 through the initiative process, also known as the petition process. Under this process,
17 proposed laws are put on the ballot by citizens instead of being proposed within the
18 state legislature. Initiatives must be approved by voters to take effect.

19 Citizens may initiate changes either to the state constitution or state statutes. In
20 general, the constitution defines the powers of the legislative, executive, and judicial
21 branches of government and contains the bill of rights. When conflicts arise between
22 the constitution and statutes, the constitution prevails. The constitution may be changed
23 only with approval of the state's voters at an election, and therefore is a more
24 permanent set of laws. Statutes, on the other hand, are more easily changed because
25 they do not need voter approval. They may be amended through any of the following
26 ways:

- 27 ◆ a bill passed by the state legislature and approved by the governor;
- 28 ◆ a bill passed by the state legislature and approved by the voters; or
- 29 ◆ an initiative approved by the voters.

30 Referendum O changes the requirements for proposing initiated laws, making it
31 easier to propose statutory initiatives and more difficult to propose constitutional
32 initiatives.

Signature requirements. To place an initiative on the ballot, proponents must collect a certain number of signatures from registered voters. Currently, the signature requirements for constitutional and statutory measures are the same. Referendum O differentiates between the two types, requiring 50 percent more signatures for constitutional initiatives than statutory initiatives, giving proponents of statutory initiatives an additional three months to collect signatures, and requiring proponents of constitutional initiatives to collect signatures throughout the state. Table 1 compares the current signature requirements to those proposed by Referendum O.

Table 1. Current and Proposed Signature Requirements

Issue	Current Initiative Process	Referendum O Initiative Process
How many valid signatures are required to place an initiative on the ballot?	An amount equal to 5 percent of all votes cast for secretary of state at the most recent election; 76,047 signatures required for 2008.	<u>Constitutional</u> - An amount equal to 6 percent of all votes cast for governor at the most recent election; 93,497 signatures required for 2008. <u>Statutory</u> - An amount equal to 4 percent of all votes cast for governor at the most recent election; 62,331 signatures required for 2008.
Where must signatures be collected?	Anywhere in the state.	<u>Constitutional</u> - At least 8 percent of the minimum required number of signatures must be collected from each congressional district; 7,480 signatures required from each of the 7 congressional districts (52,360 of the 93,497 total required signatures) for 2008. <u>Statutory</u> - No change
What is the maximum time allowed for collecting signatures?	6 months	<u>Constitutional</u> - No change <u>Statutory</u> - 9 months

Review of initiatives. Under current law, all initiatives must be submitted to the nonpartisan legislative staff for review. This review helps to ensure that the initiative's wording expresses the proponents' intent and notifies the public that an initiative has been submitted. The staff prepare written comments that address the wording, intent, and purpose of the initiative and discuss those comments at a meeting with the proponents. Currently, the public may attend the meeting, but may not testify. Referendum O requires that constitutional initiatives be submitted to legislative staff earlier than statutory initiatives and that an opportunity for public comment be provided at the meeting. Table 2 compares the current and proposed process for reviewing initiatives.

Table 2. Current and Proposed Review Procedures

Issue	Current Initiative Process	Referendum O Initiative Process
What is the deadline for submitting the text of initiatives for review?	The date changes annually, but generally falls in the second half of April; April 25 for the 2008 election.	<u>Constitutional</u> - No later than the 60th day of the legislative session prior to the election; March 8 for the 2008 election. <u>Statutory</u> - No change
When must staff provide written comments and hold a public meeting?	Within 2 weeks after the measure is submitted	Written comments must be provided to proponents within 2 weeks and the meeting must be held within 3 weeks after the measure is submitted.
Who may provide comments at the meeting?	Only legislative staff and proponents	Members of the public and state legislators, as well as proponents and legislative staff

Protection for statutory initiatives. Under current law, once a statutory initiative is passed by the voters, the legislature can pass a bill at any time to change that statute with a majority vote (33 representatives and 18 senators). Referendum O requires a two-thirds vote in the legislature (44 representatives and 24 senators) to pass a bill changing an initiated statute within five years of the statute taking effect.

