

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0442.01 Sharon Eubanks x4336

SENATE BILL 17-152

SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING THE IMPLEMENTATION OF VOTER-APPROVED CHANGES
102 TO THE COLORADO CONSTITUTION THAT MAKE IT MORE
103 DIFFICULT TO AMEND THE STATE CONSTITUTION, AND, IN
104 CONNECTION THEREWITH, PROHIBITING A PETITION FOR AN
105 INITIATED AMENDMENT TO THE STATE CONSTITUTION FROM
106 BEING SUBMITTED TO VOTERS UNLESS THE PETITION IS SIGNED
107 BY THE CONSTITUTIONALLY REQUIRED NUMBER OF REGISTERED
108 ELECTORS WHO RESIDE IN EACH STATE SENATE DISTRICT AND
109 TOTAL NUMBER OF REGISTERED ELECTORS, AND REQUIRING AT
110 LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST ON ANY
111 AMENDMENT TO THE STATE CONSTITUTION TO ADOPT THE
112 AMENDMENT UNLESS THE AMENDMENT ONLY REPEALS IN
113 WHOLE OR IN PART A PROVISION OF THE STATE CONSTITUTION,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

101
102

IN WHICH CASE REQUIRING A MAJORITY OF THE VOTES CAST ON
THE AMENDMENT TO ADOPT THE AMENDMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill implements changes to the Colorado constitution approved by voters at the 2016 general election that make it more difficult to amend the state constitution by:

- ! Prohibiting a petition for an initiated state constitutional amendment to be submitted to voters for approval or rejection unless the petition is signed by the constitutionally specified number of registered electors who reside in each state senate district and total number of registered electors; and
- ! Requiring at least 55% of the votes cast on any state constitutional amendment to adopt the amendment; except that only a simple majority of the votes cast is necessary to adopt a state constitutional amendment that only repeals in whole or in part a provision of the state constitution.

When a draft of a ballot issue that proposes a state constitutional amendment is filed with the title board, the title board must decide if the proposed constitutional amendment only repeals in whole or in part a provision of the state constitution for purposes of determining the required percentage of votes cast to adopt the amendment. The designated representatives of the proponents or any registered elector who is not satisfied with the title board's decision may appeal the decision by filing a motion for rehearing to the title board. Decisions of the title board at the rehearing on this issue may be directly appealed to the Colorado supreme court in the same manner as ballot title and fiscal impact abstract appeals.

The bill requires the secretary of state to notify proponents of a petition for an initiated state constitutional amendment of the number and boundaries of the state senate districts in existence and the number of registered electors in each state senate district at the time the petition format is approved. The secretary of state must validate signatures on a petition for an initiated state constitutional amendment by random sampling. If the random sample establishes that the number of valid signatures is 90% or less of the total number of registered electors needed to declare the petition sufficient, the secretary of state is required to deem

the petition to be not sufficient. If the random sample establishes that the number of valid signatures is more than 90% of the total number of registered electors needed to declare the petition sufficient, the secretary of state is required to order the examination of each signature filed.

After the examination of a petition for an initiated constitutional amendment, the secretary of state is required to issue a statement as to whether a sufficient number of valid signatures from each state senate district and a sufficient total number of valid signatures appear to have been submitted to certify the petition to the ballot. If the secretary of state declares that the petition appears not to have either a sufficient number of valid signatures from each state senate district, a sufficient total number of valid signatures, or both, the secretary of state's statement shall specify the number of sufficient and insufficient signatures from each state senate district, the total number of sufficient or insufficient signatures, or both, as applicable. The bill allows the proponents of the petition to cure an insufficiency of signatures in one or more state senate districts, the total valid signatures, or both, as applicable.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 1-40-106, **add** (3.5)
3 as follows:

4 **1-40-106. Title board - meetings - ballot title - initiative and**
5 **referendum.** (3.5) FOR EVERY PROPOSED CONSTITUTIONAL AMENDMENT,
6 THE TITLE BOARD SHALL DETERMINE WHETHER THE PROPOSED
7 CONSTITUTIONAL AMENDMENT ONLY REPEALS IN WHOLE OR IN PART A
8 PROVISION OF THE STATE CONSTITUTION FOR PURPOSES OF SECTION 1
9 (4)(b) OF ARTICLE V OF THE STATE CONSTITUTION. THE SECRETARY OF
10 STATE SHALL KEEP A RECORD OF THE DETERMINATION MADE BY THE TITLE
11 BOARD.

