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LEGISLATIVE COUNCIL
OF THE
COLORADO GENERAL ASSEMBLY

AN ANALYSIS OF
1962 BALLOT PROPOSALS

Research Publication No. 61

1962

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In conformance with the provisions of Chapter 123, Session Laws of 1953, which requires the Legislative Council, among other duties, to "...examine the effects of constitutional provisions..." there is presented herein a copy of its analysis of the 1962 ballot proposals. In addition to listing the PROVISIONS and COMMENTS relating to each such proposal, there are also listed the arguments most commonly given for and against each.

It should be emphasized that the LEGISLATIVE COUNCIL takes NO position, pro or con, with respect to the merits of these proposals. In listing the ARGUMENTS FOR and the ARGUMENTS AGAINST, the Council is merely putting forth the arguments most commonly offered by proponents and opponents of each proposal. The quantity or quality of the FOR and AGAINST paragraphs listed for each proposal is not to be interpreted as indications or inferences of Council sentiment.

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LETTER OF TRANSMITTAL

August 18, 1962

This analysis of the constitutional amendments to be voted upon at the 1962 general election has been prepared by the Colorado Legislative Council as a public service to members of the General Assembly and to the general public pursuant to 63-5-3, Colorado Revised Statutes, 1953.

The provisions of each proposal are set forth, along with general comments on their application and effect. Careful attention has been given to arguments both for and against the various proposals in an effort to present both sides on each issue. While all arguments for and against the proposed amendments may not have been included, the major ones have been set forth, so that each citizen may decide for himself the relative merits of each proposal.

Respectfully submitted,

James E. Donnelly
Chairman

BALLOT TITLES

Constitutional Amendments Submitted by the General Assembly

1. An amendment to the constitution of the State of Colorado providing for the reorganization of the judicial department, by the repeal of present Article VI of said constitution, and the enactment of a new Article VI relating to the judicial department; and by the repeal of Section 11 of Article XIV of said constitution relating to justices of the peace and constables.

2. An amendment to Section 2 of Article XX of the constitution of the State of Colorado, providing that the method of determination and payment of the salaries of all officers of the City and County of Denver shall be such as the charter may provide, and that officers and members of the fire and police departments, except the chief of police, shall be officers of the City and County of Denver under a separate civil service system.

3. An amendment to Article X of the constitution of the State of Colorado authorizing the General Assembly to define by reference to the laws of the United States the income upon which income taxes may be levied.

4. An amendment to Section 1 of Article VII of the constitution of the State of Colorado, relating to qualifications of voters at elections, and providing that the General Assembly may by law extend to citizens of the United States who have resided in Colorado less than one year, the right to vote for presidential and vice-presidential electors.

5. An amendment to Section 15 of Article X of the constitution of the State of Colorado, deleting the requirement that all taxable property in the state shall be assessed at its full cash value, and providing that the state and county boards of equalization shall perform such duties as may be prescribed by law.

6. An amendment to Article XIV of the constitution of the State of Colorado, relating to county and other local officers; providing a means whereby changes in county offices may be voted by the people of a county; eliminating the two-year term for certain local officers; and eliminating the provisions that compensation of county and precinct officers shall be based upon a population classification of counties and paid from fees where fees are prescribed.

Constitutional Amendments Submitted by Initiated Petition

7. An act to amend Article V of the state constitution providing for a Senate of 39 members and a House of 65 members; provides for 65 representative districts to be substantially equal in population; for senatorial districts apportioning senators as now provided by law, and one additional senator is apportioned to Adams, Arapahoe, Boulder, and Jefferson counties; Elbert County being detached from Arapahoe County and attached to a district with adjoining counties; provides for

senatorial districts of substantially equal population within counties with more than one senator; for revision of districts by the General Assembly in 1963 and after each decennial census thereafter, under penalty of loss of compensation and eligibility of members to succeed themselves in office.

8. An act to amend Sections 45 and 47, Article V of the Colorado Constitution, providing for the reapportionment of both houses of the General Assembly by a commission subject to review and, under certain circumstances, to apportionment by the supreme court; providing for a limited variation from a strict district population ratio; providing for creating representative sub-districts in certain counties by initiated measures thereof.

Provisions

1. This amendment, replacing the present judicial article of the constitution, would vest the judicial power of the state in a supreme court, district courts, a probate court in the City and County of Denver, a juvenile court in the City and County of Denver, county courts and such other courts or judicial officers with jurisdiction inferior to the supreme court as the General Assembly may establish. The constitutional right of home rule cities to create municipal and police courts would be expressly recognized.

2. The supreme court would continue to have seven justices, but upon request of the supreme court, the number of justices could be increased from seven to no more than nine, if approved by two-thirds of the members of each house of the General Assembly. Justices would still be elected at large for 10-year terms. Those justices in office upon the effective date of the amendment would continue in office for the remainder of their terms. Persons eligible for the position would have to be qualified electors of the state and would have to have been licensed to practice law in Colorado for at least five years. The present two-year residence requirement and the 30-year age minimum would be eliminated. Under the amendment the supreme court would determine by rule the method of selecting a chief justice, whereas the present judicial article provides that the justice with the shortest time to serve, not holding his office by appointment or election to fill a vacancy, shall serve as chief justice.

3. The amendment is more explicit than the present judicial article in providing for supreme court appellate review, and constitutional provision is made for appeal from the Denver probate and juvenile courts, as well as from the district courts.

4. The amendment would expressly grant to the supreme court the authority to make and promulgate rules governing the administration of all courts and to make and promulgate rules governing practice and procedure in civil and criminal cases, except that the General Assembly would have the power to provide simplified procedures in county courts for claims not exceeding \$500 and for the trial of minor misdemeanors. There is no comparable section in the present judicial article, except for the provision that the supreme court shall have general superintending control over all courts. This same provision is retained in the amendment and would be implemented by this section.

5. District court jurisdiction would be quite similar to that contained in the present judicial article, except that probate, mental health, and juvenile jurisdiction would be expressly given to the district court, except in the City and County of Denver. District courts would be trial courts of record with general jurisdiction and would have original jurisdiction in all civil, probate, and criminal cases (except as otherwise provided) and would have such appellate jurisdiction as might be prescribed by law.

6. One or more district judges would be elected in each judicial district for six-year terms. Those district judges holding office as of the effective date of the amendment would continue in office for the remainder of their terms. The number of district judges in each judicial district upon the effective date of the amendment would constitute the number of district judges for each district until changed by law. The qualifications for the office of district judge would be changed by requiring a person to have been licensed to practice law in the state for at least five years rather than to be "learned in the law." The 30-year age limit and the two-year residency requirement would be eliminated. Instead, a person would be required to be a qualified elector of the judicial district in which he is seeking office. The requirement that all district judges be elected at the same time and that the terms of all district judges shall expire at the same time would be eliminated.

