

STATE OF COLORADO

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MEMORANDUM

October 12, 2007

TO: John K. Andrews, Jr. and Kathleen A. LeCrone

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2007-2008 #43, concerning Judicial Term Limits

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 Constitution appear to be:

1. To establish that for supreme court justices and all state court judges retained after January 1, 2010, the full term of office is four years;
2. To establish that supreme court justices and state court judges retained after January 1, 2010, shall not be eligible to serve more than three full terms after January 1, 2010;
3. To allow a judge sitting in office on January 1, 2010, to finish his or her term under their existing term of office and, thereafter, to stand for retention for no more than three, four-year terms; and
4. To provide that a provisional term established pursuant to section 20 of article VI of the constitution, does not count as a full term.

Comments & Questions

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

Technical question:

Would the proponents consider inserting a space between "Coloradois" on lines 3, 24, 30, and 37 of the proposed initiative?

Substantive questions:

1. Is the three-term limit a lifetime limit? Could a judge at the end of his or her third full term be appointed by the governor to serve a provisional term on that court? If so, could the judge stand for retention?
2. Does the three, four-year term limit apply only to consecutive terms? Could a judge serve two terms, retire for several years, be appointed to another term, and then stand for retention?
3. Does the phrase "SHALL NOT BE ELIGIBLE TO SERVE MORE THAN THREE FULL TERMS AFTER JANUARY 1, 2010" mean three full terms in the same position or at the same level? For example, could a person serve as a district court judge for three full terms, and then as an appellate court judge for three full terms? If so, would the proponents consider adding the language "IN THE SAME OFFICE" or "AT THE SAME JUDICIAL LEVEL" following the word "TERMS" at the beginning of line 20?
4. The proposed initiative appears to preclude a person who has served three full terms in a judicial district or county in Colorado from serving at the same judicial level in another judicial district or county in the state. Is that the intent of the proposed initiative?
5. Section 26 of article VI of the constitution provides that the term of office of Denver county court judges shall be as provided in the charter and ordinances of the City and County of Denver. Do the proponents intend for the new section 27 to supercede section 26? Would the proponents consider amending their initiative to clarify its affect on Denver county judges?
6. Would a person who has served as a judge in another state be permitted to serve three full terms in Colorado?
7. Does the general assembly have the authority to enact implementing legislation?
8. What do the proponents believe is the single subject of this measure?