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MEMORANDUM

TO: Frank McNulty and Kathleen Curry

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: April 5, 2016

SUBJECT: Proposed initiative measure 2015-2016 #133, concerning the Colorado Redistricting Commission

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with proposed initiative 2015-2016 #132. The comments and questions raised in this memorandum that relate to both initiatives will not be repeated in this memorandum, except as necessary to fully understand the issues raised by the proposed initiatives. Comments and questions addressed in that memorandum may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Earlier versions of this proposed initiative, proposed initiatives 2015-2016 #55, #107, and #128 were the subject of memoranda dated December 1, 2015, March 2, 2016,

and April 4, 2016, which were discussed at public meetings on December 1, 2015, March 4, 2016, and April 4, 2016. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendment to the Colorado constitution appear to be:

1. To prohibit political gerrymandering when drawing state legislative districts.
2. To rename the Colorado reapportionment commission the independent Colorado Legislative Redistricting Commission ("Commission").
3. To change the number, appointment process, and qualifications of members of the Commission.
4. To establish procedures and timelines for the Commission to follow in adopting plans for state senate and state house of representatives districts ("plans"), including:
 - a. Providing that only nonpartisan staff from the legislative research and legal services offices of the general assembly ("staff") may submit plans;
 - b. Adding maximizing the number of competitive districts as the last criteria for state legislative districts; and
 - c. Requiring that approval of any plan needs a vote of at least eight commissioners.
5. To prohibit certain communications concerning plans and require disclosure and notice of certain other communication concerning plans.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. What will be the effective date of the proposed initiative?
3. Proposed initiative 2015-2016 #128 creates the independent Colorado Congressional Redistricting Commission. If both proposed initiatives 2015-2016 #128 and #133 are enacted:
 - a. Since article V of section 44 of the Colorado constitution is amended differently under each proposed initiative, how do proponents intend that it would be amended? Only the one in the initiative with the most votes takes effect?
 - b. May a person be a member of both the congressional and state legislative commissions?
 - c. May the two commissions hold joint public meetings throughout the state? If so, should the time frames for when those meetings are held be the same for both commissions?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. When adding an "AND" to separate, for instance, the last two paragraphs of a subsection, the "AND" should come after the semi-colon. For example, section 45 (6) (d) should end: "IS IMPLEMENTED, OR OTHERWISE REMOVED; AND".
2. There are several errors concerning internal references. The Colorado constitution is divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

X-X-XXXX. Headnote. (1) Subsection.

- (a) Paragraph
- (I) Subparagraph
- (A) Sub-subparagraph
- (B) Sub-subparagraph

(II) Subparagraph
(b) Paragraph

In section 48 (1) (b) (II), the reference to "PARAGRAPH (I) OF THIS SUBSECTION (1) (b)" should either read "THIS PARAGRAPH (b)" or "SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (1)".

3. In section 45 (6), the reference to section "45," is unnecessary as it is covered by the reference to "THIS SECTION".
4. In section 45 (9), instead of the reference to section "45,", the phrase "THIS SECTION AND" should precede the word "SECTIONS".
5. In section 45 (9), staff has already been identified for sections 44 through 48. It is unnecessary to further identify them in section 48 (1) (a) (I).