

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Kristi Burton Brown and Michael Tsogt
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 28, 2024
SUBJECT: Proposed initiative measure #264, concerning Charter School Institute Authority

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 purposes of the proposed amendment to the Colorado constitution appear to be:

1. Create a charter school institute, to which charter schools may apply for approval; and

2. Establish requirements for charter school institute membership.

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. Subsection (2) of the proposed initiative states, "[a] charter school, or proposed school, may apply directly to the institute for approval."
 - a. What is the proponents' intent regarding "[a] charter school...may apply directly to the institute for approval."? Is the intent that an existing charter school may apply directly to the institute for renewal approval? If so, is it the intent that this is only for existing institute charter schools, or does this also include existing district charter schools? Would the proponents consider revising for clarity?
 - b. What is the proponents' intent regarding a "proposed school"? Is it the proponents' intent that this means proposed institute charter schools? Would the proponents consider revising for clarity?
3. Subsection (3) of the proposed initiative describes the membership and appointing authority of the institute board.
 - a. The proposed initiative does not create an institute board. Is it the proponents' intent that by not creating it in the Colorado constitution, that this subsection (3) only applies if it is created in statute, or that the General Assembly could repeal the institute board? Would the proponents consider revising for clarity?
 - b. What is the proponents' intent regarding "an executive from a nonprofit who advocates for school choice..."? The proposed initiative states "an executive...**who** advocates for school choice..." (**Emphasis added**); is it the proponents' intent that the nonprofit entity does not have to advocate for school choice? Would the proponents consider revising for clarity?
 - c. What is the proponents' intent regarding "the president of the Colorado Charter School League" if the Colorado Charter School League dissolves or changes its name? The proponents should avoid using a specific entity's name and should reference a desired entity generically. Would the proponents consider revising?

- d. The proposed initiative creates two membership positions for people who are "parents." Is it the proponents' intent to exclude or include legal guardians as well? Would the proponents consider revising for clarity?
 - e. In section 22-30.5-505, Colorado Revised Statutes, there is an existing charter school institute board. Do the proponents intend that the General Assembly would run implementing legislation to conform the statutory board to the board in the proposed initiative?
4. Subsection (4) of the proposed initiative describes the qualifications that an appointed member of the institute board must have. Is it the proponents' intent that the "two members that have experience as a parent of a student..." pursuant to subsection (3) of the proposed initiative, additionally must have experience in one of the listed experience areas?

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 and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. The amending clause should be amended to: "In the constitution of the state of Colorado, **add** section 18 to article IX as follows:".
2. The word "shall" means that a person has a duty. The related word, "must," means that a person or thing is required to meet a condition for a consequence to apply.
3. The effective date clause should be drafted as follows:

SECTION 2. Effective date. The initiative takes effect if it is approved by the people at the next general election and becomes law, and, in such case, this takes effect on the date of the official declaration of the vote thereon by the governor.

4. Although the text of the proposed initiative should be in SMALL CAPITAL LETTERS, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:
 - a. The first letter of the first word of each sentence;

- b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
- c. The first letter of proper names, such as "Colorado," "South Platte river," and "Pike's Peak community college."