

CHAPTER 198

ELECTIONS

HOUSE BILL 15-1057

BY REPRESENTATIVE(S) Court and DeGrosso, Arndt, Kraft-Tharp, Lawrence, Lee, Rankin, Brown, Landgraf, Priola, Roupe, Tate;
also SENATOR(S) Sonnenberg and Hodge, Balmer, Cadman, Cooke, Hill, Roberts, Scheffel.

AN ACT

CONCERNING THE PROCESS FOR A STATEWIDE INITIATIVE TO BE PLACED ON A BALLOT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 1-40-102, **amend** (6) as follows:

1-40-102. Definitions. As used in this article, unless the context otherwise requires:

(6) "Section" means a bound compilation of initiative forms approved by the secretary of state, which shall include pages that contain the warning required by section 1-40-110 (1), the ballot title, THE ABSTRACT REQUIRED BY SECTION 1-40-110 (3), and a copy of the proposed measure; succeeding pages that contain the warning, the ballot title, and ruled lines numbered consecutively for registered electors' signatures; and a final page that contains the affidavit required by section 1-40-111 (2). Each section shall be consecutively prenumbered by the petitioner prior to circulation.

SECTION 2. In Colorado Revised Statutes, 1-40-105, **amend** (1), (2), and (4); and **add** (1.5) as follows:

1-40-105. Filing procedure - review and comment meeting - amendments - filing with secretary of state. (1) The original typewritten draft of every initiative petition for a proposed law or amendment to the state constitution to be enacted by the people, before it is signed by any elector, shall be submitted by the proponents of the petition to the directors of the legislative council and the office of legislative legal services for review and comment. Proponents are encouraged to write such

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

drafts in plain, nontechnical language and in a clear and coherent manner using words with common and everyday meaning ~~which~~ THAT are understandable to the average reader. Upon request, any agency in the executive department shall assist in reviewing and preparing comments on the petition. No later than two weeks after the date of submission of the original draft, unless it is withdrawn by the proponents, the directors of the legislative council and the office of legislative legal services, or their designees, shall render their comments to the proponents of the petition concerning the format or contents of the petition at a REVIEW AND COMMENT meeting THAT IS open to the public. Where appropriate, such comments shall also contain suggested editorial changes to promote compliance with the plain language provisions of this section. Except with the permission of the proponents, the comments shall not be disclosed to any person other than the proponents prior to the ~~public~~ REVIEW AND COMMENT meeting. ~~with the proponents of the petition.~~

(1.5) BOTH DESIGNATED REPRESENTATIVES OF THE PROPONENTS MUST APPEAR AT ALL REVIEW AND COMMENT MEETINGS. IF EITHER DESIGNATED REPRESENTATIVE FAILS TO ATTEND A MEETING, THE MEASURE IS CONSIDERED WITHDRAWN BY THE PROPONENTS. IF ONE OF THE TWO DESIGNATED REPRESENTATIVES FAILS TO ATTEND THE REVIEW AND COMMENT MEETING, THE PETITION IS DEEMED TO BE AUTOMATICALLY RESUBMITTED TO THE DIRECTORS OF THE LEGISLATIVE COUNCIL AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES FOR REVIEW AND COMMENT, UNLESS THE DESIGNATED REPRESENTATIVE PRESENT OBJECTS TO THE AUTOMATIC RESUBMISSION. NO LATER THAN FIVE BUSINESS DAYS AFTER THE RESUBMISSION, THE DIRECTORS SHALL CONDUCT A REVIEW AND COMMENT MEETING IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. IF BOTH DESIGNATED REPRESENTATIVES FAIL TO ATTEND THE REVIEW AND COMMENT MEETING OR IF THE DESIGNATED REPRESENTATIVE PRESENT OBJECTS TO THE AUTOMATIC RESUBMISSION, THE PROPONENTS MAY THEREAFTER RESUBMIT THE INITIATIVE PETITION IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION.

(2) After the ~~public~~ REVIEW AND COMMENT meeting but before submission to the secretary of state for title setting, the proponents may amend the petition in response to some or all of the comments of the directors of the legislative council and the office of legislative legal services, or their designees. If any substantial amendment is made to the petition, other than an amendment in direct response to the comments of the directors of the legislative council and the office of legislative legal services, the amended petition ~~shall~~ MUST be resubmitted to the directors for comment in accordance with subsection (1) of this section prior to submittal to the secretary of state as provided in subsection (4) of this section. If the directors have no additional comments concerning the amended petition, they may so notify the proponents in writing, and, in such case, a ~~hearing~~ REVIEW AND COMMENT MEETING on the amended petition pursuant to subsection (1) of this section is not required.

