



## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

Room 029 State Capitol, Denver, CO 80203-1784

Phone: (303) 866-3521 • Fax: (303) 866-3855

[lcs.ga@state.co.us](mailto:lcs.ga@state.co.us) • [leg.colorado.gov/lcs](http://leg.colorado.gov/lcs)

## Memorandum

September 2021

**TO:** Interested Persons

**FROM:** Erin Reynolds, Principal Fiscal Analyst, 303-866-4146

**SUBJECT:** Constitutional and Statutory Changes Affecting the Ballot Information Booklet and Required Publication of Text and Titles in Newspapers

### Summary

This memorandum provides an overview of constitutional and statutory changes affecting the ballot information booklet ("Blue Book"), newspaper publication of ballot titles and texts, and related statewide initiative policy since 1994. These changes are summarized in Table 1 by year and focus specifically on the following sections of state law:

Colo. Const. art. V, § 1	— General Assembly - Initiative and Referendum
Colo. Const. art. X, § 20	— The Taxpayer's Bill of Rights
Section 1-5-407, C.R.S.	— Form of Ballots
Section 1-40-106, C.R.S.	— Title Board - Meetings - Ballot Title - Initiative and Referendum
Section 1-40-124, C.R.S.	— Publication
Section 1-40-124.5, C.R.S.	— Ballot Information Booklet
Section 1-40-126, C.R.S.	— Explanation of Effect of "Yes/For" or "No/Against" Vote Included in the Notices Provided by Mailing or Publication
Section 1-40-126.5, C.R.S.	— Explanation of Ballot Titles and Actual Text of Measures in Notices Provided by Mailing or Publication
Section 1-41-102, C.R.S.	— State Ballot Issue Elections in Odd-Numbered Years
Section 13-5.5-108, C.R.S.	— Judicial Performance Evaluations in Retention Election Years - Procedure - Recommendations

**Ballot information booklet.** When Legislative Council was created in 1953 by Senate Bill 53-018, it required the council to "examine the effects of constitutional provisions and statutes." As such, Legislative Council Staff has produced a ballot information booklet since 1954. In 1994, Referendum B amended the Colorado Constitution and created Section 1-40-124.5, C.R.S., to require the Legislative Council Staff to prepare and distribute a ballot information booklet. The purpose of the booklet is to provide voters with the text, title, and a fair and impartial analysis of each initiated or referred amendment, proposition, or question on the statewide ballot, which involves writing and distributing for public comment several drafts of an analysis for each measure. The booklet is distributed a month prior to the election. For more information, consult Legislative Council Staff's memorandum entitled [Process for Writing the Ballot Information Booklet](#).

**Newspaper publication of ballot titles and texts.** The Colorado Constitution and Section 1-40-124, C.R.S., require the Legislative Council Staff—moved from the Colorado Secretary of State's Office in 1994—to cause to be published at least one time in at least one legal publication of general circulation in each county of the state the title and text of each constitutional amendment, initiated or referred measure, part of a measure, and referred or initiated question arising under Section 20 of Article X of the Colorado Constitution on the statewide ballot. This publication is required to occur at least 15 days before Election Day, which is in mid-October.

**Table 1  
Constitutional and Statutory Changes Affecting the Ballot Information Booklet and Related Publication Requirements**

