

**Amendment S
State Personnel System**

1 **Amendment S proposes amending the Colorado Constitution to:**

- 2 ♦ increase the number and types of state employees who may be exempt
3 from the state civil service system, also known as the state personnel
4 system;
- 5 ♦ change testing and hiring procedures for filling vacancies in the state
6 personnel system;
- 7 ♦ expand hiring preferences for veterans; and
- 8 ♦ adjust the terms of service and duties for members of the State
9 Personnel Board.

10 **Summary and Analysis**

11 The State of Colorado employs about 74,150 individuals in full- and part-time
12 positions within the executive, legislative, and judicial branches of government. These
13 positions are generally categorized as classified (about 33,000 current employees) or
14 nonclassified (about 41,150 current employees). The measure applies only to
15 classified employees. All employees are covered under applicable state and federal
16 employment laws, such as those protecting against discrimination. Classified
17 employees are also governed by the state personnel system.

18 ***State personnel system.*** In 1918, Colorado voters amended the state
19 constitution to create the state personnel system. It currently requires that:

- 20 • employees be hired and promoted according to merit and fitness;
21 • job candidates be scored and ranked using a competitive exam;
22 • hiring decisions be made from among job candidates with the
23 three highest scores on competitive exams;
24 • positions be filled by Colorado residents unless certain conditions are
25 met; and
26 • employees provide 12 months of satisfactory service before becoming
27 certified as classified.

28 Other portions of the system are governed by state law or rule, including
29 processes to evaluate candidates and job performance, respond to grievances, and
30 terminate employment. The system is administered by the state personnel director
31 (head of the Department of Personnel and Administration), with oversight from the
32 independent State Personnel Board.

1 **Exemption from the state personnel system.** Exempted positions are
2 specifically listed in the state constitution and include most employees of the state
3 courts, the legislature, and the state's institutions of higher education, as well as
4 department heads and members of certain boards and commissions. Political
5 appointees serving the administration of the Governor and Lieutenant Governor are
6 also exempt. Similar to the private sector, these employees and employers may each
7 end the employment relationship at any time. In these positions, there are no
8 universal standards for evaluating candidates, assessing job performance, or
9 responding to grievances.

10 Amendment S allows the state personnel director to exempt certain additional
11 management and support positions, up to 1 percent of the total number of employees
12 in the state personnel system. Based on the current figure of about 33,000 classified
13 employees, the measure allows an estimated 330 new positions to be exempted.
14 Currently, most departments have only one exempt position, the department head. If
15 voters approve Amendment S, additional exemptions may include deputy department
16 heads, chief financial officers, public information officers, legislative liaisons, human
17 resource directors, executive assistants to department heads, and members of the
18 senior executive service (SES). The SES is a performance pay plan authorized by
19 state statute to compensate up to 125 positions with a high level of management
20 responsibility. SES positions are currently allocated according to department size, and
21 new exemptions may be similarly distributed.

22 **Evaluating and hiring job candidates.** Currently, candidates must be ranked
23 based on the results of a competitive exam using criteria set by each department and
24 following rules issued by the State Personnel Board. In practice, each candidate is
25 awarded up to 100 points based on the results of his or her exam, with additional
26 points awarded if he or she qualifies for a veterans' preference. Hiring managers
27 must choose among the three candidates with the highest scores.

28 The measure allows the top six candidates to be considered, regardless of the
29 evaluation and ranking method used. It also allows for the use of other objective
30 methods to evaluate, compare, and rank job candidates. These other methods may
31 include written exams, oral boards, search committees, or the use of non-numerical
32 criteria, as long as they meet professionally accepted standards. Under the measure,
33 the state personnel director, rather than the State Personnel Board, will be required to
34 issue rules for the evaluation and ranking of candidates through the public rule-making
35 process.

36 **Hiring preferences for veterans.** Under the current evaluation process, an
37 eligible veteran or his or her surviving spouse receives five additional points on his or
38 her competitive exam score. A disabled veteran receives ten additional points. Once
39 an individual has been hired by the state using a veterans' preference, he or she may
40 not apply the preference again to another position. Amendment S allows a veteran to
41 continue to use preference points when applying for most other positions in the
42 system.