(4) After the ~~conference~~ REVIEW AND COMMENT MEETING provided in subsections (1) and (2) of this section, a copy of the original typewritten draft submitted to the directors of the legislative council and the office of legislative legal services; a copy of the amended draft with changes highlighted or otherwise indicated, if any amendments were made following the last ~~conference~~ REVIEW AND COMMENT MEETING conducted pursuant to subsections (1) and (2) of this section; and an original final draft ~~which~~ THAT gives the final language for printing shall be submitted to the secretary of state without any title, submission clause, or ballot title

providing the designation by which the voters shall express their choice for or against the proposed law or constitutional amendment.

SECTION 3. In Colorado Revised Statutes, **add** 1-40-105.5 as follows:

1-40-105.5. Initial fiscal impact statement - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "DIRECTOR" MEANS THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY.

(2) (a) FOR EVERY INITIATED MEASURE PROPERLY SUBMITTED TO THE TITLE BOARD UNDER SECTION 1-40-106, THE DIRECTOR SHALL PREPARE AN INITIAL FISCAL IMPACT STATEMENT, TAKING INTO CONSIDERATION ANY FISCAL IMPACT ESTIMATE SUBMITTED BY THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS OR OTHER INTERESTED PERSON THAT IS SUBMITTED IN ACCORDANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (2), THE OFFICE OF STATE PLANNING AND BUDGETING, AND THE DEPARTMENT OF LOCAL AFFAIRS. THE DIRECTOR SHALL PROVIDE THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS AND THE SECRETARY OF STATE WITH THE IMPACT STATEMENT NO LATER THAN THE TIME OF THE TITLE BOARD MEETING AT WHICH THE PROPOSED INITIATED MEASURE IS TO BE CONSIDERED. THE TITLE BOARD SHALL NOT CONDUCT A HEARING ON THE IMPACT STATEMENT AT THIS TITLE BOARD MEETING, AND THE DIRECTOR'S ABSTRACT THAT IS INCLUDED IN THE IMPACT STATEMENT IS FINAL, UNLESS MODIFIED IN ACCORDANCE WITH SECTION 1-40-107. THE DIRECTOR SHALL ALSO POST THE STATEMENT ON THE LEGISLATIVE COUNCIL STAFF WEB SITE ON THE SAME DAY THAT IT IS PROVIDED TO THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS.

(b) THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS OR ANY OTHER INTERESTED PERSON MAY SUBMIT A FISCAL IMPACT ESTIMATE THAT INCLUDES AN ESTIMATE OF THE EFFECT THE MEASURE WILL HAVE ON STATE AND LOCAL GOVERNMENT REVENUES, EXPENDITURES, TAXES, AND FISCAL LIABILITIES IF IT IS ENACTED. THE DIRECTOR SHALL CONSIDER THESE ESTIMATES AND THE BASES THEREON WHEN PREPARING THE INITIAL FISCAL IMPACT STATEMENT.

(c) THE INITIAL FISCAL IMPACT STATEMENT MUST:

(I) BE SUBSTANTIALLY SIMILAR IN FORM AND CONTENT TO THE FISCAL NOTES PROVIDED BY THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY FOR LEGISLATIVE MEASURES PURSUANT TO SECTION 2-2-322, C.R.S.;

(II) INDICATE WHETHER THERE IS A FISCAL IMPACT FOR THE INITIATED MEASURE;
AND

(III) INCLUDE AN ABSTRACT DESCRIBED IN SUBSECTION (3) OF THIS SECTION.

(3) THE ABSTRACT MUST INCLUDE:

(a) AN ESTIMATE OF THE EFFECT THE MEASURE WILL HAVE ON STATE AND LOCAL GOVERNMENT REVENUES, EXPENDITURES, TAXES, AND FISCAL LIABILITIES IF THE MEASURE IS ENACTED;

(b) A STATEMENT OF THE MEASURE'S ECONOMIC BENEFITS FOR ALL COLORADANS;

(c) AN ESTIMATE OF THE AMOUNT OF ANY STATE AND LOCAL GOVERNMENT RECURRING EXPENDITURES OR FISCAL LIABILITIES IF THE MEASURE IS ENACTED;

(d) FOR ANY INITIATED MEASURE THAT MODIFIES THE STATE TAX LAWS, AN ESTIMATE, IF FEASIBLE, OF THE IMPACT TO THE AVERAGE TAXPAYER IF THE MEASURE IS ENACTED; AND

