

STATE OF COLORADO

Colorado General Assembly

Mike Mauer, Director
Legislative Council Staff

Colorado Legislative Council
029 State Capitol Building
Denver, Colorado 80203-1784
Telephone (303) 866-3521
Facsimile (303) 866-3855
TDD (303) 866-3472
E-Mail: lcs.ga@state.co.us



Dan L. Cartin, Director
Office of Legislative Legal Services

Office of Legislative Legal Services
091 State Capitol Building
Denver, Colorado 80203-1782
Telephone (303) 866-2045
Facsimile (303) 866-4157
E-Mail: olls.ga@state.co.us

MEMORANDUM

December 5, 2014

TO: Sean Johnson and Teri Johnson

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2015-2016 #7, concerning time zone change

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 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.

Purposes

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

1. To make Mountain Daylight Saving Time the standard time in Colorado immediately following the November 8, 2016, election; and

2. To specify that Colorado will forever remain on Mountain Daylight Saving Time.

Substantive Comments and Questions

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

1. Regarding the amendment to section 2-4-109, Colorado Revised Statutes:
 - a. As a statutory change, the proposed initiative may be amended by subsequent legislation enacted by the General Assembly. Is this your intention?
 - b. To avoid confusion, do you wish to repeal current subsection (1) of this statute (which designates "United States Mountain Standard Time" as the standard time within Colorado)?
2. The proposed initiative mentions both "United States Mountain Daylight Time" and "Mountain Daylight Saving Time". Are the terms synonymous? If so, would you consider using only one of the terms, to avoid potential confusion? If not, would you clarify the meaning of these terms?
3. The federal "Uniform Time Act of 1966" (15 U.S.C. sec. 260a) allows states located wholly within one time zone to exempt themselves from the mandate to *advance* time. (For example, Colorado may elect to remain on United States Mountain Standard Time year-round.) That act does not, however, allow states to exempt themselves from time changes by observing daylight saving time year-round. Given the specific exemption available to states, and the fact that the federal act expressly preempts contrary state laws, is the proposed initiative likely to withstand challenge?
4. What will be the effective date of the proposed initiative? Is November 8, 2016, the intended effective date? Or does "immediately following the November 8th election in 2016" mean the date of the official declaration of the vote by proclamation of the governor pursuant to article V, section 1 of the state constitution? (The date of proclamation is typically late December or early January following the election.)
5. The proposed initiative contains a "Background" section that sets forth certain findings and statements. It is unclear whether the proponents intend this portion of the initiative to be included in the actual language of the statutory amendment. If so, would you consider clarifying how the

background information should appear in the Colorado Revised Statutes (e.g., in a legislative declaration)?

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. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., SECTION 1.). For example:

SECTION 1. In Colorado Revised Statutes, **amend** 2-4-109 (2) as follows:

2. The section number and headnote should be in bold-face type.
3. It is standard drafting practice to use SMALL CAPITAL LETTERS to show the language being added to and stricken type, which appears as ~~stricken type~~, to show language being removed from the Colorado Revised Statutes.
4. For purposes of this statutory initiative, the word "shall" is defined in section 2-4-401 (13.7), Colorado Revised Statutes, and it means "that a person has a duty." The related word "must," which is defined in section 2-4-401 (6.5), Colorado Revised Statutes, "means that a person or thing is required to meet a condition for a consequence to apply." Furthermore, "'must' does not mean that a person has a duty."