7. The General Assembly, upon concurrence of two-thirds of the members of each house, may increase or diminish the number of district judges, except that the office of a district judge may not be abolished until completion of the term for which he was elected or appointed; however, a district judge may be required to serve in a judicial district other than the one for which he was elected, as long as such district encompasses his county of residence.

8. The amendment adds a provision that separate divisions of the district court could be established in districts by law, or in absence of any such law, by rule of court. The time of holding court within judicial districts would be provided by rule of court rather than by law, but at least one term of court would be held annually in each county.

9. A district attorney would be elected in each judicial district for a term of four years. District attorneys in office as of the effective date of the amendment would continue in office for the remainder of their terms. The present judicial article provision that district attorneys must be 25 years of age would be eliminated; however, the requirement that district attorneys must have the same qualifications as district judges would be continued. The provision that district attorneys may be paid from the fees or emoluments of their offices as provided by law would be eliminated.

10. The judge of the newly-created Denver probate court would have the same term of office as judges of the district court and would be required to meet the same qualifications. The first judge of the Denver probate court would be elected at the general election in 1964. The number of judges of the Denver probate court could be increased by the General Assembly.

11. The Denver juvenile court, which would be changed from a statutory to a constitutional court, would have such jurisdiction as would be provided by law. The judge of the juvenile court would have the same term of office as judges of the district court and would be required to meet the same qualifications. The judge of the Denver juvenile court would be elected initially in the general election of 1964. The number of judges of the Denver juvenile court could be increased by the General Assembly.

12. Provisions relating to county courts differ from the present judicial article as follows:

a) The provision in the present judicial article giving the county courts probate jurisdiction is eliminated.

b) The \$2,000 limitation on the county courts' civil jurisdiction in the present judicial article is deleted; however, the county court would be excluded from jurisdiction in civil cases in which the title or boundaries of real property is in question, and there is no such restriction in the present judicial article.

c) The county courts would be expressly prohibited from criminal jurisdiction in felony cases; there is no such restriction in the present judicial article.

d) The provision that writs of error shall lie from the supreme court to every final county court judgment is deleted, as is reference to justice court appeals. (The latter would no longer be necessary as justice courts would no longer have constitutional status.)

e) There would be one or more county judges elected in each county, whereas the present judicial article provides for only one county judge in a county. Such judges would be elected initially in the general election of 1964. The number, manner of selection, and term of office of judges of the Denver county court would be as provided in the Denver Charter and Ordinances.

f) The provision that county judges may be paid from the fees and emoluments of their offices as provided by law would be deleted.

13. All cases pending in the county courts (except as otherwise provided for in the amendment) in all counties except Denver would be transferred to the district court effective the second Tuesday in January, 1965. In Denver, the county court would become the probate court and would be vested with exclusive original jurisdiction in all matters of probate and related actions.

14. In the present judicial article, only supreme court justices and district court judges are prohibited from being candidates for non-judicial public offices or from holding office in a political party. The amendment would extend this restriction to probate, juvenile, and county judges. All of these judges, except county judges, would be prohibited from practicing law. Any restrictions against the practice of law by county judges would be provided by statute, as is presently the case. The amendment has the same provision as the present judicial article with respect to qualified county judges being eligible to sit as district judges. The amendment would also make it possible for a county judge to serve as a municipal judge or police magistrate as provided by law or by charter and ordinance in home rule cities.

15. A judge appointed to fill a vacancy on the supreme court, district court, or Denver probate or juvenile court would hold office until the next general election at which time he or his successor, whoever is elected, would be elected to a full term of office, rather than only for the remainder of the unexpired term as at present. Such vacancy appointments would be made by the governor as at present.

Vacancies occurring in the office of district attorney would be filled by appointment by the governor rather than by the district judges of the district; however, an appointee in this case would hold office until the next general election at which time he or his successor, whoever is elected, would be elected only for the remainder of the term in which the vacancy was created.

16. Article XIV, Section 11, which provides for justices of the peace and constables as constitutional officers, would be repealed as of the second Tuesday in January, 1965, and no justices of the peace or constable would be elected in the general election in 1964. The section of the present judicial article which provides that justices of the peace shall have such jurisdiction as provided by law and which limits civil jurisdiction to non-real property cases in the value at controversy does not exceed \$300 would also be repealed.

17. The section of the present judicial article which gives the General Assembly specific authority to create and establish criminal courts in each county having population in excess of 15,000 would be repealed.

18. The sections which provide that the clerks of the supreme and district courts are constitutional officers are repealed, as is the section which provides that judges of courts of record inferior to the supreme court shall make a written report annually to the supreme court concerning legal defects and omissions, such defects and omissions to be reported by the supreme court along with corrective legislation to the governor for transmittal to the General Assembly.

Comments

The amendment would eliminate justice of the peace courts as constitutional courts. Probate, juvenile, and mental health jurisdiction would be transferred from the county courts to the district courts, except in Denver, which would retain its juvenile court and have its county court replaced by a probate court. County courts would still be constitutional courts, but criminal jurisdiction would be limited to misdemeanors, and civil jurisdiction would be limited to cases not involving the boundaries of or title to real property. The dollar limit on civil jurisdiction in the county court would be set by the General Assembly. The General Assembly would also determine the number of county court judges in each county and the qualifications for the office with the exception of Denver, where the determination as to number and qualifications would be according to the City Charter and Ordinances issued pursuant to it. In effect, present justice court jurisdiction would be assumed by the county court. The General Assembly would have the authority to enact simplified rules of procedure for civil cases under \$500 and for minor misdemeanors. Consequently, there would be two kinds of proceedings in county courts: 1) simple and more informal for minor cases (somewhat similar to present justice court proceedings); and 2) formal, more complex proceedings for more important cases (similar to present county court proceedings).

The General Assembly would continue to have the authority contained in the present judicial article to create other courts by statute. The amendment would not interfere with the constitutional

authority granted home rule cities to establish municipal or police magistrate courts by charter and ordinance.

The supreme court would continue to have seven members but could have as many as nine if the additional judge or judges were requested by the court and approved by two-thirds of the members of each house of the General Assembly. The supreme court's general superintending authority over the whole court system is spelled out in greater detail in the amendment, and the method of selecting a chief justice (fixed in the present judicial article) would be made more flexible by providing that the supreme court shall determine by rule the selection of a chief justice.

