

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

**TO:** Anna Rose Kummerlowe and Hattie Lou Reed  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** April 4, 2018  
**SUBJECT:** Proposed initiative measure 2017-2018 #176, concerning runoff primary elections

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 a series of initiatives including proposed initiatives 2017-2018 #175 to #177. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2017-2018 #175 and #177, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

## Purposes

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

1. To move the date of primary elections in Colorado from the last Tuesday in June to the third Tuesday in April;
2. To require a runoff primary election on the last Tuesday in June following a primary election if no political party primary candidate receives a majority of the votes in that primary election; and
3. To limit the runoff primary election requirement to candidates for governor and lieutenant governor, secretary of state, treasurer, or attorney general.

## 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. Under section 1-40-105.5, Colorado Revised Statutes, the director of research of the legislative council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
  - a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
  - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
  - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the legislative council staff at [BallotImpactEstimates.ga@state.co.us](mailto:BallotImpactEstimates.ga@state.co.us).
3. Is the only difference between this proposed initiative and proposed initiative 2017-2018 #175 that this proposed initiative (#176) only requires a runoff

- primary election for election contests featuring candidates for governor and lieutenant governor, secretary of state, treasurer, or attorney general? If not, what are additional differences between the two proposed initiatives?
4. How did the proponents make the determination that this proposed initiative only requires the runoff primary election system for the aforementioned set of offices?
  5. How would the proponents' runoff primary system work in the case of joint candidates for governor and lieutenant governor?
  6. Does the existence of a runoff primary election system for one set of offices to be voted on at a general election mean that there will essentially be two sets of requirements in state law for primary elections with, for example, two different election calendars?
  7. Is there any reason for concern that the operation of dual systems for nominating candidates for the general election will cause voter confusion?

## **Technical Comments**

The technical comments raised in the memorandum for the previously submitted initiative 2017-2018 #175 are incorporated by reference in this memorandum. There are no new technical comments.