

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Jon Caldara and Vanessa Rutledge
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: January 20, 2024
SUBJECT: Proposed initiative measure 2023-2024 #183, concerning a limitation of the regular legislative session to 90 days

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.

Purposes

The major purpose of the proposed amendment to the Colorado constitution appears to be:

1. To change the length of the regular session of the general assembly from "one hundred twenty calendar days" to "ninety consecutive calendar days."

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 is the intended meaning and effect of the word "consecutive" as a modifier of "calendar days"?
 - a. How is the new language "ninety consecutive calendar days" intended to apply? Does "calendar days" mean that weekends and holidays are not excluded from the 90-day limit?
 - b. The general assembly has previously interpreted the phrase "one hundred twenty calendar days" as meaning "consecutive calendar days" unless the governor has declared a state of disaster emergency due to a public health emergency, in which case only working days on which at least one chamber of the general assembly convenes count against the 120-day limit. The general assembly's interpretation in its rules was affirmed by interrogatory to the Colorado Supreme Court in 2020. With the addition of "consecutive", would the General Assembly still be able to make these limited exceptions to the continuous running of new 90-day limit?
 - c. Similarly, how will the proposed initiative operate with respect to declared disaster emergencies, closures due to threats of violence, bad weather, or other similar unforeseen circumstances.
 - d. Section 15 of article V of the Colorado constitution permits adjournment by one or both chambers of the general assembly, including for more than 3 days, during a regular session. How, if at all, is the proposed initiative intended to impact the ability of the general assembly to adjourn or otherwise not meet on a particular day or days?
3. Section 1 (4)(a) of the Colorado constitution states that voter-approved initiatives take effect "from and after the official declaration of the vote thereon by proclamation of the governor ...". Does this provision make section 2 of the proposed initiative unnecessary? If not, should section 2 include a reference to section 1 (4) of article V of the Colorado constitution?

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. Each constitutional section being amended or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In the constitution of the state of Colorado, **add** section __ to article X as follows:"
 - a. The amending clause for section 1 contains formatting and capitalization errors and should be changed to read as follows:
 - i. "**SECTION 1.** In the constitution of the state of Colorado, **amend** section 7 of article V as follows:"
2. Headnotes do not need to be shown as all-capitalized. For instance, the headnote for Section 1 of the proposed initiative should read:

Section 7. General assembly - shall meet when - term of members - committees.