<b>Year</b>	<b>Measure</b>	<b>Citation</b>	<b>Provisions</b>
2021	House Bill 21-1321	1-40-106, C.R.S.	<p>The Title Board must include specific language when a measure increases or decreases state or local tax revenue.</p> <p>For measures that increase tax revenue for any district, including the state, cities, counties, school districts, or special districts, the ballot title must include the following language concerning increases or improvements in the level of public services funded by the measure: "IN ORDER TO INCREASE OR IMPROVE LEVELS OF PUBLIC SERVICES, INCLUDING, BUT NOT LIMITED TO (THE PUBLIC SERVICE SPECIFIED IN THE MEASURE)..." or "IN ORDER TO INCREASE OR IMPROVE LEVELS OF PUBLIC SERVICES...".</p> <p>For measures that decrease state tax revenue, the ballot title must include the following language concerning the three largest areas of program expenditures impacted by a reduction in revenue, and specify the amount of the estimated decrease: "SHALL THERE BE A REDUCTION TO THE (DESCRIPTION OF TAX) BY (THE PERCENTAGE BY WHICH THE TAX IS REDUCED IN THE FIRST FULL FISCAL YEAR THAT THE MEASURE REDUCES REVENUE) THEREBY REDUCING STATE REVENUE, WHICH WILL REDUCE FUNDING FOR STATE EXPENDITURES THAT INCLUDE BUT ARE NOT LIMITED TO (THE THREE LARGEST AREAS OF PROGRAM EXPENDITURE) BY AN ESTIMATED (PROJECTED DOLLAR FIGURE OF REVENUE REDUCTION TO THE STATE IN THE FIRST FULL FISCAL YEAR THAT THE MEASURE REDUCES REVENUE) IN TAX REVENUE...?".</p> <p>For measures that decrease local property tax revenue, the ballot title must include the following language about the types of local districts affected and an estimate of the statewide decrease in property tax revenue: "SHALL FUNDING AVAILABLE FOR COUNTIES, SCHOOL DISTRICTS, WATER DISTRICTS, FIRE DISTRICTS, AND OTHER DISTRICTS FUNDED, AT LEAST IN PART, BY PROPERTY TAXES BE IMPACTED BY A REDUCTION OF (PROJECTED DOLLAR FIGURE OF PROPERTY TAX REVENUE REDUCTION TO ALL DISTRICTS IN THE FIRST FULL FISCAL YEAR THAT THE MEASURE REDUCES REVENUE) IN PROPERTY TAX REVENUE...?".</p>
		1-40-124.5, C.R.S.	For initiated or referred measures that would either increase or decrease individual income tax revenue or state sales tax revenue, Legislative Council Staff (LCS) must include a table in the ballot information booklet that shows the total tax burden change for specified income categories, the average tax burden change for filers within those income categories, and the number of filers within each category. For a measure that reduces state tax revenue, the booklet must also include a description of the three largest areas of program expenditure.
2017	House Bill 17-1303	13-5.5-108, C.R.S.	Specific to the ballot information booklet the designations for judicial performance recommendations are changed from "retain," "do not retain," and "no opinion" to "meets performance standard" and "does not meet performance standard." A majority vote by the commission is required to use the "does not meet performance standard" designation.
2016	Amendment 71	Colo. Const. art. V, § 1	<p>Effective December 28, 2016, Amendment 71 created an additional signature-gathering requirement to place a constitutional initiative on the ballot. Of the total required signatures, some must be collected from each of the state's 35 senate districts in an amount of at least 2 percent of the registered voters in each district.</p> <p>The amendment also increased the percentage of votes required to adopt a constitutional amendment from a majority of all votes cast, or 50 percent plus one vote, to 55 percent of all votes cast, except when a proposed amendment repeals rather than changes part of the constitution, in which case a simple majority of votes is required.</p>

**Table 1  
Constitutional and Statutory Changes Affecting the Ballot Information Booklet and Related Publication Requirements**

