

STATE OF COLORADO

Colorado General Assembly

Natalie Castle, Director
Legislative Council Staff

Colorado Legislative Council
200 E. Colfax Ave., Room 029
Denver, Colorado 80203-1716
Telephone 303-866-3521
Facsimile 303-866-3855
Email: lcs.ga@coleg.gov



Ed DeCecco, Director
Office of Legislative Legal Services

Office of Legislative Legal Services
200 E. Colfax Ave., Room 091
Denver, Colorado 80203-1716
Telephone 303-866-2045
Email: olls.ga@coleg.gov

MEMORANDUM

TO: Jon Caldara and Vanessa Rutledge
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: April 2, 2024
SUBJECT: Proposed initiative measure 2023-24 # 287 concerning Repeal Provisions in Open Meetings Law Applicable to Legislative Proceedings

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 Revised Statutes** appears to be:

1. To repeal section 24-6-402 (2.5), C.R.S., enacted by Senate Bill 24-157, which section modifies and clarifies the situations in which certain requirements of

the Colorado open meetings law (COML) apply to the General Assembly and its members.

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. How will the proposed initiative change the extent to which or manner in which the COML will apply to the General Assembly and its members? Specifically, what will the effects be of repealing each of the following portions of section 24-6-402 (2.5), C.R.S.:
 - a. Subsection (2.5)(a), which specifies that for purposes of applying specified public notice and minutes recording requirements, "a quorum must be contemporaneous."?
 - b. Subsection (2.5)(b), which exempts written communications exchanged by two or more members of the General Assembly from the COML and specifies that such communications are subject to the "Colorado Open Records Act" to the extent required by that act?
 - c. Subsection (2.5)(c), which modifies the COML definition of "public business", as applied to the General Assembly only, to include introduced legislation, unIntroduced legislation if a draft prepared by the Office of Legislative Legal Services is being discussed by a quorum of a legislative committee, and other matters before a legislative committee and to exclude specified other matters so long as the merits or substance of the legislation or other matters that are included in the definition of public business, as applied to the General Assembly, are not discussed.

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. Because the statutory provision being repealed, section 24-6-402 (2.5), C.R.S., was added to the Colorado Revised Statutes during the current legislative session and thus is not part of the most recently codified 2023 Colorado Revised Statutes, an amending clause that acknowledges this fact is required. Accordingly, replace the amending clause for Section 1 of the proposed initiative to read as follows:

"SECTION 1. In Colorado Revised Statutes, 24-6-402, **repeal as added by Senate Bill 24-157 (2.5)** as follows:".

2. The proposed initiative shows the language to be repealed in ALL CAPS. Because this language is not new language being added to the Colorado Revised Statutes but is instead existing statutory, albeit not yet codified, language, it should be shown in ~~regular strike type text~~. However, use an uppercase letter to indicate capitalization where appropriate such as for:
 - 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.
3. The actual subsection number "(2.5)", where it appears immediately following the headnote, should not be shown in strike type.
4. The headnote for section 24-6-402, C.R.S., in the proposed initiative should exactly match the headnote as written in Senate Bill 24-157. Consider amending the headnote in the proposed initiative to read "**Meetings - open to public - legislative declaration - definitions.**" [in bold, without quotation marks].