Arguments For

1) Laws sometimes need to be updated to keep pace with a changing world. Referendum O encourages citizens to propose statutory rather than constitutional initiatives. Statutory initiatives preserve the citizens' right to initiate laws, while giving the legislature flexibility to react when laws require clarification or when problems or unforeseen circumstances arise.

2) Because the requirements for proposing constitutional initiatives are no different than the requirements for proposing statutory initiatives, the constitution is susceptible to detailed provisions that cannot be changed without another election. Colorado has one of the easiest constitutions to amend through the initiative process. Placing detailed provisions in the constitution limits the ability of the legislature to address policy and fiscal matters. Requiring more signatures for constitutional initiatives makes it more difficult to initiate constitutional amendments, which may make the Colorado Constitution a more enduring framework for state government.

3) Requiring that signatures for constitutional initiatives be gathered from each congressional district ensures that citizens from across the state support measures before they are placed on the ballot. Due to the relative ease of collecting signatures in heavily populated urban areas compared to sparsely populated rural areas, rural citizens may have a limited voice in determining which issues appear on the ballot.

4) Allowing the public and state legislators to comment on an initiative at a public meeting early in the process makes the review process more open and helps citizens

1 gain a better understanding of the measure. It also helps proponents identify potential
2 problems, make sure that the measure clearly expresses their intent, and avoid
3 unintended consequences.

4 5) Limiting the ability of the legislature to change initiated statutes strikes a balance
5 between protecting initiated statutes and permitting the legislature to address problems
6 that may arise. The two-thirds legislative approval requirement is stringent enough to
7 protect voter intent, but still allows for non-controversial changes that clarify, correct, or
8 improve a statute.

9 **Arguments Against**

10 1) Referendum O makes it more difficult and expensive for citizens to exercise their
11 right to initiate constitutional changes. Constitutional initiatives are the best way for
12 citizens to set fundamental policies for the state because they take precedence over
13 statutes and cannot be changed without future voter approval. Requiring more
14 signatures to qualify for the ballot restricts the public's ability to address issues that the
15 legislature, courts, and executive branch have not addressed to the public's satisfaction
16 or in which government officials have a vested interest.

17 2) The protections in Referendum O for statutory initiatives may not be sufficient to
18 preserve voter-approved statutes from changes by the legislature. With a two-thirds
19 vote, the legislature can overturn the decision of a majority of the state's voters almost
20 immediately. Further, after five years, the statute can be changed or repealed by
21 majority vote of the legislature.

22 3) The requirement to collect a certain number of signatures from each
23 congressional district could enable one part of the state to block a change favored by
24 the rest of the state. Also, it becomes more difficult to meet the signature requirement if
25 the number of congressional districts increases. Currently, Colorado has seven
26 congressional districts. Ultimately, if Colorado has thirteen or more congressional
27 districts, supporters of a constitutional change could have to collect more signatures
28 than an amount equal to six percent of all votes cast for Governor to get on the ballot.

29 4) Requiring constitutional initiatives to be filed halfway through the legislative
30 session limits the ability of citizens to respond to action, or inaction, by the legislature on
31 issues of importance to the voters. This change puts citizens at a disadvantage
32 compared to the legislature, which can still propose competing alternatives or bills that
33 weaken an initiative.

34 5) Referendum O is an attempt to fix a perceived problem where none actually
35 exists. Making it more difficult to place a constitutional amendment on the ballot has no
36 impact on the quality or content of amendments adopted. Placing a measure on the
37 ballot is not the same as changing the constitution; it only gives people the ability to vote
38 on the issue. In fact, the voters have been rather selective about which constitutional
39 measures they approve: in the past 50 years, voters have rejected almost two-thirds of
40 all citizen-initiated constitutional amendments.

1 **Estimate of Fiscal Impact**

2 Requiring that signatures be collected from each congressional district for
3 constitutional initiatives will increase state costs to verify signatures. Costs are
4 estimated to increase at least \$40,200 in the 2010 budget year and \$106,000 in the
5 2011 budget year, but the actual increase will depend on the number of constitutional
6 initiatives submitted and the number requiring verification of each signature instead of a
7 random sampling of signatures.