12 **SECTION 2.** In Colorado Revised Statutes, 1-40-107, **amend**
13 (1)(b) and (2); and **add** (1)(a)(III) as follows:

14 **1-40-107. Rehearing - appeal - fees - signing.** (1) (a) (III) THE
15 DESIGNATED REPRESENTATIVES OF THE PROPONENTS OR ANY REGISTERED
16 ELECTOR WHO IS NOT SATISFIED WITH THE DETERMINATION BY THE TITLE

1 BOARD MADE PURSUANT TO SECTION 1-40-106 (3.5) WITH RESPECT TO
2 WHETHER A PETITION THAT PROPOSES A CONSTITUTIONAL AMENDMENT
3 ONLY REPEALS IN WHOLE OR IN PART A PROVISION OF THE STATE
4 CONSTITUTION MAY FILE A MOTION FOR A REHEARING WITH THE
5 SECRETARY OF STATE WITHIN SEVEN DAYS AFTER THE TITLES AND
6 SUBMISSION CLAUSE FOR THE INITIATIVE PETITION ARE SET ON THE
7 GROUNDS THAT THE DETERMINATION IS INCORRECT.

8 (b) A motion for rehearing must be typewritten and set forth with
9 particularity the grounds for rehearing. If the motion claims that the
10 petition contains more than a single subject, then the motion must, at a
11 minimum, include a short and plain statement of the reasons for the claim.
12 If the motion claims that the title and submission clause set by the title
13 board are unfair or that they do not fairly express the true meaning and
14 intent of the proposed state law or constitutional amendment, then the
15 motion must identify the specific wording that is challenged. If the
16 motion claims that an estimate in the abstract is incorrect, the motion
17 must include documentation that supports a different estimate. If the
18 motion claims that the abstract is misleading or prejudicial or does not
19 comply with the statutory requirements, the motion must specifically
20 identify the specific wording that is challenged or the requirement at
21 issue. The title board may modify the abstract based on information
22 presented at the rehearing. IF THE MOTION CLAIMS THAT THE
23 DETERMINATION OF WHETHER THE PETITION THAT PROPOSES A
24 CONSTITUTIONAL AMENDMENT ONLY REPEALS IN WHOLE OR IN PART A
25 CONSTITUTIONAL PROVISION IS INCORRECT, THE MOTION MUST INCLUDE A
26 SHORT AND PLAIN STATEMENT OF THE REASONS FOR THE CLAIM.

27 (2) If any person presenting OR THE DESIGNATED

1 REPRESENTATIVES OF THE PROPONENTS OF an initiative petition for which
2 a motion for a rehearing is filed, any registered elector who filed a motion
3 for a rehearing pursuant to subsection (1) of this section, or any other
4 registered elector who appeared before the title board in support of or in
5 opposition to a motion for rehearing is not satisfied with the ruling of the
6 title board upon the motion, then the secretary of state shall furnish such
7 person, upon request, a certified copy of the petition with the titles and
8 submission clause of the proposed law or constitutional amendment, ~~or~~
9 the abstract, OR THE DETERMINATION WHETHER THE PETITION REPEALS IN
10 WHOLE OR IN PART A CONSTITUTIONAL PROVISION, together with a
11 certified copy of the motion for rehearing and of the ruling thereon. If
12 filed with the clerk of the supreme court within seven days thereafter, the
13 matter shall be disposed of promptly, consistent with the rights of the
14 parties, either affirming the action of the title board or reversing it, in
15 which latter case the court shall remand it with instructions, pointing out
16 where the title board is in error.