(e) THE FOLLOWING STATEMENT: "THE ABSTRACT INCLUDES ESTIMATES OF THE FISCAL IMPACT OF THE PROPOSED INITIATIVE. IF THIS INITIATIVE IS TO BE PLACED ON THE BALLOT, LEGISLATIVE COUNCIL STAFF WILL PREPARE NEW ESTIMATES AS PART OF A FISCAL IMPACT STATEMENT, WHICH INCLUDES AN ABSTRACT OF THAT INFORMATION. ALL FISCAL IMPACT STATEMENTS ARE AVAILABLE AT WWW.COLORADOBLUEBOOK.COM AND THE ABSTRACT WILL BE INCLUDED IN THE BALLOT INFORMATION BOOKLET THAT IS PREPARED FOR THE INITIATIVE."

(4) THE ABSTRACT FOR A MEASURE, AS AMENDED IN ACCORDANCE WITH SECTION 1-40-107, MUST BE INCLUDED IN A PETITION SECTION AS PROVIDED IN SECTION 1-40-110(3).

(5) NEITHER THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY NOR ITS EXECUTIVE COMMITTEE MAY MODIFY THE INITIAL FISCAL IMPACT STATEMENT PREPARED BY THE DIRECTOR. THIS RESTRICTION DOES NOT APPLY TO THE FINAL FISCAL IMPACT STATEMENT PREPARED IN ACCORDANCE WITH SECTION 1-40-124.5.

(6) AT THE SAME TIME THE DIRECTOR POSTS THE INITIAL FISCAL IMPACT STATEMENT ON THE LEGISLATIVE COUNCIL WEB SITE, HE OR SHE SHALL ALSO POST ON THE WEB SITE ALL FISCAL IMPACT ESTIMATES RECEIVED IN ACCORDANCE WITH PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

SECTION 4. In Colorado Revised Statutes, 1-40-107, **amend** (1) (a), (1) (b), (2), and (4); and **add** (5.5) as follows:

1-40-107. Rehearing - appeal - fees - signing. (1) (a) (I) Any person presenting an initiative petition or any registered elector who is not satisfied with a decision of the title board with respect to whether a petition contains more than a single subject pursuant to section 1-40-106.5, or who is not satisfied with the titles and submission clause provided by the title board and who claims that they are unfair or that they do not fairly express the true meaning and intent of the proposed state law or constitutional amendment may file a motion for a rehearing with the secretary of state within seven days after the decision is made or the titles and submission clause are set.

(II) THE DESIGNATED REPRESENTATIVES OF THE PROPONENTS OR ANY REGISTERED ELECTOR WHO IS NOT SATISFIED WITH THE ABSTRACT PREPARED BY THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY IN ACCORDANCE WITH SECTION 1-40-105.5 MAY FILE A MOTION FOR A REHEARING WITH THE SECRETARY OF STATE WITHIN SEVEN DAYS AFTER THE TITLES AND SUBMISSION CLAUSE FOR THE INITIATIVE PETITION ARE SET ON THE GROUNDS THAT:

(A) AN ESTIMATE INCLUDED IN THE ABSTRACT IS INCORRECT;

(B) THE ABSTRACT IS MISLEADING OR PREJUDICIAL; OR

(C) THE ABSTRACT DOES NOT COMPLY WITH THE REQUIREMENTS SET FORTH IN SECTION 1-40-105.5 (3).

(b) A motion for rehearing must be typewritten and set forth with particularity the grounds for rehearing. If the motion claims that the petition contains more than a single subject, then the motion must, at a minimum, include a short and plain statement of the reasons for the claim. If the motion claims that the title and submission clause set by the title board are unfair or that they do not fairly express the true meaning and intent of the proposed state law or constitutional amendment, then the motion must identify the specific wording that is challenged. IF THE MOTION CLAIMS THAT AN ESTIMATE IN THE ABSTRACT IS INCORRECT, THE MOTION MUST INCLUDE DOCUMENTATION THAT SUPPORTS A DIFFERENT ESTIMATE. IF THE MOTION CLAIMS THAT THE ABSTRACT IS MISLEADING OR PREJUDICIAL OR DOES NOT COMPLY WITH THE STATUTORY REQUIREMENTS, THE MOTION MUST SPECIFICALLY IDENTIFY THE SPECIFIC WORDING THAT IS CHALLENGED OR THE REQUIREMENT AT ISSUE. THE TITLE BOARD MAY MODIFY THE ABSTRACT BASED ON INFORMATION PRESENTED AT THE REHEARING.

