

**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;
- 4 ♦ increase the number of signatures required to place a constitutional
5 initiative on the ballot;
- 6 ♦ require that eight percent of signatures for constitutional initiatives be
7 gathered from each congressional district;
- 8 ♦ require that constitutional initiatives be submitted 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 amend a
11 statutory initiative for five years after its passage; and
- 12 ♦ allow the public and the legislature to comment on proposed initiatives.
13

14 **Summary and Analysis**

15 In Colorado, citizens may propose new state laws or changes to existing laws
16 through the initiative process. Under this process, proposed laws are put on the ballot
17 by citizens instead of being proposed within the state legislature. Initiatives must be
18 approved by voters to take effect. Citizens may initiate changes either to the
19 constitution or state statutes. The constitution is a more permanent set of laws which
20 may be changed only with approval of the state's voters. Statutes, on the other hand,
21 are more easily changed because they may be amended through any of the following
22 ways:

- 23 ♦ a bill passed by the state legislature and signed into law by the
24 Governor;
- 25 ♦ a bill passed by the state legislature and approved by the voters; or
26 ♦ an initiative approved by the voters.

27 Referendum O changes the requirements for proposing statutory and constitutional
28 initiatives, making it easier to propose statutory initiatives and more difficult to propose
29 constitutional initiatives.

Signature requirements. To place an initiative on the ballot, proponents must collect a certain number of signatures from registered voters. Currently, there is no difference in the signature requirements for constitutional and statutory measures. Referendum O differentiates between the two types, requiring proponents of constitutional initiatives to collect more signatures in a shorter period of time than proponents of statutory initiatives. In addition, proponents of constitutional initiatives must collect signatures from specific geographic regions. 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 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, 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. 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?	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 a public hearing must be held within 3 weeks, after the measure is submitted.
Who may provide comments at the hearing?	Only legislative staff and proponents	Members of the public and the legislature, 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 change the language at any time with a majority vote (33 Representatives and 18 Senators). Referendum O restricts the legislature from changing an initiated statute for five years after the statute takes effect, unless the change is approved by two-thirds of each house of the legislature (44 Representatives and 24 Senators).

Arguments For

1) Laws typically need to be updated regularly to keep pace with an ever-changing world. Referendum O encourages citizens to propose statutory initiatives, which can be changed more easily 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) Currently, Colorado's constitution is as easy to amend by initiative as statutes, making it susceptible to detailed provisions that cannot be changed without voter approval. In addition, some issues are limited to even-year ballots, and the political will to amend a law passed by the voters often does not exist, even when problems become apparent. Requiring more signatures for constitutional initiatives makes it more difficult to propose constitutional amendments, thereby making 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 sometimes may be unaware of proposed ballot measures until late in the election season.

1 4) Allowing the public and the legislature to comment on an initiative early in the
2 process makes the review process more open and helps interest groups and voters gain
3 a better understanding of the measure. It also helps proponents identify potential
4 problems, make sure that the measure clearly expresses their intent, and avoid
5 unintended consequences.

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

11 **Arguments Against**

12 1) Referendum O makes it more difficult for citizens to petition for constitutional
13 amendments by requiring more signatures to qualify for the ballot. This change limits the
14 ability of citizens to amend the only set of laws that are protected from changes by the
15 legislature without the consent of the voters. Constitutional initiatives allow citizens to
16 address issues the legislature will not address due to different priorities or conflicts of
17 interest, such as campaign finance or term limits.

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

22 3) The requirement to collect signatures from each congressional district could
23 enable one part of the state to block a change widely favored by the rest of the state.
24 Also, it becomes more difficult to meet the signature requirement as the number of
25 congressional districts increase. Ultimately, this measure will make it mathematically
26 impossible for citizens to place constitutional initiatives on the ballot once the state's
27 population grows large enough to include 13 congressional districts.

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

33 5) Restricting the ability of the legislature to amend or repeal initiated statutes for
34 five years erodes representative government. Voters elect their representatives to
35 respond to changing priorities, including amending statutes approved by voters.

36 **Estimate of Fiscal Impact**

37 Requiring that signatures be collected from each congressional district for
38 constitutional initiatives will likely increase state costs to verify signatures. Costs are

1 estimated to increase **\$40,200 in the 2009-10 budget year** and **\$106,000 in the 2010-**
2 **11 budget year**, but the actual increase will depend on the number of constitutional
3 initiatives submitted and the number requiring verification of each signature instead of a
4 random sampling of signatures.