17 **SECTION 3.** In Colorado Revised Statutes, 1-40-109, **amend** (1)
18 as follows:

19 **1-40-109. Signatures required - withdrawal.** (1)(a) No petition
20 for any initiated law ~~or amendment to the state constitution shall be~~ IS of
21 any force or effect, nor shall the proposed law ~~or amendment to the state~~
22 ~~constitution~~ be submitted to the people of the state of Colorado for
23 adoption or rejection at the polls, as is by law provided for, unless the
24 petition for the submission of the initiated law ~~or amendment to the state~~
25 ~~constitution~~ is signed by the number of REGISTERED electors required by
26 SECTION 1 (2) OF ARTICLE V OF the state constitution.

27 (b) NO PETITION FOR ANY INITIATED AMENDMENT TO THE STATE

1 CONSTITUTION IS OF ANY FORCE OR EFFECT, NOR SHALL THE INITIATED
2 AMENDMENT TO THE STATE CONSTITUTION BE SUBMITTED TO THE PEOPLE
3 OF THE STATE OF COLORADO FOR ADOPTION OR REJECTION AT THE POLLS,
4 AS IS BY LAW PROVIDED FOR, UNLESS THE PETITION FOR THE SUBMISSION
5 OF THE INITIATED AMENDMENT TO THE STATE CONSTITUTION IS SIGNED BY
6 THE NUMBER OF REGISTERED ELECTORS REQUIRED BY THE STATE
7 CONSTITUTION WHO RESIDE IN EACH STATE SENATE DISTRICT IN
8 COLORADO, SO LONG AS THE TOTAL NUMBER OF REGISTERED ELECTORS
9 WHO HAVE SIGNED THE PETITION IS AT LEAST THE NUMBER OF REGISTERED
10 ELECTORS REQUIRED BY SECTION 1 (2) OF ARTICLE V OF THE STATE
11 CONSTITUTION. FOR PURPOSES OF THIS SUBSECTION (1)(b), THE NUMBER
12 AND BOUNDARIES OF THE STATE SENATE DISTRICTS ARE THOSE IN
13 EXISTENCE, AND THE NUMBER OF REGISTERED ELECTORS IN THE STATE
14 SENATE DISTRICTS IS THOSE REGISTERED, AT THE TIME THE FORM OF THE
15 PETITION IS APPROVED FOR CIRCULATION IN ACCORDANCE WITH SECTION
16 1-40-113 (1)(a).

17 **SECTION 4.** In Colorado Revised Statutes, 1-40-113, **add** (1)(c)
18 as follows:

19 **1-40-113. Form - representatives of signers.** (1) (c) THE
20 SECRETARY OF STATE SHALL NOTIFY THE PROPONENTS AT THE TIME A
21 PETITION FORMAT FOR AN INITIATED AMENDMENT TO THE STATE
22 CONSTITUTION IS APPROVED PURSUANT TO SUBSECTION (1)(a) OF THIS
23 SECTION OF THE NUMBER AND BOUNDARIES OF THE STATE SENATE
24 DISTRICTS IN EXISTENCE AND THE NUMBER OF REGISTERED ELECTORS IN
25 EACH STATE SENATE DISTRICT AT THE TIME OF APPROVAL.

26 **SECTION 5.** In Colorado Revised Statutes, 1-40-116, **amend** (4)
27 as follows:

1 **1-40-116. Validation - ballot issues - random sampling - rules.**

2 (4) (a) The secretary of state shall ~~verify~~ EXAMINE the signatures on the
3 petition by use of random sampling. The random sample of signatures to
4 be ~~verified shall~~ EXAMINED MUST be drawn so that every signature filed
5 with the secretary of state ~~shall be~~ IS given an equal opportunity to be
6 included in the sample. The secretary of state is authorized to engage in
7 rule-making to establish the appropriate methodology for conducting such
8 random sample.

