

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 20-1257.01 Esther van Mourik x4215

SENATE BILL 20-209

SENATE SPONSORSHIP

Garcia and Holbert,

HOUSE SPONSORSHIP

Becker and Neville,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING BILLS ENACTED IN THE SECOND REGULAR SESSION OF**
102 **THE SEVENTY-SECOND GENERAL ASSEMBLY THAT INCLUDE AN**
103 **ACT SUBJECT TO PETITION CLAUSE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Executive Committee of the Legislative Council. The bill specifies that for any act, item, section, or part of an act that is enacted by a bill with an act subject to petition clause during the second regular session of the seventy-second general assembly:

! The act, item, section, or part of the act takes effect at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

12:01 a.m. on the day following the expiration of the 90-day period after adjournment sine die of the second regular session of the seventy-second general assembly, unless a later date is otherwise specified in the act; and

! If a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against an act, item, section, or part of the act within the 90-day period after adjournment sine die of the second regular session of the seventy-second general assembly, then the act, item, section, or part of the act will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 1-40-136 as
3 follows:

4 **1-40-136. Bills enacted in the second regular session of the**
5 **seventy-second general assembly that include an act subject to**
6 **petition clause - legislative declaration.** (1) (a) THE GENERAL
7 ASSEMBLY FINDS AND DECLARES THAT:

8 (I) THE SECOND REGULAR SESSION OF THE SEVENTY-SECOND
9 GENERAL ASSEMBLY CONVENED ON JANUARY 8, 2020, AND WAS
10 SCHEDULED TO ADJOURN SINE DIE ON MAY 6, 2020, PURSUANT TO SECTION
11 8 OF ARTICLE V OF THE STATE CONSTITUTION AND JOINT RULE 23 (d) OF
12 THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES, WHICH
13 DEEMS THE CONSTITUTIONAL MAXIMUM FOR THE LEGISLATIVE SESSION OF
14 ONE HUNDRED TWENTY CALENDAR DAYS TO BE ONE HUNDRED TWENTY
15 CONSECUTIVE CALENDAR DAYS;

16 (II) JOINT RULE 44 (g) OF THE JOINT RULES OF THE SENATE AND
17 HOUSE OF REPRESENTATIVES STATES THAT THE "MAXIMUM OF ONE

1 HUNDRED TWENTY CALENDAR DAYS . . . SHALL BE COUNTED AS ONE
2 HUNDRED TWENTY SEPARATE WORKING CALENDAR DAYS IF THE
3 GOVERNOR HAS DECLARED A STATE OF DISASTER EMERGENCY";

4 (III) ON MARCH 10, 2020, THE GOVERNOR DECLARED A DISASTER
5 EMERGENCY DUE TO THE PRESENCE OF CORONAVIRUS DISEASE 2019,
6 KNOWN AS "COVID-19", AND THE PUBLIC HEALTH CRISIS NECESSITATED
7 THE TEMPORARY ADJOURNMENT OF THE SECOND REGULAR SESSION OF THE
8 SEVENTY-SECOND GENERAL ASSEMBLY;

9 (IV) ON MARCH 16, 2020, CONCERNED THAT ANY LEGISLATION
10 ENACTED AFTER MAY 6, 2020, COULD BE SUBJECT TO CHALLENGE IF JOINT
11 RULE 44 (g) WERE DEEMED UNCONSTITUTIONAL, THE GENERAL ASSEMBLY
12 SUBMITTED AN INTERROGATORY TO THE COLORADO SUPREME COURT;

13 (V) ON APRIL 1, 2020, THE COLORADO SUPREME COURT FOUND IN
14 *IN RE: INTERROGATORY ON HOUSE JOINT RESOLUTION 20-1006, 2020 CO 23*
15 (COLO. 2020), THAT JOINT RULE 44 (g) WAS CONSTITUTIONAL.
16 CONSEQUENTLY, ONCE IT RECONVENES, THE SECOND REGULAR SESSION OF
17 THE SEVENTY-SECOND GENERAL ASSEMBLY MAY CONTINUE FOR THE
18 FIFTY-TWO REMAINING LEGISLATIVE DAYS.

19 (VI) THE GOVERNOR HAS EXTENDED THE DECLARED DISASTER
20 EMERGENCY SEVERAL TIMES, WHICH WILL NOW EXPIRE THIRTY DAYS FROM
21 MAY 7, 2020, AND IT IS LIKELY THAT THE GOVERNOR'S DECLARED
22 DISASTER EMERGENCY WILL BE FURTHER EXTENDED; AND

23 (VII) THE SECOND REGULAR SESSION OF THE SEVENTY-SECOND
24 GENERAL ASSEMBLY REMAINED IN TEMPORARY ADJOURNMENT UNTIL IT
25 RECONVENED ON MAY 26, 2020, WHICH WILL BE COUNTED AS THE
26 SIXTY-NINTH LEGISLATIVE DAY. IT IS UNCERTAIN WHEN THE GENERAL
27 ASSEMBLY WILL ADJOURN SINE DIE, BUT IT COULD BE AS LATE AS JULY 30,

1 2020, UNDER JOINT RULE 44 (g) OR LATER IF THE BODY UNDERTAKES
2 ANOTHER TEMPORARY ADJOURNMENT.

