

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 #265, 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.

This initiative was submitted with a series of initiatives including proposed initiatives 2023-2024 #264 and #266. 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 #264 and #266, 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 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.

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

1. Repeal existing statutory provisions that give a local board of education the ability to obtain exclusive authority to authorize charter schools within the geographic boundaries of a school district; and
2. Amend existing statutory 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. Section 3 of the proposed initiative appears to repeal statutory provisions that give a local board of education the ability to obtain exclusive authority to authorize charter schools within the geographic boundaries of the school district.
 - a. The headnote for section 22-30.5-504, Colorado Revised Statutes, includes "**exclusive authority**." If the proponents' intent is to repeal the exclusive authority, the proponents should amend the headnote to harmonize with the proposed initiative.
 - b. There are other statutory provisions within the Colorado Revised Statutes that refer to a local board of education's exclusive authority to authorize charter schools and that refer to section 22-30.5-504, Colorado

Revised Statutes. Would the proponents consider amending those statutory provisions as well, for clarity?

3. Subsection (2)(b) of Section 4 of the proposed initiative states, in part, "The membership shall be appointed within three years of the effective date of this subsection."
 - a. Is the proponents' intent that the new nine members will be appointed at the expiration of the existing six members' terms? If so, in what order will the new members be included? Would the three new seats be appointed immediately? If so, which seats? Would the proponents consider revising for clarity?
 - b. Section 22-30.5-505 (2)(b), Colorado Revised Statutes, states, in part, "A member [of the board] shall not serve more than six consecutive years." Is it the proponents' intent that this applies to the president of the Colorado Charter School League, who is not restricted to a term limit in that position? If so, who else would fill that position if a person is the president of the Colorado Charter School League for longer than six years? Would the proponents consider revising for clarity?

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. In Section 4 of the proposed initiative, the amending clause should read as follows:

SECTION 4. In Colorado Revised Statutes, 22-30.5-505, **amend** (2)(a) and (2)(b) as follows:
3. The proponents should strike "22-30.5.-501" and substitute "22-30.5-501," and strike "22-30.5.-504" and substitute "22-30.5-504," thereby omitting the extra period after ".5."