9 (b) (I) The random sampling ~~shall~~ TO VALIDATE SIGNATURES ON
10 A PETITION PROPOSING AN INITIATED LAW MUST include an examination
11 of no less than five percent of the signatures, but in no event ~~less~~ FEWER
12 than four thousand signatures. If the random sample ~~verification~~
13 EXAMINATION establishes that the number of valid signatures is ninety
14 percent or less of the number of registered eligible electors needed to find
15 the petition sufficient, the SECRETARY OF STATE SHALL DEEM THE petition
16 ~~shall be deemed~~ to be not sufficient. If the random sample ~~verification~~
17 establishes that the number of valid signatures totals one hundred ten
18 percent or more of the number of required signatures of registered eligible
19 electors, the SECRETARY OF STATE SHALL DEEM THE petition ~~shall be~~
20 ~~deemed~~ sufficient. If the random ~~sampling~~ SAMPLE shows the number of
21 valid signatures to be more than ninety percent but less than one hundred
22 ten percent of the number of signatures of registered eligible electors
23 needed to declare the petition sufficient, the secretary of state shall order
24 the examination and ~~verification~~ VALIDATION of each signature filed.

25 (II) THE RANDOM SAMPLING TO VALIDATE SIGNATURES ON A
26 PETITION PROPOSING AN AMENDMENT TO THE STATE CONSTITUTION MUST
27 INCLUDE AN EXAMINATION OF NO FEWER THAN FIVE PERCENT OF THE

1 SIGNATURES, BUT IN NO EVENT LESS THAN FOUR THOUSAND SIGNATURES.
2 IF THE RANDOM SAMPLE ESTABLISHES THAT THE NUMBER OF VALID
3 SIGNATURES IS NINETY PERCENT OR LESS OF THE NUMBER OF REGISTERED
4 ELECTORS REQUIRED BY SECTION 1 (2) OF ARTICLE V OF THE STATE
5 CONSTITUTION TO FIND THE PETITION SUFFICIENT, THE SECRETARY OF
6 STATE SHALL DEEM THE PETITION TO BE NOT SUFFICIENT. IF THE RANDOM
7 SAMPLE SHOWS THE NUMBER OF VALID SIGNATURES TO BE MORE THAN
8 NINETY PERCENT OF THE NUMBER OF REGISTERED ELECTORS REQUIRED BY
9 SECTION 1 (2) OF ARTICLE V OF THE STATE CONSTITUTION TO DECLARE THE
10 PETITION SUFFICIENT, THE SECRETARY OF STATE SHALL ORDER THE
11 EXAMINATION OF EACH SIGNATURE FILED.

12 **SECTION 6.** In Colorado Revised Statutes, **amend** 1-40-117 as
13 follows:

14 **1-40-117. Statement of sufficiency - cure.** (1) After examining
15 the petition:

16 (a) IF THE PETITION PROPOSES A LAW, the secretary of state shall
17 issue a statement as to whether a sufficient number of valid signatures
18 appears to have been submitted to certify the petition to the ballot; OR

19 (b) IF THE PETITION PROPOSES AN AMENDMENT TO THE STATE
20 CONSTITUTION, THE SECRETARY OF STATE SHALL ISSUE A STATEMENT AS
21 TO WHETHER A SUFFICIENT NUMBER OF VALID SIGNATURES FROM EACH
22 STATE SENATE DISTRICT AND A SUFFICIENT TOTAL NUMBER OF VALID
23 SIGNATURES APPEAR TO HAVE BEEN SUBMITTED TO CERTIFY THE PETITION
24 TO THE BALLOT.

25 (2) If the petition PROPOSES AN INITIATED LAW AND was ~~verified~~
26 VALIDATED by random sample, the statement ~~shall~~ MUST contain the total
27 number of signatures submitted and whether the number of signatures

1 presumed valid was ninety percent of the required total or less or one
2 hundred ten percent of the required total or more.