3 (b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

4 (I) IF A BILL DOES NOT INCLUDE A SAFETY CLAUSE, IT IS SUBJECT
5 TO THE PEOPLE'S REFERENDUM POWER UNDER SECTION 1 OF ARTICLE V OF
6 THE STATE CONSTITUTION, WHICH PROVIDES THAT A PERSON CAN FILE A
7 REFERENDUM PETITION UP TO NINETY DAYS AFTER A GENERAL ASSEMBLY'S
8 ADJOURNMENT SINE DIE TO PLACE AN ACT, OR AN ITEM, SECTION, OR PART
9 OF AN ACT ON THE BALLOT AT A GENERAL ELECTION;

10 (II) WHEN THE SEVENTY-SECOND GENERAL ASSEMBLY
11 COMMENCED ITS SECOND REGULAR SESSION ON JANUARY 8, 2020, AND
12 UNTIL IT RECONVENED ON MAY 26, 2020, THE ACT SUBJECT TO PETITION
13 CLAUSE SPECIFIED THAT IF A REFERENDUM PETITION WERE FILED AGAINST
14 AN ACT, OR AN ITEM, SECTION, OR PART OF AN ACT, IT WOULD BE PLACED
15 ON THE BALLOT FOR THE NOVEMBER 2020 GENERAL ELECTION;

16 (III) THE ACT SUBJECT TO PETITION CLAUSE IMPLICATES TWO
17 INTERLOCKING ISSUES, BOTH OF WHICH HAVE CONSTITUTIONAL,
18 STATUTORY, AND PRACTICAL DIMENSIONS;

19 (IV) IF A PETITION IS FILED WITHIN THE NINETY DAYS ALLOWED BY
20 THE STATE CONSTITUTION, THE OFFICE OF THE SECRETARY OF STATE MUST
21 VALIDATE THE PETITION TO DETERMINE IF IT IS SUFFICIENT. BEFORE THE
22 ELECTION, THE OFFICE OF THE SECRETARY OF STATE MUST ALSO CERTIFY
23 THE CONTENT OF THE BALLOT AND COUNTY CLERK AND RECORDERS MUST
24 PRINT AND MAIL BALLOTS IN ACCORDANCE WITH DEADLINES SET FORTH IN
25 BOTH STATE AND FEDERAL LAW.

26 (V) AT THE SAME TIME, THE CONSTITUTION REQUIRES LEGISLATIVE
27 COUNCIL STAFF TO DISTRIBUTE THE BALLOT INFORMATION BOOKLETS,

1 WHICH INCLUDES AN ANALYSIS OF EACH MEASURE PLACED ON THE
2 BALLOT, AT LEAST THIRTY DAYS BEFORE THE ELECTION. THIS PROCESS
3 ALSO INVOLVES MULTIPLE STEPS.

4 (VI) BECAUSE OF THE DELAYED ADJOURNMENT SINE DIE DUE TO
5 COVID-19, THERE WILL NOT BE SUFFICIENT TIME AFTER THE
6 CONSTITUTIONAL DEADLINE TO FILE PETITIONS TO MEET THE DEADLINE IN
7 FEDERAL LAW FOR THE DISTRIBUTION OF BALLOTS TO UNIFORMED AND
8 OVERSEAS CITIZENS OR THE DEADLINE IN THE STATE CONSTITUTION FOR
9 THE DISTRIBUTION OF THE BALLOT INFORMATION BOOKLETS FOR THE 2020
10 GENERAL ELECTION ON NOVEMBER 3;

11 (VII) SECTION 1 (4)(a) OF ARTICLE V OF THE STATE CONSTITUTION
12 SPECIFIES THAT "ELECTIONS ON MEASURES INITIATED BY OR REFERRED TO
13 THE PEOPLE OF THE STATE SHALL BE HELD AT THE BIENNIAL REGULAR
14 GENERAL ELECTION". WHILE UNDER NORMAL CIRCUMSTANCES THIS IS
15 UNDERSTOOD TO MEAN THE GENERAL ELECTION THAT FOLLOWS THE
16 SESSION OF THE GENERAL ASSEMBLY THAT PASSED THE BILL, THE
17 CONSTITUTION DOES NOT SPECIFY THAT THE ELECTION BE HELD AT THE
18 NEXT GENERAL ELECTION.

