

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

To: Suzanne Taheri and Michael Fields

From: Legislative Council Staff and Office of Legislative Legal Services

Date: February 5, 2025

Subject: Proposed initiative measure 2025-2026 #24, concerning Voter Approval of New Enterprises

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 constitution** appears to be:

1. After January 1, 2021, to require advance voter approval for a newly created or qualified enterprise that is projected to generate over \$100 million in fees and surcharges in its first five fiscal years.

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. As an amendment to the Colorado constitution, the proposed initiative may only be amended by a subsequent amendment to the constitution. Is this your intention?
3. Is the intention of the proposed initiative to add to the state constitution the existing requirements of section 24-77-108 of the Colorado Revised Statutes? If so, please consider using the language already used in that statute.
4. To make clear what is a declaration regarding the purpose or intent of the initiative and what is a substantive requirement, please consider rewording the proposed initiative.
5. The proposed initiative purports to apply "after January 1, 2021." Is this what you intend? Please consider changing this date to a date after the effective date of the act and, further, making this "on or after" a certain date to avoid ambiguity.
6. It is unnecessary to include the phrase "as defined under section 20 (2)(d) of this article X" because the definitions included in subsection (2)(d) apply to the entire section 20, to which this proposed initiative would be added.
7. The proposed initiative does not define "fees" or "surcharges." What do these terms mean? Is there an existing definition that you intend to apply here?
8. What do you intend to cover by including the qualification, in addition to the initial creation, of an enterprise? How does the first-five-fiscal-year time period apply to the qualification of an enterprise?
9. Do you intend that the proposed initiative cover all enterprises, including state institutions of higher education?

10. It appears that your proposed initiative intends to require advance voter approval for an enterprise that is projected to generate over \$100 million in revenue in its first five fiscal years. This requirement also appears to apply to enterprises with actual revenue over \$100 million. If advance voter approval is required based on projected revenue, what do you intend the actual collection of revenue over \$100 million to trigger? If you intend this to trigger voter approval for the enterprise to continue to qualify for enterprise status, what happens in the interim between reaching the \$100 million threshold and the election to approve its enterprise status?
11. The voter approval requirement does not appear to apply when an existing enterprise begins collecting a new fee projected to generate more than \$100 million over its first five years. Is this correct?
12. What do you mean by enterprises "created simultaneously"?
13. Who will determine whether enterprises serve "primarily the same purpose"? What criteria should be used when making this determination?

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 an amending clause amending the state constitution, please bold the section number of the proposed initiative, as follows:

SECTION 1. In the constitution of the state of Colorado, section 20 of article X, **add** (10) as follows:
2. In subsection (10)(a) of the proposed initiative, the internal reference to "section 20(2)(D)" should use a lower case (d) – subsection 20(2)(d).