Most of the present provisions relating to changes in judicial district boundaries, number of judicial districts, and number of district judges have been retained in the amendment; however, one important addition and one important modification were made. The provision was added that district court divisions could be established either by statute or, in the absence of any such statute, by rule of court. Under the present judicial article, no change can be made in judicial district boundaries, the number of districts, or the number of district judges if the change would eliminate a judge's office before he completes the term for which he was elected or appointed. The same safeguard is provided in the amendment, but it is modified to provide that although a district judge's office could not be eliminated, he might be required to complete his term in a district other than the one for which he was elected or appointed, as long as such district includes his county of residence.

Under the authority given the General Assembly in the amendment to create additional courts and judicial officers it would be possible to give district court clerks surrogate powers by statute, as is done in New Jersey, North Carolina, and several other states. District court clerks could be authorized to approve certain non-contested matters in probate and civil cases, subject to judicial review. This procedure would add greatly to the convenience of litigants and their attorneys.

Under the present judicial article, supreme court justices and district court judges are required only to be "learned in the law." The amendment makes the legal qualification more specific by requiring that supreme court justices and district judges must have been admitted to the practice of law in Colorado for at least five years. Probate judges, juvenile judges, and district attorneys must also meet this qualification.

The method of selecting judges has not been changed by the amendment -- judges will still be elected. Generally, vacancies would be filled as before. The governor would appoint supreme court justices, district court judges, probate and juvenile judges, and district attorneys to fill vacancies. County court vacancies would be filled by the county commissioners of the respective counties.

In both the present judicial article and the amendment, appointees serve only until the next general election. The present judicial article provides that whoever is elected shall serve only for the unexpired term in which the vacancy was created. With the exception of district attorneys, the amendment provides that whoever is elected

shall serve a full term. This will eventually result in staggered terms, so that all district and county court judges will not be elected at the same time as at present. For this reason, the requirements in the present judicial article that all district judges be elected at the same time every six years and that all county judges be elected at the same time every four years have been eliminated. The gradual creation of staggered terms for district court judges is the major reason why the modification was placed in the amendment to provide that district court judges may complete their terms in a district other than the one in which they were elected, as long as the new district includes the judge's county of residence. With staggered terms, unless such provision is made, it would be impossible to alter judicial districts.

The present judicial article provides that qualified county judges may sit as district judges, but is moot with respect to district judges sitting as county judges or qualified judges of statutory courts (juvenile and superior) sitting as district judges. While there is statutory authority for district judges to sit as county judges, the constitutional basis for such authority is not clear. The amendment greatly expands the constitutional authorization for the interchange of judges by providing that district, probate, juvenile, and qualified county judges may sit in any state court. The amendment provides further that county judges may be appointed as municipal judges or police magistrates.

The amendment would become effective on the second Tuesday in January, 1965, and, therefore, no justices of the peace would be elected in the 1964 general election. While county judges would be elected, they would be elected for the county court as defined in the amendment and enabling legislation pursuant to it. The 1965 enactment date would give the General Assembly two sessions (1963 and 1964) to adopt necessary enabling legislation pursuant to the amendment before the new judicial article would take effect.

Popular Arguments For:

The major arguments in favor of the amendment appear to be based on the following premises:

1. The Colorado court system needs substantial revision to meet present and future needs, and the restrictiveness of the present judicial article makes it impossible to make any substantial fundamental statutory changes.
2. Other proposals for correcting the shortcomings of the judicial system are not practical because of geography, topography, population, and case loads.
3. Because of the interrelationship among the several court levels, it would be difficult, if not impossible, to make changes affecting one level of courts without also affecting the others.

In line with these premises, proponents of the amendment offer the following arguments:

1. Colorado's court system was designed to meet late 19th century conditions. There has been no substantial revision in the judicial article since its creation, although there have been a number of amendments. Economic conditions have changed, and the dollar limits imposed on civil jurisdiction of the county and justice of the peace courts are unrealistic in light of present price levels. Improvements in communication and transportation make it no longer necessary to have as many courts for convenience and accessibility. The jurisdiction of the county and justice courts cannot be changed without constitutional revision; neither can the justice court fee system be abolished nor the number of county judges be increased.

2. Juvenile, mental health, and probate matters should be heard by judges qualified to practice law; yet only 25 of the 63 county judges are lawyers. It is economically infeasible to pay a salary adequate to attract a full-time qualified man to the county court in a majority of the counties because of case load considerations. (In 38 counties, less than 100 cases are filed annually in county court. In another nine counties, only 100 to 200 cases are filed annually.) Generally, these are also the counties with the fewest justice court cases, so that even a combination of the jurisdiction of both courts would not provide a sufficient case load for full-time judges.

Under the proposed system, juvenile, mental health, and probate matters would be tried before lawyer judges in district court. The provisions of the amendment are sufficiently flexible to allow for at least two district judges in each judicial district. The amendment would also make it possible for the district courts to appoint surrogates to handle uncontested administrative matters in probate cases under the judge's supervision, thereby increasing convenience to the litigants.

3. Because of the lack of judicial qualifications and the possibility of having cases tried over again (trial de novo) in a court on a higher level, many cases currently within the jurisdiction of the justice of the peace and county courts are filed initially in district court. In 1960, these cases amounted to 30 per cent of the district court civil case load.

Through the provision of more qualified judges and electronic recording equipment, trials de novo could be eliminated under this amendment.

4. The possibility of fragmented or divided jurisdiction in juvenile and domestic relations cases could be eliminated under the amendment. The district court could establish separate divisions so that juvenile and domestic relations matters could be heard by the same judge or at least be heard in the same court. The transfer of juvenile jurisdiction to the district court would also make it possible to organize probation and detention services on a district level, which would be of great assistance in the smaller counties.

5. The elimination of justice courts and the proposed changes in county court jurisdiction and organization would be sufficiently flexible to meet Colorado's present and future minor court needs.

Within certain restrictions, jurisdictional limits could be changed by the General Assembly to meet changing conditions. There could be more than one county judge in a county, and court could be held elsewhere than in the county seat. Simplified procedures could be prescribed by statute, with docket fees comparable to present justice court fees for minor civil and criminal cases, so that the cost to litigants would be approximately the same as at present. Because the new county court would have state-wide jurisdiction rather than county-wide jurisdiction (as the justice of the peace courts now have), certain actions could be filed in county court rather than in district court as at present, and an alleged traffic violator could be tried in the nearest county seat rather than in the county seat of the county in which the alleged violation took place.

Even though some counties would still be without lawyer judges, it would be possible for every litigant to have his case heard by a lawyer judge initially. In the small counties without lawyer judges, these actions could be filed in district court, if desired, and would be heard with little delay, because these smaller judicial districts would have two district judges and small enough case loads to assure prompt attention even to minor cases.

6. Having qualifications for county judges set by the General Assembly (same as at present) would make it possible for the General Assembly to require lawyer judges in as many counties as possible and to set adequate qualifications in the other smaller counties. Lawyers should be more attracted to the position in smaller counties under the terms of the amendment than at present, because the position, although part-time, would be salaried and a lawyer serving as county judge would not have to give up his probate practice, which is presently the case.

