

Referendum O
Changes to Initiative Process

1 Referendum O proposes amending the Colorado Constitution to:

- 2 ◆ increase the number of signatures required to place a constitutional
- 3 initiative on the ballot;
- 4 ◆ decrease the number of signatures required to place a statutory
- 5 initiative on the ballot;
- 6 ◆ require that signatures for constitutional initiatives be gathered from
- 7 each congressional district;
- 8 ◆ reduce the time available to file constitutional initiatives;
- 9 ◆ extend the time period for collecting signatures for statutory initiatives;
- 10 ◆ limit the ability of the legislature to amend statutes approved by the
- 11 voters through the initiative process; 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 laws or changes to existing laws through

16 the initiative process. Under this process, laws are put on the ballot by citizens

17 instead of being proposed within the state legislature. Initiatives must be approved by

18 voters to take effect. Citizens may initiate changes to either the constitution or state

19 statutes. The constitution may only be changed with approval of the state's voters at

20 an election, and therefore is a more permanent set of laws. Statutes, on the other

21 hand, are more easily changed because they may be amended through any of the

22 following 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 at an
- 26 election; or
- 27 ◆ an initiative approved by the voters at an election;

28 Referendum O changes the requirements for proposing statutory and constitutional

29 initiatives.

Table 2: Current and Proposed Review Procedures

| Issue | Current Initiative Process | Referendum O Initiative Process |
|---|--|--|
| What is the deadline for submitting initiatives? | The date changes annually, but generally falls in the second half of April, or April 25 for the 2008 election. | <u>Constitutional</u> - No later than the 60th day of the legislative session prior to the election, or 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. 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.

Arguments For

1) Referendum O encourages citizens to propose statutory initiatives, which can be changed more easily than constitutional initiatives. Statutes give the state legislature flexibility to react when laws require clarification or when problems or unforeseen circumstances arise.

2) A state constitution should be more difficult to change than statutes because the constitution can only be changed with voter approval and some issues can only be voted on every two years. Referendum O makes it more difficult to propose constitutional initiatives by requiring more signatures be collected. Currently, Colorado's constitution is just as easy to amend as the statutes, making it susceptible to detailed provisions that need to be changed or updated over time.

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 ease of collecting signatures in the heavily populated urban areas, rural citizens sometimes are not aware of potential ballot measures until late in the election season.

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

1 5) Limiting the ability of the legislature to change initiated statutes strikes a
2 balance between protecting voter-approved statutes and permitting the legislature to
3 address problems with the statutes that may arise. The two-thirds voter approval
4 requirement is stringent enough to protect voter intent, but allow for non-controversial
5 changes that clarify, correct, or enhance a statute.

6 **Arguments Against**

7 1) Referendum O limits the ability of citizens to petition for constitutional
8 amendments, which offer a higher degree of protection because they cannot be
9 changed by the legislature without voter approval. The constitution reflects the will of
10 the people and any subject and any level of detail is appropriate if approved by the
11 voters. Technical details in the constitution may be inconvenient for policymakers, but
12 they reflect the values of the state's voters.

13 2) The protections in Referendum O for statutory initiatives are not sufficient to
14 preserve the will of the voters from changes by the legislature. After only five years, a
15 majority of the legislature can overturn the decision of a majority of the state's voters.
16 Plus, with a two-thirds vote, the legislature can change the statute at any time.

17 3) The requirement to collect signatures from each congressional district could
18 enable one portion of the state to effectively veto a change favored by a majority of
19 the rest of the state. Also, requiring 8 percent of signatures from each congressional
20 district makes it mathematically impossible for citizens to place constitutional initiatives
21 on the ballot once the state's population grows large enough to include 13
22 congressional districts.

23 4) Requiring constitutional initiatives to be filed halfway through the legislative
24 session limits the ability of citizens to respond to action, or inaction, by the legislature
25 on issues. Legislators, on the other hand, could still propose alternatives to initiatives
26 submitted by citizens. This change puts citizens at a disadvantage compared to the
27 legislature, and may make it more difficult to address issues where the legislature has
28 a conflict of interest.

29 5) Referendum O makes statutory initiatives constitutional in nature by restricting
30 the ability of the legislature to amend or repeal initiated statutes for five years. This
31 restriction erodes representative government. Voters elect their representatives to
32 respond to their changing priorities, including amending statutes approved by voters.

33 **Estimate of Fiscal Impact**

34 Requiring that signatures be collected from each congressional district for
35 constitutional initiatives will likely increase state costs in verifying signatures. Costs
36 are estimated to increase **\$40,200 in the 2009-10 budget year** and **\$106,000 in the**
37 **2010-11 budget year**, but the actual increase will depend on the number of
38 constitutional initiatives submitted and the number requiring the verification of each
39 signature instead of a random sampling of signatures.