3 (3) (a) If the secretary declares that the petition appears not to
4 have a sufficient number of valid signatures, the statement issued by the
5 secretary ~~shall~~ MUST specify the number of sufficient and insufficient
6 signatures. The secretary shall identify by section number and line
7 number within the section those signatures found to be insufficient and
8 the grounds for the insufficiency. Such information shall be kept on file
9 for public inspection in accordance with section 1-40-118.

10 (b) In the event the secretary of state issues a statement declaring
11 that a petition, having first been submitted with the required number of
12 signatures, appears not to have a sufficient number of TOTAL valid
13 signatures, A SUFFICIENT NUMBER OF VALID SIGNATURES IN ONE OR MORE
14 STATE SENATE DISTRICTS, OR BOTH, AS APPLICABLE, the designated
15 representatives of the proponents may cure the insufficiency by filing an
16 addendum to the original petition for the purpose of offering such number
17 of additional signatures as will cure the insufficiency. No addendum
18 offered as a cure shall be considered unless the addendum conforms to
19 requirements for petitions outlined in sections 1-40-110, 1-40-111, and
20 1-40-113 and unless the addendum is filed with the secretary of state
21 within the fifteen-day period after the insufficiency is declared and unless
22 filed with the secretary of state no later than three months ~~and three~~
23 ~~weeks~~ before the election at which the initiative petition is to be voted on.
24 All filings under this ~~paragraph (b)~~ SUBSECTION (3)(b) shall be made by
25 3 p.m. on the day of filing. Upon submission of a timely filed addendum,
26 the secretary of state shall order the examination ~~and verification~~ of each
27 signature on the addendum. The addendum shall not be available to the

1 public for a period of up to ten calendar days for such examination. After
2 examining the petition, the secretary of state shall, within ten calendar
3 days, issue a statement as to whether the addendum cures the
4 ~~insufficiency~~ INSUFFICIENCIES found in the original petition.

5 **SECTION 7.** In Colorado Revised Statutes, **amend** 1-40-123 as
6 follows:

7 **1-40-123. Counting of votes - effective date - conflicting**
8 **provisions.** (1) The votes on all measures submitted to the people shall
9 be counted and properly entered after the votes for candidates for office
10 cast at the same election are counted and shall be counted, canvassed, and
11 returned and the result determined and certified in the manner provided
12 by law concerning other elections. The secretary of state who has certified
13 the election shall, without delay, make and transmit to the governor a
14 certificate of election. The measure ~~shall take~~ TAKES effect from and after
15 the date of the official declaration of the vote by proclamation of the
16 governor, but not later than thirty days after the votes have been
17 canvassed, as provided in section 1 of article V of the state constitution.

18 (2) A majority of the votes cast thereon ~~shall adopt~~ ADOPTS any
19 measure submitted FOR A PROPOSED LAW, and, in case of adoption of
20 conflicting provisions, the one that receives the greatest number of
21 affirmative votes ~~shall prevail~~ PREVAILS in all particulars as to which
22 there is a conflict.

23 (3) AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON
24 ADOPTS ANY MEASURE SUBMITTED FOR AN AMENDMENT TO THE STATE
25 CONSTITUTION; EXCEPT THAT A MAJORITY OF THE VOTES CAST THEREON
26 ADOPTS ANY MEASURE SUBMITTED FOR AN AMENDMENT TO THE STATE
27 CONSTITUTION THAT ONLY REPEALS IN WHOLE OR IN PART ANY PROVISION

1 OF THE STATE CONSTITUTION. IN THE CASE OF ADOPTION OF CONFLICTING
2 PROVISIONS, THE ONE THAT RECEIVES THE GREATEST NUMBER OF
3 AFFIRMATIVE VOTES PREVAILS IN ALL PARTICULARS AS TO WHICH THERE
4 IS A CONFLICT.

5 **SECTION 8. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.