7. Flexibility to meet future needs would also be provided on the supreme court level, because the size of the court could be increased from seven to nine members upon request of the court and approval of two-thirds of each house of the General Assembly.

8. The change in the length of time for which a judicial vacancy would be filled in district and county courts, resulting over a period of time in staggered terms, would be desirable because it would assure judicial continuity and would place fewer judges before the voters at any one time. More qualified men may be interested in taking vacancy appointments if they have to face only one election in the next four to six years, rather than two as at present.

9. Denver's judicial system has already developed differently from the rest of the state in the number and types of courts and jurisdiction. These developments came about to meet needs which were peculiar to Denver as the largest municipality in the state. Consequently, the Denver court system is adequate and is so recognized in the amendment. This difference in court systems between a large population center and other areas has also been recognized in recent judicial revisions in Wisconsin and New York.

10. It is estimated that the counties over-all could save some \$200,000 under the judicial amendment through the elimination of justice courts and the consolidation of district and county court clerical functions, wherever possible. It seems likely that 28 additional district judges will be needed, but nine of these would be needed in the near future anyway because of estimated district court case load increases. While the over-all increased costs of the proposed judicial system (subtracting the counties' savings from the increased cost of the state in district judges' salaries) is estimated at between two and three hundred thousand dollars annually, this is not a large price for increased efficiency and equity in the administration of justice.

Popular Arguments Against:

The major arguments against the proposed judicial amendment appear to be based generally on one or more of the following three premises:

1. The present court system is adequate.
2. Some improvements are needed, especially with respect to minor courts (justice of the peace), but an over-all revampment of the court system is neither needed nor desirable.
3. The amendment will not accomplish its avowed purposes of uniformity, simplicity, accessibility, quality, and flexibility.

The major difference in the arguments against the amendment centers on the justice of the peace courts. Proponents of retaining the present justice of the peace court system argue that the amendment would destroy the one court which is: 1) easily accessible to the people; 2) provides a speedy adjudication of minor matters; and 3) is less costly because fees are low and attorneys are not required. Other opponents of the amendment agree that changes in the justice of the peace court system are desirable but are of the opinion that such changes may be made by statute or through minor changes in the judicial article. They argue that it is neither necessary nor desirable to change the entire court system to correct only one portion of it.

Other than this one difference, there appears to be general agreement on the arguments against the amendment which are enumerated below:

1. Colorado does not have an antiquated court system -- the judicial article of the Colorado Constitution has been amended six times, with 13 sections having been either changed or added. The fact that Colorado's court system has endured for some 85 years in almost the same form it was established is not in itself sufficient reason to conclude the system is outmoded and requires change. Its endurance is testimony to the fact that, by and large, people have been satisfied. Change for the sake of change is not reform.

2. The proposed transfer of juvenile, probate, and mental health jurisdiction from the county courts to the district courts will cause delay in handling these important matters and remove them from courts which are handling them adequately at present. Mature judgment and understanding are as important, if not more so, than legal training in handling mental health and juvenile matters. This judgment and understanding has been demonstrated by county judges, whether or not they have appropriate legal training.

3. The proposed transfer of justice of the peace court jurisdiction to the county courts will not result in any improvement in the administration of justice; rather it will make the adjudication of minor matters more costly and less convenient, with no assurance that the quality of justice will be improved.

4. The shifting of additional jurisdiction to the district court (the most expensive trial court) will necessitate a substantial increase in the number of district judges, court clerks, and reporters, thus increasing considerably the cost of justice to the taxpayers.

5. Instead of simplifying the administration of justice, the amendment makes it more complex by creating two court systems -- one for Denver and one for the rest of the state. If the proposed changes are suitable for all other areas, they should be suitable for Denver as well.

6. The amendment eliminates juvenile courts as constitutional courts, except in Denver. This represents a backward step in the handling of juvenile problems.

7. The amendment places too much authority in the hands of the General Assembly with respect to setting the qualifications of county judges, creating additional courts, and implementing the amendment generally. The judicial branch is a separate, distinct, and equal component in the American system of government. It should not be subjected to unpredictable actions by future General Assemblies.

8. The amendment in no way provides for improvement in the selection of judges.

Provisions

1. The amendment would continue the separate classified civil service for the fire and police departments. All employees of the two departments, with the exception of the police chief, would be under this classified service and by reason of membership in the said departments they would be considered officers of the City and County of Denver.

2. The amendment also provides that the salaries of the officers of the City and County of Denver, including elected, appointed, and fire and police personnel, may be determined in one of three ways:

fixed by charter, as at present;
set by ordinance within limits specified in
charter; or

c) determined by use of a method or formula set
forth in the charter.

Comments

In effect, the proposed amendment would eliminate the present constitutional requirement that salaries of officers of the City and County of Denver be fixed by charter. It would provide instead that the citizens of Denver may approve one of three alternative methods for establishing the salaries of its officers, i.e., 1) continue the present method of setting salaries by charter; 2) permit the city council to establish salaries by ordinance within limits set by charter; or 3) to fix salaries by a formula or by some other method such as an independent board.

In addition, the amendment would continue the separate civil service system for fire and police department personnel, with the exception of the police chief. If adopted, police and fire personnel would also be designated as officers, and not employees, of the City and County of Denver.

Popular Arguments For:

1. The present method of adjusting salaries of the officers of the City and County of Denver, as well as the personnel of the fire and police departments, by charter amendment is too restrictive. In a fluctuating economy, there is need for a simpler device or method for adjusting salaries. This amendment would allow the adoption of this simpler method of adjusting salaries.

2. The amendment is permissive in intent in that it permits the citizens of Denver to vote on the method by which the salaries of its officers, including fire and police personnel, are to be determined. This approach keeps government close to the people, which is a fundamental principle of good government.

3. The present method of adjusting certain salaries by charter amendment precludes the council or legislative body from determining the salary level of fire and police personnel and officers of the City and County of Denver. A fundamental principle of good government is that governmental expenditures must be kept within limits established by the tax-levying authority. The proposed amendment would allow, as one of its alternatives, the city council to determine the salaries of the aforementioned personnel, in keeping within this principle of good government.

4. At present, fire and police personnel are served by a civil service system distinct from that of the Career Service Authority which serves most of Denver's employees. The amendment would retain this separate civil service for fire and police personnel, which is necessary, since the duties of the fire and police departments are quite unlike those of other governmental agencies.

Popular Arguments Against:

1. The amendment would continue a separate civil service system for fire and police personnel. This policy should be discontinued, since a central personnel agency can easily handle fire and police personnel. A separate civil service system results in duplication of services and added expense to the taxpayer and should be eliminated.