(2) If any person presenting an initiative petition for which a motion for a rehearing is filed, any registered elector who filed a motion for a rehearing pursuant to subsection (1) of this section, or any other registered elector who appeared before the title board in support of or in opposition to a motion for rehearing is not satisfied with the ruling of the title board upon the motion, then the secretary of state shall furnish such person, upon request, a certified copy of the petition with the titles and submission clause of the proposed law or constitutional amendment OR THE ABSTRACT, together with a certified copy of the motion for rehearing and of the ruling thereon. If filed with the clerk of the supreme court within seven days thereafter, the matter shall be disposed of promptly, consistent with the rights of the parties, either affirming the action of the title board or reversing it, in which latter case the court shall remand it with instructions, pointing out where the title board is in error.

(4) No petition for any initiative measure shall be circulated nor any signature thereto have any force or effect which has been signed before the titles and submission clause have been fixed and determined as provided in section 1-40-106 and this section, OR BEFORE THE ABSTRACT HAS BEEN FIXED AND DETERMINED AS PROVIDED IN SECTION 1-40-105.5 AND THIS SECTION.

(5.5) IF THE TITLE BOARD MODIFIES THE ABSTRACT PURSUANT TO THIS SECTION, THE SECRETARY OF STATE SHALL PROVIDE THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY WITH A COPY OF THE AMENDED ABSTRACT, AND THE DIRECTOR SHALL POST THE NEW VERSION OF THE ABSTRACT ON THE LEGISLATIVE COUNCIL WEB SITE.

SECTION 5. In Colorado Revised Statutes, 1-40-110, **amend** (1); and **add** (3) as follows:

1-40-110. Warning - ballot title. (1) At the top of each page of every initiative or referendum petition section shall be printed, in a form as prescribed by the

secretary of state, the following:

**WARNING:
IT IS AGAINST THE LAW:**

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.

Before signing this petition, you are encouraged to read the text or the title of the proposed initiative or referred measure. YOU ARE ALSO ENCOURAGED TO READ THE ABSTRACT OF THE INITIAL FISCAL IMPACT STATEMENT THAT IS INCLUDED AT THE BEGINNING OF THIS PETITION.

By signing this petition, you are indicating that you want this measure to be included on the ballot as a proposed change to the (Colorado constitution/Colorado Revised Statutes). If a sufficient number of registered electors sign this petition, this measure will appear on the ballot at the November (year) election.

(3) FOR A PETITION SECTION FOR A MEASURE TO BE VALID, THE ABSTRACT PREPARED IN ACCORDANCE WITH SECTION 1-40-105.5 (3) MUST BE PRINTED ON THE FIRST PAGE OF AN INITIATIVE PETITION SECTION.

SECTION 6. In Colorado Revised Statutes, 1-40-124.5, **add** (1) (d) as follows:

1-40-124.5. Ballot information booklet. (1) (d) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY MAY UPDATE THE INITIAL FISCAL IMPACT STATEMENT PREPARED IN ACCORDANCE WITH SECTION 1-40-105.5 WHEN PREPARING THE FISCAL IMPACT STATEMENT REQUIRED BY THIS SUBSECTION (1).

SECTION 7. In Colorado Revised Statutes, 24-6-301, **amend** (1.7) (a); and **add** (3.5) (a) (II.5) as follows:

24-6-301. Definitions - legislative declaration - repeal. As used in this part 3, unless the context otherwise requires:

(1.7) "Covered official" means:

(a) For the type of lobbying defined in subparagraphs (I), ~~and~~ (II.5), AND (III) of paragraph (a) of subsection (3.5) of this section, the governor, the lieutenant governor, ~~or~~ a member of the general assembly, OR THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY OR ANY MEMBER OF

LEGISLATIVE COUNCIL STAFF;

(3.5) (a) "Lobbying" means communicating directly, or soliciting others to communicate, with a covered official for the purpose of aiding in or influencing:

(II.5) THE PREPARATION OF AN INITIAL FISCAL IMPACT STATEMENT REQUIRED BY SECTION 1-40-105.5, C.R.S.

SECTION 8. Appropriation. For the 2015-16 state fiscal year, \$18,414 is appropriated to the legislative department for use by the legislative council staff. This appropriation is from the general fund and is based on an assumption that the legislative council staff will require an additional 0.3 FTE. To implement this act, the legislative council staff may use this appropriation for the preparation of fiscal impact statements for all citizen-initiated measures submitted to the title board.

SECTION 9. Act subject to petition - effective date - applicability. (1) This act takes effect March 26, 2016; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to initiatives that are submitted for review and comment on or after the applicable effective date of this act.

Approved: May 18, 2015