<b>Year</b>	<b>Measure</b>	<b>Citation</b>	<b>Provisions</b>
2013	House Bill 13-1303	Secondary impact	<p>Due to changes to the election and voter registration processes, the cover language of the ballot information booklet must include information about mail ballots and voter service and polling centers.</p> <p>The deadline by which the text and titles must be published in newspapers was changed because the voter registration deadline from 29 days before an election to Election Day. As a result, the deadline for newspaper publication of text and titles of all statewide measures is 15 days before Election Day.</p>
2012	House Bill 12-1089	1-40-126, C.R.S.	"For" and "against" must appear in the required language describing what a vote means in the ballot information booklet and in newspaper publication as follows: "A 'yes/for' vote on any ballot issue is a vote in favor of changing current law or existing circumstances, and a 'no/against' vote on any ballot issue is a vote against changing current law or existing circumstances."
2011	House Bill 11-1035	1-40-126.5, C.R.S.	<p>In both the ballot information booklet and in the newspaper publication of ballot titles and text, the following explanation must precede each measure:</p> <ul style="list-style-type: none"> <li>For referred measures: "The ballot title below is a summary drafted by the professional legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the (Colorado constitution/Colorado Revised Statutes). The text of the measure that will appear in the (Colorado constitution/Colorado Revised Statutes) below was referred to the voters because it passed by a (two-thirds majority/majority) vote of the state senate and the state house of representatives."</li> <li>For initiated measures: "The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the (Colorado constitution/Colorado Revised Statutes). The text of the measure that will appear in the (Colorado constitution/Colorado Revised Statutes) below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures."</li> </ul>
2010	Senate Bill 10-216	Secondary impact	Ballot measures must appear on the ballot as follows: referred amendments first, followed by initiated amendments, referred propositions, initiated propositions, county issues and questions, municipal issues and questions, school district issues and questions, ballot issues and questions for other political subdivisions which are in more than one county, and then ballot issues and questions for other political subdivisions which are wholly within a county. As a result, the ballot information booklet and newspaper publications follow this order.
	House Bill 10-1020	2-2-320, C.R.S.	The Legislative Council Committee chair or vice-chair must approve any contract to which the Legislative Council is a party, and for the director of the Office of Legislative Legal Services, or their designee, to approve all legislative department contracts. As a result, the contract related to ballot information booklet printing and distribution and the contract related to newspaper publication of ballot titles and text follow this process.
	House Bill 10-1370	1-40-124.5, C.R.S.	<p>The following phrase must precede the arguments for and against each measure in the analysis section of the ballot information booklet: "For information on those issue committees that support or oppose the measures on the ballot at the (date and year) election, go to the Colorado secretary of state's elections center web site hyperlink for ballot and initiative information (appropriate secretary of state web site address)."</p> <p>In addition, each person submitting written comments on ballot information booklet drafts must provide their name and the name of any organization the person represents or is affiliated with for purposes of making the comments.</p>

**Table 1  
Constitutional and Statutory Changes Affecting the Ballot Information Booklet and Related Publication Requirements**

<b>Year</b>	<b>Measure</b>	<b>Citation</b>	<b>Provisions</b>
2009	House Bill 09-1326	1-5-407, C.R.S.	The bill makes several changes to the initiative petition process, including modifying initiative-related deadlines. Specific to the ballot information booklet and newspaper publication of ballot titles and text, ballot measures that propose a change to the Colorado Constitution are "amendments," and ballot measures proposing a change to statutes are "propositions." The bill also outlines an alphanumerical system to differentiate between initiated and referred measures, with further differentiation between constitutional amendments and changes to statute, to apply to all measures on the statewide ballot commencing with the November 2010 general election.
2005	Senate Bill 05-094	1-40-124.5, C.R.S.	The Director of Research of LCS must hold a public meeting after receiving written comments from the public and before finalizing the draft of the ballot information booklet for Legislative Council Committee review. The director is authorized to modify the draft of the booklet in response to comments made at the public meeting. The Legislative Council Committee may modify the draft of the ballot information booklet upon a two-thirds affirmative vote of committee members.
	House Bill 05-1197	1-5-407, C.R.S.	Commencing with the general election held in November 2004, statewide referred measures must be lettered consecutively in a repeating alphabetical cycle from A to Z.
2004	House Bill 04-1425	1-40-124, C.R.S.	The title and text and ballot questions must be published in at least one legal publication of general circulation in each county, rather than in every legal newspaper of the state. It allows the publication requirement to be met through a separate newspaper insert, rather than as a legal notice, if so determined and negotiated by the Director of Research of the Legislative Council. It authorizes the Director of Research to select the newspaper or newspapers that will make the publication for counties in which more than one legal newspaper is circulated, taking into account the newspapers' circulation and charges; and to provide alternative methods of circulation in cases where no legal newspaper is willing or able to publish in a county. Finally, the bill specifies that the Executive Committee determines that amount paid to meet the publication requirements, based on available appropriations.
2001	Senate Bill 01-025	1-40-124.5, C.R.S.	LCS must prepare a fiscal impact statement for every initiated or referred measure, similar in form and content to fiscal notes. The ballot information booklet must include an abstract of the fiscal impact statement, and a full fiscal impact statement must be available through the Legislative Council.
2000	Senate Bill 00-172	1-40-124.5, C.R.S.	The ballot information booklet is required to include an estimate of the fiscal impact of any ballot measure for which there appears to be a significant fiscal impact on the state or any of its political subdivisions.
	House Bill 00-1304	1-40-124, C.R.S.	Newspaper publications must include ballot questions arising under the Taxpayer's Bill of Rights.
		1-40-124.5, C.R.S.	Requires the ballot information booklet to include ballot questions arising under the Taxpayer's Bill of Rights, and requires the Executive Committee to provide certain related fiscal information to be included in the booklet.
		1-40-126, C.R.S.	Modifies explanatory language about the effect of a yes or no vote to read: "A 'yes' vote on any ballot issue is a vote in favor of changing current law or existing circumstances, and a 'no' vote on any ballot issue is a vote against changing current law or existing circumstances."
1997	Senate Bill 97-204	1-40-124.5, C.R.S.	Establishes the Ballot Information Publication and Distribution Revolving Fund.