2. The present method of adjusting salaries by charter enables the taxpayer to exercise direct control over such expenditures and should not be changed because it keeps government close to the people.

3. All governmental expenditures and levels of services should be determined by the legislative body or the tax-levying body. Two of the three alternative methods proposed by the amendment would take away the power of adjusting salaries or determining the level of expenses from the legislative body. These two alternatives violate the principles of good government.

4. The proposed amendment would allow the adoption of a formula for adjusting salaries. Such a formula would prevent the public from fixing responsibility for the cost of the services involved. Elective officials should be responsible to the people for the cost of governmental services.

5. This amendment would permanently freeze policemen and firemen of the City and County of Denver as "officers" of that city, with their salaries to be determined by one of three methods outlined in the amendment. Under court interpretations, policemen and firemen of Denver have always been treated as officers, with their salaries fixed by charter, but this is due to a failure by Denver to amend its charter so as to treat its policemen and firemen as employees rather than officers. However, there is nothing in the present constitution, or in Denver's charter, to restrict the removal of policemen and firemen from their status of "officers," if the voters of Denver so chose; this permissive status should be retained.

6. This amendment pertains to officers, both appointed and elected, as well as to policemen and firemen of Denver only. Thus it is a local rather than a state matter and should be left up to the voters of Denver.

PROPOSAL NO. 3 -- INCOME TAX

Provisions. This amendment:

1. permits the General Assembly to define the income, both personal and corporate, upon which taxes may be levied under Article 17 of Section X of the constitution by reference to the laws of the United States, whether the United States laws are retrospective or prospective in their operation, and requires the General Assembly to provide the dollar amount of personal exemptions to be allowed to a taxpayer as a deduction;

2. permits the General Assembly to provide for exceptions or modifications to any of the provisions of such laws of the United States and for retrospective or prospective exceptions or modifications to those federal provisions which are retrospective or prospective.

3. requires the Colorado General Assembly to establish state tax rates and does not permit the use of a percentage of the federal tax as the state tax.

Comments

1. The amendment would eliminate the constitutional prohibition against adopting by reference future acts of Congress. This would mean that the Colorado General Assembly could adopt the federal code as it is or as it will be amended. At present any adoption by reference must be as of a specific date already past.

2. The amendment also permits tax law provisions to be retrospective or prospective in their effect in the same manner as the federal law, and they would apply only to definitions of income, not to tax rates.

Popular Arguments For:

1. The amendment would make it possible for Colorado income tax laws and reporting procedures to be greatly simplified.

2. This simplification of Colorado income tax laws would make it easier for taxpayers to prepare their state income tax returns and would make it easier for the department of revenue to administer these laws.

3. Seven states (Alaska, Hawaii, Idaho, Iowa, Kentucky, New York, and Vermont) have adopted similar legislation for both personal and corporate income taxpayers. Three states (Montana, New Mexico, and North Dakota) have adopted this type of legislation for the personal income taxpayer only, and six states (Connecticut, Delaware, Massachusetts, New Jersey, Pennsylvania, and Rhode Island) adopted it for corporate taxpayers.

4. Although the Colorado Constitution currently prohibits the adoption of retrospective tax legislation, the federal constitution permits such tax legislation; and the constitutionality has been upheld by the federal courts.

5. The General Assembly would maintain control over the income tax rates and the amounts of personal exemptions and could modify the federal income tax provisions adopted by reference in any way it deems necessary.

6. The General Assembly could adopt the federal definitions of taxable income by reference to the federal laws, thus making the preparation of the federal and state tax returns more uniform.

Popular Arguments Against:

1. This amendment might not permit very much simplification of the Colorado tax return, since the General Assembly would undoubtedly want to have different personal exemption amounts from those provided by federal law as well as other exceptions.

2. The state revenue program has little in common with the federal and should be considered separately.

3. This amendment establishes a dangerous precedent by permitting the General Assembly to delegate its legislative responsibility to the Congress of the United States.

4. This amendment allows for the retrospective effect of laws; not allowing laws to be retrospective in effect has long been considered a fundamental safeguard in our state constitution.

PROPOSAL NO. 4-- RESIDENCE REQUIREMENTS FOR VOTING
FOR PRESIDENTIAL ELECTORS

Provisions

This constitutional amendment provides that every person meeting the following requirements shall be qualified to vote at all elections in the State of Colorado:

1. is a citizen of the United States;
2. has attained the age of 21 years;
3. has resided in the State of Colorado not less than one year next preceding the election at which he offers to vote;
4. has resided in the county, city, town, ward, or precinct such time as may be prescribed by law; and
5. has been duly registered as a voter if required by law.

The amendment further provides that the General Assembly may by law extend to citizens of the United States who have resided in Colorado less than one year the right to vote for presidential and vice-presidential electors.

Comments

The purpose of the amendment is to remove the constitutional restrictions on minimum residence requirements for persons voting for presidential and vice-presidential electors. At the present time no one may vote in Colorado unless he has been a resident of the state for one year preceding the date of the election. The one-year requirement applies to voting for national offices as well as for state and local offices. This amendment, if approved by the voters, would authorize the General Assembly to pass laws reducing the one-year residence requirement as it relates to the right to vote for president and vice president of the United States. It would not permit changes in residence requirements for voting for other offices.

This is not a self-executing measure; consequently, there would be no change until the General Assembly passed laws reducing residence requirements. Since the proposed amendment does not specify any minimum residence requirement for voting for presidential electors, the General Assembly could exercise its discretion in passing legislation either reducing or eliminating such requirements. If such legislation were enacted, ballots and voting machines could be provided to permit persons who do not meet the one-year residence requirement to vote only for presidential and vice-presidential electors but not for any other offices.

The amendment makes no substantive changes in other requirements for voting except to add the provision that registration shall be among the requirements if it is required by law. Most of Colorado's registration laws have been in effect since 1911, and the Colorado

Supreme Court has never found such laws to be in conflict with the constitution. However, the constitution does not expressly state that registration may be required by statute as a prerequisite to voting. This amendment would remove all questions about the constitutionality of our registration laws by including registration as a voting requirement if the law so requires.

Popular Arguments For:

1. State residence requirements for voting have not kept pace with the mobility of our population. An estimated eight million persons throughout the United States were unable to vote in the 1960 presidential election because of inability to meet state, county, or precinct residence requirements. Colorado as a growing state should recognize the need for reduction of residence requirements in view of the greater mobility of today's citizens.

2. Estimates show that at least 10,000 voters move into Colorado from other states each year. Should Colorado penalize these new residents by taking away their right to vote, even for president and vice president, for the entire first year of their residence?