1 **Hiring temporary employees.** Colorado's constitution allows for temporary
2 employment of persons for up to 6 months to address a short-term or urgent hiring
3 need. State rules clarify that a temporary appointment may not exceed 6 months
4 within a 12-month period. The measure extends the time limit for temporary
5 employment to 9 months, and state rules may be adjusted accordingly.

6 **Residency.** Colorado's constitution requires that positions within the system be
7 filled by residents of Colorado unless the State Personnel Board finds the position
8 requires special education or special qualifications and the position cannot be readily
9 filled by a Colorado resident. Amendment S gives the state personnel director the
10 authority to waive residency requirements as well. It also eliminates the residency
11 requirement for positions located within 30 miles of the state border.

12 **State personnel system oversight.** The five-member State Personnel Board,
13 which includes three members appointed by the Governor and two members elected
14 by classified employees, sets policy for the system. None of the members may be a
15 state employee. Currently, board members may serve an unlimited number of
16 five-year terms and may only be removed for cause. The board is responsible for
17 setting rules for conducting competitive exams used to evaluate candidates for
18 positions in the system, approving exemptions from residency requirements, and
19 hearing appeals to certain decisions made by the state personnel director.

20 If approved, Amendment S:

- 21 • reduces board terms from five years to three years for members
22 appointed or elected after January 1, 2013;
- 23 • limits board members from serving more than two terms;
- 24 • allows two appointees to serve or be removed at the Governor's
25 pleasure;
- 26 • removes the authority of the board to set rules for the process and
27 criteria used to evaluate and hire candidates for positions in the system;
28 and
- 29 • allows the state personnel director to set the rules for evaluating and
30 hiring candidates and to approve residency exemptions.

*For information on those issue committees that support or oppose the
measures on the ballot at the November 6, 2012, election, go to the
Colorado Secretary of State's elections center web site hyperlink for ballot
and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

31 **Arguments For**

32 1) The Governor is elected to enact a policy agenda, and the measure provides
33 better tools for swiftly following through on promises made to citizens. The measure

1 gives the Governor the ability to hire a leadership team and other key staff who share
2 his or her values and policy goals, instead of being forced to inherit existing staff.

3 2) State employees provide a wide variety of services to meet the needs of
4 citizens, and the public deserves the most qualified employees to do the job. The
5 current hiring process favors test takers and may miss the most qualified candidates.
6 Amendment S expands the pool of eligible candidates and allows employers to
7 consider a wider range of criteria, so the state will be able to hire the best candidate
8 for each position. The measure also provides greater discretion in the use of
9 temporary positions and the hiring of nonresidents, which creates a more dynamic
10 workforce to better meet the state's changing needs.

11 **Arguments Against**

12 1) The measure gives the Governor and political appointees, including the state
13 personnel director, too much power over the state's personnel system. The
14 Governor's administration will be able to exempt about 330 additional positions from
15 the system, and members of the constitutionally independent State Personnel Board
16 could be removed without cause. Also, the state personnel director, appointed by the
17 Governor, will now have policymaking authority over areas of the system that the
18 board has traditionally overseen, including job candidate evaluation and exemption
19 from residency requirements. This overlap in authority could lead to potential conflicts
20 between the director and the board and create confusion for candidates and
21 employees.

22 2) The state personnel system exists, in part, to protect state employees from
23 undue political influence, and this measure removes some of those protections,
24 making the system more vulnerable to favoritism and abuse. Evaluating qualifications,
25 rather than using numerical exam scores, makes it more difficult for employers to
26 objectively compare candidates. The new system could make it easier to hire persons
27 based on political or personal connections rather than merit and result in more
28 appeals of hiring decisions. In addition, the new exemptions could displace
29 experienced existing state employees with political appointees. This may result in the
30 loss of institutional knowledge and subject traditionally neutral positions, such as chief
31 financial officers and human resource directors, to political pressure.

32 **Fiscal Impact**

33 **State and local revenues.** By allowing certain positions located within 30 miles of
34 the state border to be filled by nonresidents, the measure could reduce state and local
35 tax revenues collected from sales and use taxes, motor vehicle registrations, cigarette
36 and alcohol purchases, and license and registration taxes. To the extent that these
37 positions, currently estimated as about 1,260, are filled by nonresidents, the annual
38 revenue loss could be up to \$775,000 in state revenue and \$1.1 million in local
39 revenue.