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Colorado General Assembly

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MEMORANDUM

TO: Jason Bertolacci & Owen Alexander Clough
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: February 20, 2024
SUBJECT: Proposed initiative measure 2023-2024 #192, concerning the conduct of 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 2023-2024 ##186 to 191 and ##193 to 196. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2023-2024 ##186 to 191 and ##193 to 196, 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 require that general elections for covered offices be conducted by instant runoff voting;
2. Defining the term "covered office;"
3. Establishing requirements for the formatting of general election ballots for covered offices for elections that will be conducted by instant runoff voting;
4. Establishing that voters may rank as many or as few candidates as they wish for covered offices, including ranking just one candidate per office, in an election conducted by instant runoff voting; and
5. Establishing the mechanism for tabulating votes in an instant runoff election.

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. In section 2 of the proposed initiative, the headnote for the new section 1-4-207 says "Final four general elections for covered offices." What does "final four" mean in this instance?
3. Is it the proponents' intent that, if approved by the voters at the November 2024 election, the proposed initiative will be effective for elections occurring on and after January 1, 2026?
4. In subsection (2)(a) of section 2 of the proposed initiative, is the proponents' intent to allow this proposed initiative to take effect, even if the voters approve it, only if a different proposed initiative is also approved by the voters? If so, that measure must be clearly identified by filling in the blank and, if known, because ballot measures are not referred to the voters by proposed initiative number but instead as propositions or amendments, by referencing a

proposition or amendment rather than a proposed initiative. If not, what is the purpose of subsection (2)(a)?

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. The following is the standard drafting language and formatting used for creating a definition section: "(1) As used in this section, unless the context otherwise requires:".
2. When referring to a subsection of a section, be sure to refer to the correct subsection. For example, In the effective date clause, "(2)(a)" should refer to "(2)" because there is no subsection (2)(a) in the effective date clause.