3. Current trends favor a widening of the electoral base and a reduction of residence requirements for voting. Model election laws recommend that six months be the minimum residence within the state and that provision be made for absentee voting by former residents until they establish a voting residence elsewhere. Twelve states now have a six-month residence requirement, whereas Colorado still requires one year. The proposed amendment follows current trends by lowering the minimum residence in those cases where the one-year requirement seems most unreasonably restrictive -- in voting for president and vice president of the United States.

4. Other states have adopted provisions similar to the proposed amendment. California, Missouri, Ohio, Oregon, and Wisconsin supplement their normal residence requirements with special provisions reducing these requirements to allow new residents to vote for presidential electors. Connecticut and Vermont allow a voter who moves permanently from the state to cast an absentee ballot for president and vice president, provided he files a declaration of intention to retain his voting residence for that purpose in his former state for a specified period.

5. There is no good reason why mobile voters should not be permitted to vote for president and vice president. Although there may be good reasons why new residents should not participate in electing state and local officials, these reasons do not apply to the election of the president and vice president, who are nationally known and must all of the people in all of the 50 states. Every duly qualified United States citizen should have the right to vote somewhere for president and vice president.

6. The federal government is interested in the liberalization of state residence requirements, and Congress has recommended that the states handle the problem themselves. However, if the states take no

action to reduce their own residence requirements, there may be a federal constitutional amendment which would establish minimum requirements for all states for voting for president and vice president. Such federal encroachment on an area which has traditionally been a matter for state concern should be avoided if at all possible.

Popular Arguments Against:

1. Our present one-year residence requirement for all voters is not extreme or unreasonable. Most of the states still require one year's residence for voting purposes and some require two years.
2. Residence requirements have value because they help prevent fraud and tend to promote a more stable, responsible, and informed electorate. Persons who have only recently moved to a community have not had an opportunity to become informed about candidates and issues. The one-year residence requirement gives them time to acquire a stake in the community and become informed and intelligent voters. Migrants, "floaters," and "homeless agitators" are thus prevented from affecting election results on matters in which they have no long-term interest. We should not allow inroads into the one-year residence requirement by permitting exceptions for presidential voting.
3. Residence requirements should be uniform for voting for all offices on the ballot. Requiring one year's residence for voting for some offices and less than one year's residence for voting for other offices would create confusion on election day and would be difficult to administer.
4. Under this amendment the General Assembly could remove all residence requirements for voting for presidential electors. Even if it be true that some reduction in the residence required for presidential voting is justified, a constitutional minimum (six months, for example) should be retained.
5. This amendment offers only a partial answer to the problem of disenfranchisement due to the increased mobility of our people. If we are going to modernize our residence laws, we should reduce the constitutional requirements for voting for state and local offices, as well as for national offices. The amendment should establish a new minimum residence of six months to vote for state and local offices in addition to authorizing the reduction or elimination of residence requirements for presidential voting.

PROPOSAL NO. 5 -- REPEALING FULL CASH VALUE

Provisions

This amendment would eliminate from the state constitution the requirement that all property be assessed for property tax purposes at full cash value.

Comments

Each year, in each county, the county assessor places a value on each parcel of property for property tax purposes. According to the present constitutional requirement, that value should be the price the property would bring on the market today. In actual practice, the average value placed on property for tax purposes in Colorado is approximately one-fourth of the price it would sell for today. This situation is quite common throughout the United States. This amendment would simply eliminate the constitutional requirement that property be assessed at full cash value. The General Assembly could then constitutionally recognize the prevailing rate of assessment (approximately one-fourth of market value) as one of the standards for achieving equalization of assessments throughout the state.

Popular Arguments For:

1. The full cash value requirement in the constitution historically has been ignored as being impractical to administer and politically impossible to enforce; therefore it should be repealed.
2. Presently, 1941 replacement cost is considered the equivalent of today's full cash value of improvements. Use of the 1941 price level has contributed considerably to the inequities in assessments that exist in Colorado today. Repeal of the full cash value requirement will permit discarding of such administrative means of attempting to comply with the constitution.
3. Any taxpayer exercising his right of appealing an assessment is at a disadvantage under the present full cash value requirement, because the assessor merely reads the constitution to discourage further protest.

Popular Arguments Against:

1. Changes in property assessment provisions result in increased property taxes.
2. Any assessment program which requires recognition of information on the sales prices of real estate will result in inequitable assessments between rural and urban properties.

3. Assessments need not be pegged at a given percentage of market value to be equalized. The system that is being presently used is as close to absolute equalization as is possible to achieve. Bonded debt and tax levy limitations are based on the present system, and any adjustment to it will upset the balance that has been established over the past several decades.

Provisions. This amendment:

1. allows the people of a county to change or to abolish county offices other than county commissioners and judge, to change terms of office or the method of selecting officers if such changes are first authorized by statute and subsequently approved by the voters of the county;

2. requires that any county attorney be appointed by the board of county commissioners, thereby removing the option now vested with the General Assembly of the county attorney being appointed or elected;

3. eliminates the two-year limitation on the term of office of local officials, including township, precinct, and municipal officers, other than those established elsewhere in the constitution;

4. allows the General Assembly to base the salaries of county and precinct officers on factors other than county population; and

5. authorizes the payment of a salary to certain county and precinct officers out of the county general fund now required to be paid solely from the fees they collect.

Comments

1. The constitutional provision involved here establishes eight county officers (clerk, sheriff, coroner, treasurer, superintendent of schools, surveyor, assessor, and attorney) and requires that every county shall elect seven of these officials every four years. The attorney shall be appointed by the board of county commissioners. This amendment would permit any county to modify its county government if the General Assembly were to pass a law authorizing a proposed change and if the voters within a county approve the change at an election. Under these circumstances such a county could:

- a. change, combine, or abolish any of these eight offices;
- b. select all of these eight officers by appointment instead of by election.

This amendment does not affect the offices of county commissioner or county judge, which are provided for in other sections of the constitution, nor does it apply to Denver which is a consolidated city and county.

2. The constitution now provides that the terms of county, township, precinct, and municipal officers created by law (as opposed to constitution) cannot exceed two years. This amendment eliminates

this limitation and would allow the General Assembly to provide for overlapping terms for council members in non-home rule cities. This repeal of the two-year limitation is the only portion of this proposal which would affect cities and towns.

3. Existing constitutional provisions require the General Assembly to classify counties by population and then to set salaries for county officers in accordance with the county classifications. This amendment provides for the repeal of this requirement, thus allowing the consideration of factors other than county population.

4. Certain officers, such as justice of the peace, constable, and sheriff, are presently required to be compensated solely out of the fees which they collect. By repealing this provision the amendment would permit these officers to be paid salaries from general county funds.

