

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Steven Ward and Suzanne Taheri

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: April 3, 2024

SUBJECT: Proposed initiative measure #288, concerning Legislation with Economic Impact Voter Approval.

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 #259, was the subject of a memorandum dated March 29, 2024. Proposed initiative 2023-2024 #259 was discussed at a public meeting on March 29, 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 purposes of the proposed amendment to the **Colorado constitution** appear to be:

1. To require voter approval of any legislation with a projected negative economic impact to the state's "gross domestic product" ("GDP") greater than \$100 million during the first five fiscal years after the legislation's enactment;
2. To allow any person, within five days of the passage of such legislation, to submit to the chief economist of the General Assembly an economic impact statement utilizing dynamic modeling to determine the legislation's impact on the state's GDP;
3. To require the state chief economist to review any submitted economic impact statement to determine whether the statement accurately models the impacts of the legislation and determine the validity of its assumptions;
4. To provide that the district court has jurisdiction to hear a challenge regarding the state chief economist's determination about the qualification of an economic impact statement, and
5. To require the director of legislative council to certify the ballot content to the secretary of state.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. What is the reason this proposed initiative would change the Colorado constitution instead of the Colorado Revised Statutes?
2. Subsection (3) of the proposed initiative provides that a person may submit an economic impact statement within five days of "the passage of legislation." When is this?
3. If the economic impact statement is not required to be submitted until after the governor has signed an act, may an act become law in the period between the governor's signature and review of any submitted economic impact statement by the state chief economist?
4. Legislation often includes an effective date clause, which usually states that an act takes effect upon: signature of the governor; following the expiration of the

- ninety-day period after adjournment of the general assembly; or upon a date certain. Would this constitutional amendment override effective date clauses in legislation?
5. If the constitutional amendment overrides effective date clauses in legislation, when does legislation referred to and approved by voters become law?
 6. Legislation often specifies that certain actions must be taken by government officials or agencies on certain dates. As an example, legislation may require that a certain amount of money be transferred on a certain date. If legislation requires that an action be taken on a certain date, but becomes law after the specified date because of the election requirement in the measure, is that action still required to occur?
 7. Legislation sometimes specifies that certain actions must be taken by government officials or agencies immediately when the law takes effect. Does the proposed initiative change when these actions occur?
 8. Article V, Section 1 (3) of the Colorado constitution reserves the power of referendum to the people, except as to laws necessary for the immediate preservation of the public peace, health, or safety. The following questions relate to the interaction between the proposed constitutional amendment and this current constitutional provision:
 - a. How does the proposed initiative apply in a case where a referendum petition is filed? Does the legislation appear on the ballot twice? If the legislation appears only once, which ballot title is used?
 - b. How does the proposed initiative apply in a case where the general assembly finds, determines, and declares that a law is necessary for the immediate preservation of the public peace, health, or safety?

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. Some numbers are written out and some numbers are expressed as digits. Please write out all numbers.

2. In section 2 of the proposed initiative, the head note ("Effective Date"), should be in bold, and "Date" should not be capitalized.