

Amendment W Election Ballot Format for Judicial Retention Elections

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

- 2 ♦ change the ballot format for judicial retention elections to list justices and judges
3 seeking retention by court type.

4 **Summary and Analysis**

5 **Background.** In 1966, Colorado voters approved a constitutional amendment that
6 repealed the partisan election of justices and judges and enacted the current,
7 merit-based process. The process requires justices and judges to be nominated by a
8 nonpartisan judicial nominating commission and then appointed by the Governor.
9 Thereafter, nonpartisan justices and judges must go before voters in a retention election
10 to maintain their seat on the bench. Colorado justices serve on the Supreme Court, and
11 judges serve in all other courts.

12 **Judicial retention elections.** A retention election asks voters whether incumbent
13 justices or judges should remain in office for another term. In Colorado, justices and
14 judges stand for retention at the end of their judicial terms, and elections are held during
15 the November general election in even-numbered years. Justices or judges do not face
16 an opponent and retain their position if the majority of voters cast a “yes” vote.

17 **Colorado court types.** Colorado law requires judicial retention elections for all
18 levels of courts, including the Supreme Court, district courts, county courts, City and
19 County of Denver Probate Court, Denver Juvenile Court, and any other court created by
20 the state legislature, such as the Court of Appeals.

21 **Current ballot format.** Under current law, ballots must be formatted according to
22 the type of office up for election. Federal offices are required to be first on the ballot,
23 followed by state, county, and local offices. The judicial retention candidates are listed
24 after the county or local officers, but before the introduction of ballot measures. The
25 county clerk and recorder is required to list the same retention question for each
26 individual judge or justice on the ballot.

27 The current language reads as follows:

28 “Shall Justice (or Judge) ... of the Supreme Court (or other court) be retained in
29 office?” YES/NO

30 **Judicial retention ballot format under Amendment W.** Amendment W requires
31 the county clerk and recorder to display the retention question once for each court type
32 and then list each individual justice or judge on that court with the “yes” or “no” option
33 next to each name.

34 “Shall the following Justices (or Judges) of the Supreme (or other court) be retained
35 in office?” YES/NO

1 Figure 1 shows a sample judicial retention ballot both under current law and
 2 Amendment W.

3 **Figure 1. Sample Judicial Retention Ballots**

Sample Ballot Under Current Law	Sample Ballot Under Amendment W
State Offices	Judicial Retention
Colorado Supreme Court Justice (Vote Yes or No)	Shall the following Justices of the <u>Colorado Supreme Court</u> be retained in office? (Vote "Yes" or "No" for each Justices name)
Shall Justice Robert Smith of the Colorado Supreme Court be retained in office?	Robert Smith
Yes <input type="radio"/>	Yes <input type="radio"/>
No <input type="radio"/>	No <input type="radio"/>
Colorado Court of Appeals Judge (Vote Yes or No)	Shall the following Judges of the <u>Colorado Court of Appeals</u> be retained in office? (Vote "Yes" or "No" for each Judges name)
Shall Judge Maria Rodriguez of the Colorado Court of Appeals be retained in office?	Maria Rodriguez
Yes <input type="radio"/>	Yes <input type="radio"/>
No <input type="radio"/>	No <input type="radio"/>
Shall Judge James Johnson of the Colorado Court of Appeals be retained in office?	James Johnson
Yes <input type="radio"/>	Yes/Sí <input type="radio"/>
No <input type="radio"/>	No <input type="radio"/>
Shall Judge Mary Adams of the Colorado Court of Appeals be retained in office?	Mary Adams
Yes <input type="radio"/>	Yes <input type="radio"/>
No <input type="radio"/>	No <input type="radio"/>
Shall Judge John Franklin of the Colorado Court of Appeals be retained in office?	John Franklin
Yes <input type="radio"/>	Yes <input type="radio"/>
No <input type="radio"/>	No <input type="radio"/>

*This sample was prepared by the Denver Elections Division. Should Amendment W be adopted by the voters, actual ballots may differ due to County Clerk and Recorder ballot design discretion.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, 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>*

4 **Argument For**

5 1) Amendment W helps make the ballot more concise and user-friendly. A
 6 well-designed and shorter ballot will allow voters to complete it more efficiently, while
 7 decreasing the likelihood of voter fatigue. A more compact ballot may also save
 8 counties printing and mailing costs, particularly in more populous counties that elect
 9 multiple justices or judges and counties that are required to print ballots in both
 10 English and Spanish.

1 **Argument Against**

2 1) The proposed judicial retention section of the ballot may appear inconsistent with
3 previous sections of the ballot. Voters may find the new layout unclear and not
4 realize they are to vote for each justice or judge listed on the ballot. Judicial retention
5 may be confused with a multi-member election where justices and judges are
6 running against each other instead of an election where votes are cast on the
7 retention of each individual justice or judge.

8 **Estimate of Fiscal Impact**

9 *(Please note: A summary of the fiscal impact will be included in this space in the*
10 *second draft of the analysis. A final fiscal impact statement will be prepared and placed*
11 *on the General Assembly's website when the final blue book is sent to voters.)*