5. Under present constitutional provisions, the county attorney either may be elected or appointed as provided by the General Assembly. The amendment eliminates this option and requires the county attorney to be appointed. As there is presently a state law that requires the county attorney to be appointed and all counties do appoint this officer, this provision would make no change from present practice.

Popular Arguments For:

1. Local control -- to the maximum extent compatible with the general good -- is a fundamental principle of our democracy. We need to strengthen and adapt our local governments, so that the people will be better able to resolve local problems at the local level.

2. Under present constitutional provisions, all counties are required to operate with the same governmental structure. Permitting the establishment of a more effective and localized form of governmental organization would enable the people of a county to select the structure best suited for their own individual needs and conditions with the goal of providing more economical and efficient service.

3. Eliminating the constitutional requirement for fixed terms of office would permit the General Assembly to provide more stability and continuity of local governmental affairs.

4. Counties, if the residents so decided, could be empowered by the General Assembly to employ a county manager under the board of commissioners to give more effective direction to the operations of county government.

5. Salaries of county and precinct officials would be more realistic if based on factors other than county population.

6. Elimination of the provision requiring certain county officers to be compensated from the fees of their offices and provisions for the payment of salaries to such officers would remove the temptation which may sometimes be present for them to abuse their power in an effort to increase their income from fees.

Popular Arguments Against:

1. The provision in this amendment authorizing changes in the structure of county government is too vague and uncertain because there is no way to tell in advance exactly what changes will be made. If changes in county government are made, they should be specific and uniform and should be spelled out in the constitution.

2. Consistent with the democratic tradition, county officers should be elected. By permitting a change in the method of selecting the county officers, this amendment jeopardizes this tradition and would reduce the control of the people.

3. There is no real reason to remove the two-year term of office limitation for local officials. The purposes of democracy are better served when elected officials are held accountable to the people every two years.

4. This amendment does not treat all county officials in the same way, as the office of county commissioner would remain unchanged. Since the constitution created the county officials to administer certain functions at the local level, any change in this procedure should apply equally to all county officials.

PROPOSAL NO. 7 -- "FEDERAL" REAPPORTIONMENT PLAN

Provisions. This amendment:

1. increases the membership of the Senate from 35 to 39 with the House to remain at its present maximum of 65;
2. establishes senatorial districts in the constitution rather than by statute;
3. provides for representation in the House according to population;
4. requires the General Assembly to subdivide counties with more than one senator or one representative into legislative districts; however, no part of a county may be added to another county in forming a legislative district;
5. directs the General Assembly to reapportion itself in the 1963 regular session and in each regular session next following the official publication of each state-wide federal census;
6. includes a penalty provision, in the event the General Assembly fails to reapportion itself after 45 days in the aforementioned regular sessions, by withholding any compensation from the members and declaring them ineligible for election to succeed themselves in office until a reapportionment measure has been adopted; and
7. eliminates the provision that the state shall take a census every ten years, beginning in 1885, with the General Assembly to reapportion itself at the first session following the enumeration.

Comments

1. This amendment establishes a set number of senators (39) and representatives (65) for membership in the General Assembly while the constitution now provides for not more than 35 Senate members nor more than 65 House members.
2. The senatorial districts and the number of senators from each would be fixed in the constitution much the same as they are now designated under the 1953 reapportionment act, except that Elbert County would be added to the district composed of Cheyenne, Kiowa, Kit Carson, and Lincoln counties, and one additional senator each would be apportioned to the counties of Adams, Arapahoe, Boulder, and Jefferson.
3. Under this amendment, the General Assembly would divide the state into 65 representative districts "as nearly equal in population as may be" and not according to population ratios as at present. That is, by establishing under the present constitutional provision a ratio of a small number of people for the first representative from a district and a much larger number for subsequent representatives, districts may

be formed in accordance with the present constitutional provision but still not provide representation in equal proportion to population. Generally speaking, on the basis of the 1960 census, the General Assembly would be required to establish representative districts based on one representative for every 27,000 persons under this amendment.

4. The constitution now prohibits a county being divided into legislative districts with the result that the voters in counties having more than one senator or one representative elect all of their legislators at large. This amendment directs the General Assembly to establish legislative districts within any county having more than one senator or one representative. It retains the present provision that no part of a county may be combined with another county or part of a county in the formation of a legislative district.

5. The constitution presently directs the General Assembly to reapportion both its houses every five years following each federal and state census. If the General Assembly failed to act, the only alternative in the past was the passage of an initiated act, as was done in 1932. Under this proposed amendment, however, if the General Assembly fails to act after 45 days in the first regular session following official publication of each state-wide federal census, all compensation to the members would stop and all of the members would be ineligible for election to succeed themselves in office until the constitutional provisions have been complied with.

6. The present constitutional provision requiring a state census every ten years in years ending in "five" has never been activated. This amendment eliminates the state census provision.

Popular Arguments For:

1. There is no general agreement regarding the definition of the present constitutional provision that legislative apportionment shall be "on the basis of such enumeration according to ratios to be fixed by law." This amendment represents a compromise solution to the legislative apportionment problem between rural and urban areas and would serve the best interests of both groups by creating a workable balance essential to good legislation.

2. The system of apportioning one legislative house on the basis of area and the other on the basis of population has proved its value and desirability at the federal level, where representation is provided the large population centers in the House and sparsely settled areas, such as the Rocky Mountain Area, in the Senate.

3. Establishing legislative districts within multi-member counties would materially shorten their ballots in many cases by reducing the number of candidates to be voted upon and thus would enable the voters to know and to evaluate their candidates better.

4. Historically the General Assembly has failed to reapportion itself in accordance with the constitutional directive of once every five years. This amendment penalizes the members if they fail to reapportion once every ten years as required by its provisions by loss of pay, as well as making them ineligible for election to succeed themselves in office.

5. At the turn of the century, when the General Assembly reached its present maximum of 100 members, the state's population totaled 539,700 compared to its 1960 total of 1,753,947. A relatively small increase of four members in the Senate seems more than justified in view of this substantial increase in the state's over-all population.

6. This amendment retains the responsibility for reapportionment where it belongs -- in the hands of the elected legislative members.

Popular Arguments Against:

1. Apportionment both in the House and in the Senate should be based on population with a majority of the people being represented by a majority of the General Assembly members. Furthermore, while the rights of the minority must be protected, too much representation is provided the minority in the Senate under this amendment which could give the minority a veto power over the desires and needs of the majority.

2. The relationship between a state and its counties is not comparable with that between the federal government and the states; the method of congressional representation resulted when sovereign state governments banded together to form a republican federation, while counties are administrative units within a state and are not sovereign entities. In addition, congressional districts within a state are not now based on equal population, as may be noted from the four districts within Colorado at the present time.

