

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**TO:** Jon Caldara and Charles Dennis Maes  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** March 20, 2024  
**SUBJECT:** Proposed initiative measure 2023-2024 #250, concerning judicial retention 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.

An earlier version of this proposed initiative, proposed initiative 2023-2024 #185, was the subject of a memorandum dated February 20, 2024. Proposed initiative 2023-2024 #185 was discussed at a public meeting on February 22, 2024. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, 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 purpose of the proposed amendment to the **Colorado constitution** appears to be:

1. To require a justice or judge who desires to be retained in office for another term to receive 55 percent or more of the votes cast, instead of a simple majority of the votes cast, at an election to be retained in office.

## **Substantive Comments and Questions**

There are no new substantive comments or questions for this proposed initiative.

## **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. In the amending clause of Section 1 of the proposed initiative, the comma after "Section 25" should be removed.
2. The word "of" should be removed from where it appears directly before the phrase "fifty-five percent or more" on the ninth line of substantive text of the proposed initiative.
3. The proposed initiative strikes the pronoun "his" in the last sentence of the first paragraph and replaces the pronoun with "the" as a definite article to make the reference to a justice or judge gender neutral but does not change the pronoun "his" anywhere else in article VI, section 25. For consistency, would the proponents consider making similar changes in the other four instances where the pronoun "his" is used?
4. There should be a soft space added between the stricken "his" and new "the" in the last sentence of the first paragraph of Section 1 of the proposed initiative.