

**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, and the standard to remove certain members.

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). All employees are covered under
15 applicable state and federal employment laws, such as those protecting against
16 discrimination. The measure applies only to classified employees in the state
17 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 • eligible veterans be able to receive a hiring preference for only one
25 position;
- 26 • positions be filled by Colorado residents unless certain conditions are
27 met; and
- 28 • employees provide 12 months of satisfactory service before becoming
29 certified as classified.

30 Other portions of the system are governed by state law or rule, including
31 processes to evaluate candidates and job performance, respond to grievances, and
32 terminate employment. The system is administered by the state personnel director
33 (head of the Department of Personnel and Administration), with oversight from the
34 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, exempted employees and their state
7 agency employers may each end the employment relationship at any time. In these
8 positions, there are no universal standards for evaluating candidates, assessing job
9 performance, or 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. The measure allows
27 for the use of other objective methods to evaluate, compare, and rank job candidates.
28 These other methods may include written exams, oral boards, search committees, or
29 the use of non-numerical criteria, as long as they meet professionally accepted
30 standards.

31 Current law requires hiring managers to choose among the three candidates with
32 the highest scores. Amendment S allows the top six candidates to be considered,
33 regardless of the evaluation and ranking method used. Under the measure, the state
34 personnel director, rather than the State Personnel Board, will be required to issue
35 rules for the evaluation and ranking of candidates through the public rule-making
36 process.

37 **Hiring preferences for veterans.** Under the current evaluation process, an
38 eligible veteran or his or her surviving spouse receives five additional points on his or
39 her competitive exam score. A disabled veteran receives ten additional points. Once
40 an individual has been hired by the state using a veterans' preference, he or she may
41 not apply the preference again to another position. Amendment S allows a veteran to
42 continue to use preference points when applying for most other positions in the
43 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 personnel
7 system be filled by residents of Colorado unless the State Personnel Board finds the
8 position requires special education or special qualifications and the position cannot be
9 readily filled by a Colorado resident. Amendment S gives the state personnel director
10 the 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) State employees provide a wide variety of services to meet the needs of
33 citizens, and the public deserves the most qualified employees to do the job. The

1 current hiring process limits the pool of eligible candidates and may favor the best
2 test-takers over applicants with practical experience. The measure expands the pool
3 of eligible candidates and allows state agencies to consider other objective methods
4 for evaluating job applicants. An improved applicant evaluation process increases the
5 ability of state to hire the best candidate for each position.

6 2) The measure makes the state personnel system more efficient and
7 accountable to Colorado taxpayers. It gives the Governor the ability to hire key staff,
8 allowing for a quicker implementation of the policy agenda he or she is elected to
9 enact. Under the measure, the state is better equipped to complete special projects
10 and respond to seasonal demands with temporary employees who are allowed to work
11 nine months rather than six. It also allows for the hiring of nonresidents in positions
12 located close to the state border, helping state agencies to identify the best
13 candidates for difficult-to-fill positions in a timely manner and from a wider applicant
14 pool. Additionally, the measure recognizes the sacrifice of veterans, allowing them to
15 use a hiring preference whenever they apply for a state position, rather than only
16 once.

17 **Arguments Against**

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

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

1 **Estimate of Fiscal Impact**

2 Allowing certain state jobs to be filled by nonresidents could affect state and local
3 government revenue, mainly sales taxes and vehicle fees. Positions filled by a
4 nonresident that would have otherwise been filled by a Colorado resident will reduce
5 revenue, and positions that would have otherwise gone unfilled will increase revenue.
6 Changing the rules for hiring state employees could also affect expenditures, but the
7 overall impact is not expected to be significant.