**Table 1**  
**Constitutional and Statutory Changes Affecting the Ballot Information Booklet and Related Publication Requirements**

Year	Measure	Citation	Provisions
	House Bill 97-1037	13-5.5-106, C.R.S.	Requires the State Commission on Judicial Performance and each District Commission on Judicial Performance to submit narratives and recommendations on the retention of justices and judges for inclusion in the ballot information booklet in years in which judicial retention elections are held.
1996	Senate Concurrent Resolution 95-007 <i>Passed as Referendum B on the 1996 ballot</i>	Colo. Const. art. X, § 20	TABOR provisions are amended to allow counties to coordinate the mailing of local TABOR notices with the distribution of the ballot information booklet in order to save mailing costs.
1994	Senate Concurrent Resolution 94-005 <i>Passed as Referendum B on the 1994 ballot</i>	Colo. Const. art. V, § 1	Requires LCS, rather than the Secretary of State, to publish the text and title of any initiated or referred constitutional amendment or legislation in newspapers. Publication must occur at least one time in at least one legal publication of general circulation in each county of the state, and at least 15 days prior to the final date of voter registration for the election. The publication requirements of proposed constitutional amendments and initiated or referred bills "in two issues of two newspapers of opposite political faith in each county," are repealed.  Requires LCS to prepare and make available to the public a ballot information booklet that includes the text and title and a fair and impartial analysis of each measure, which shall include a summary and the major arguments both for and against the measure, and which may include any other information that would assist understanding the purpose and effect of the measure. Any person may file written comments for consideration by the research staff during the preparation of such analysis. The booklet is requires to be distributed to active registered voters statewide at least 30 days before the election. If any measure to be voted on by the voters of the entire state includes matters arising under Colo. Const. art. X, § 20, the ballot information booklet shall include the information required by § 20 (3)(b). The General Assembly is required to provide sufficient appropriations for the preparation and distribution of the ballot information booklet at no charge to recipients.
		Colo. Const. art. V, § 1	The ballot information booklet must be distributed at least 30 days before the election to active registered voters statewide. If a state measure is a TABOR issue, the booklet must include the information and notices required by TABOR in Section 20(3)(b) of Article X. The General Assembly must provide sufficient appropriations for the preparation and distribution of the booklet at no charge to the recipients.
	Senate Bill 94-223 <i>Took effect upon passage of SCR 94-005</i>	1-40-124, C.R.S.	LCS, rather than the Secretary of State, is responsible for newspaper publication of the text and title of each constitutional amendment or initiated or referred measure.  The publication requirements requiring the publication of proposed constitutional amendments and initiated or referred bills "in two issues of two newspapers of opposite political faith in each county," at least a week apart and between three and five weeks before the election are repealed.
		1-40-124.5, C.R.S.	The LCS must prepare a ballot information booklet in accordance with Section 1 (7.5) of Article V of the Colorado Constitution. Prior to completion, a draft must be reviewed by the Legislative Council Committee at a public hearing, at which any proponent or interested person shall be allowed to comment. Following completion of the booklet, the LCS is responsible for distribution of the booklet to every residence of one of more active registered electors in the state.