19 (VIII) BECAUSE OF THE DELAYED ADJOURNMENT SINE DIE DUE TO
20 COVID-19, AND THE RESULTING INABILITY TO PLACE BILLS REFERRED BY
21 PETITION ON THE BALLOT FOR THE 2020 GENERAL ELECTION, IT IS
22 REASONABLE TO INTERPRET SECTION 1 (4)(a) OF ARTICLE V OF THE STATE
23 CONSTITUTION TO MEAN THE NOVEMBER 2022 GENERAL ELECTION
24 INSTEAD OF THE NOVEMBER 2020 GENERAL ELECTION;

25 (IX) REFERENCING THE NOVEMBER 2022 GENERAL ELECTION
26 INSTEAD OF THE NOVEMBER 2020 GENERAL ELECTION PRESERVES THE
27 RIGHT OF REFERENDUM, AFFORDS THE ABILITY TO COMPLY WITH THE

1 OTHER STATUTORY AND CONSTITUTIONAL DEADLINES FOR THE NOVEMBER
2 2020 ELECTION, AND AVOIDS THE UNCERTAINTY THAT MIGHT COME WITH
3 THE RISK OF LEGAL CHALLENGES IF THIS ISSUE IS NOT ADDRESSED;

4 (X) AMENDING THE ACT SUBJECT TO PETITION CLAUSE IN EACH
5 BILL COULD REQUIRE AMENDING HUNDREDS OF PENDING BILLS AND WOULD
6 REQUIRE CHANGING THE ACT SUBJECT TO PETITION CLAUSE IN OVER
7 SEVENTY ENACTED BILLS; AND

8 (XI) IT IS A MORE EFFICIENT SOLUTION TO ENACT THIS SECTION TO
9 ADDRESS THE ISSUE FOR ALL BILLS ENACTED IN THE SECOND REGULAR
10 SESSION OF THE SEVENTY-SECOND GENERAL ASSEMBLY.

11 (c) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

12 (I) THE ACT SUBJECT TO PETITION CLAUSE IN BILLS THAT WERE
13 PENDING OR ENACTED PRIOR TO THE TEMPORARY ADJOURNMENT OF THE
14 SECOND REGULAR SESSION OF THE SEVENTY-SECOND GENERAL ASSEMBLY
15 ON MARCH 14, 2020, MAKE REFERENCE TO AUGUST 5, 2020, AS THE
16 POSSIBLE EFFECTIVE DATE OF SUCH BILLS IF ADJOURNMENT SINE DIE WAS
17 ON MAY 6, 2020; AND

18 (II) BECAUSE THE ADJOURNMENT SINE DIE OF THE SECOND
19 REGULAR SESSION OF THE SEVENTY-SECOND GENERAL ASSEMBLY WAS
20 DELAYED BEYOND MAY 6, 2020, THIS SECTION IS INTENDED TO REITERATE
21 THAT UNLESS A LATER DATE IS OTHERWISE SPECIFIED IN THE ACT, THE
22 EFFECTIVE DATE FOR ANY ACT, OR AN ITEM, SECTION, OR PART OF AN ACT
23 WITH AN ACT SUBJECT TO PETITION CLAUSE IS 12:01 A.M. ON THE DAY
24 FOLLOWING THE EXPIRATION OF THE NINETY-DAY PERIOD AFTER
25 ADJOURNMENT SINE DIE, NOT AUGUST 5, 2020.

26 (2) NOTWITHSTANDING ANY LAW TO THE CONTRARY, FOR ANY
27 ACT, ITEM, SECTION, OR PART OF AN ACT THAT IS ENACTED BY BILL WITH

1 AN ACT SUBJECT TO PETITION CLAUSE DURING THE SECOND REGULAR
2 SESSION OF THE SEVENTY-SECOND GENERAL ASSEMBLY:

3 (a) THE ACT, ITEM, SECTION, OR PART OF THE ACT TAKES EFFECT
4 AT 12:01 A.M. ON THE DAY FOLLOWING THE EXPIRATION OF THE
5 NINETY-DAY PERIOD AFTER ADJOURNMENT SINE DIE OF THE SECOND
6 REGULAR SESSION OF THE SEVENTY-SECOND GENERAL ASSEMBLY, UNLESS
7 A LATER DATE IS OTHERWISE SPECIFIED IN THE ACT; AND

8 (b) NOTWITHSTANDING SUBSECTION (2)(a) OF THIS SECTION, IF A
9 REFERENDUM PETITION IS FILED PURSUANT TO SECTION 1 (3) OF ARTICLE
10 V OF THE STATE CONSTITUTION AGAINST SUCH AN ACT, ITEM, SECTION, OR
11 PART OF THE ACT WITHIN THE NINETY-DAY PERIOD AFTER ADJOURNMENT
12 SINE DIE OF THE SECOND REGULAR SESSION OF THE SEVENTY-SECOND
13 GENERAL ASSEMBLY, THEN THE ACT, ITEM, SECTION, OR PART OF THE ACT
14 WILL NOT TAKE EFFECT UNLESS APPROVED BY THE PEOPLE AT THE
15 GENERAL ELECTION TO BE HELD IN NOVEMBER 2022 AND, IN SUCH CASE,
16 WILL TAKE EFFECT ON THE DATE OF THE OFFICIAL DECLARATION OF THE
17 VOTE THEREON BY THE GOVERNOR.

18 **SECTION 2. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.