3. The authorization of legislative districting within a county by the General Assembly could lead to gerrymandering and might give greater political control to fewer people.

4. The amendment would not prevent "token" reapportionment by the General Assembly in order to avoid the penalties provided therein. Also, in the event no reapportionment measure were adopted by the General Assembly, this amendment would penalize the innocent as well as the guilty for the actions (or inactions) of others, which is repugnant to our traditional beliefs of justice in this country.

5. The proposed increase of four senators is not based on logic but is merely political "sauce" designed to appease and to attract support from the voters in Adams, Arapahoe, Boulder, and Jefferson counties. In addition, similar increases in the future to reflect population changes may not be made without amending the constitution because Senate membership under this amendment is not designed to reflect population but is based largely on outdated and disproportionate population ratios.

6. The responsibility for reapportionment should be transferred from the General Assembly to an independent, objective body since the legislature has repeatedly demonstrated its inability to cope with this mandate.

PROPOSAL NO. 8 -- "VOTER" REAPPORTIONMENT PLAN

Provisions. This amendment:

1. creates a three-member Commission on Legislative Apportionment which would be charged with the responsibility of reapportioning the General Assembly;
2. directs the commission to certify reapportionment of the General Assembly on or before January 2, 1964; on or before January 2, 1972; and on or before January 2 of every tenth year thereafter;
3. requires the Colorado Supreme Court to affirm the commission's actions by April 15 in the aforementioned years or if the proposal is found not to conform with the provisions of the amendment or if one is not submitted, to carry out the reapportionment mandate contained in this amendment;
4. provides reapportionment of both houses of the General Assembly to be based on specific population ratios as set out in its provisions with no district to deviate from this figure by more than 33 1/3 per cent except mountainous senatorial districts;
5. permits counties with more than one representative to be subdivided into representative districts by vote of the people therein except that no part of a county may be added to another county in forming any senatorial or representative district; senators would continue to be elected at large in counties having more than one senator;
6. allows a person in any subdistricted county to be a candidate for representative in a subdistrict within the county other than the one in which he resides;
7. eliminates the provision that the state shall take a census every ten years, beginning in 1885, with the General Assembly to reapportion itself at the first session following this enumeration; and
8. continues the membership total in the General Assembly as at present -- not more than 35 senators and not more than 65 representatives.

Comments

1. This amendment establishes a Commission for Legislative Apportionment whose three members would be appointed separately by the Attorney General, the Lieutenant Governor, and the State Board of Education. No more than two of the members may belong to the same political party, and their terms of office would be 18 months. The first appointment would be made prior to July 1, 1963, and subsequent appointments would be made prior to July 1, 1971 and July 1 of every tenth year thereafter.

2. It would be the duty of the commission to certify the reapportioned legislative districts to the Colorado Supreme Court on or before January 2, 1964; on or before January 2, 1972; and on or before January 2 of every tenth year thereafter.

3. If the districts submitted by the commission conform to the requirements in this amendment, the supreme court shall affirm the commission's actions on or before April 15 of the year submitted, but if the court finds the proposal does not so conform or if for some reason the certification is not submitted, the Colorado Supreme Court must carry out the reapportionment mandate contained in this amendment by April 15, with the reapportioned districts to become effective on the date of the court's ruling.

4. The commission shall determine a "strict population ratio" by dividing the total state population as set forth in each decennial federal census by the number of seats assigned to the Senate and to the House, respectively. No legislative district may contain a population per senator or representative of $33 \frac{1}{3}$ per cent more or less than the strict population ratio, except that mountainous senatorial districts of more than 5,500 square miles, the major portion of which lies west of the 28th meridian of longitude west from Washington, D.C., may deviate from the strict population ratio by not more than 50 per cent.

5. Under this amendment, multi-representative counties would be authorized to establish representative districts within county boundaries if the majority of voters in the county approve the exact method of subdivision and the exact apportionment of representatives among the subdistricts and the county at large. Subdistricting measures could be placed on the ballot at the general elections of 1966, 1974, and at the general elections held each tenth year thereafter and at no other times. The Commission on Legislative Apportionment is given the discretionary power to amend the subdistricting program of a county as may be necessary to conform to subsequent apportionment.

6. A candidate for representative in any subdistricted county need not reside in the subdistrict in which he is a candidate.

1. The constitution directs the General Assembly to reapportion the seats in the Senate and the House of Representatives every five years on the basis of population, according to ratios fixed by law. The General Assembly has ignored its constitutional duty since, as a practical matter, this represents an almost impossible task in terms of personalities and in terms of members voting to reduce the representation for their constituents. This amendment would guarantee proper reapportionment every ten years through the establishment of an independent commission whose members would be appointed by responsible elected officials and which would be required to operate under specific constitutional guidelines.

2. In addition to establishing a specific formula within the limits of which the General Assembly must be reapportioned, this amendment, in directing the supreme court either to affirm the commission's

actions to carry out the reapportionment mandate itself, provides a built-in protection of the basic voting rights of the people, and costly legal suits by individual citizens will no longer be necessary.

3. Each person in Colorado is entitled to as nearly an equal representative vote in the state legislature as possible. However, at present, one-third of the population elects a majority of the members of the Senate and House. This amendment corrects this unequal voting power and provides each Colorado elector with an approximately equal voice in his state government, at the same time recognizing geographical problems by allowing large mountainous senatorial districts to contain less population than other senatorial districts. In the long run, the interests of all residents under an equitable system of representation that will strengthen state government is far more important and necessary than any temporary advantage now held by an area enjoying over-representation.

4. Under the provisions of this amendment, the people concerned would decide for themselves whether representative subdistricts within their county were desirable as well as establishing the exact boundaries of the subdistricts, thereby eliminating the possibility of gerrymandered subdistricts created by forces from outside the county.

5. Persons would not be denied the opportunity to be a candidate for state representative in subdistricted counties due to politically unfortunate circumstances of residence. Consequently, greater individual opportunity to be a candidate as well as more freedom of selection by the voters would be provided.

Popular Arguments Against:

1. No one can say for sure what will happen under this amendment because of the deviations allowed in its reapportionment formula. Only an unknown three-man commission will make this determination.

2. Apportionment of seats in the General Assembly should reflect not only population but also the major elements in this state's economy such as agriculture, mining, and the small business communities which serve these activities in the sparsely settled areas of the state. Under this amendment, six or seven counties of the state would control both houses by a two-thirds margin. In addition, having both houses apportioned entirely on the basis of population is practically the same as having a unicameral legislature, and only one state has ever tried a "one house" legislative body in this country, indicating that most states view such a move unfavorably.

3. Apportioning senatorial and representative seats in the General Assembly is historically a legislative matter and should not be turned over to an appointive commission whose members are not answerable to the people. Furthermore, the people do not have recourse to proper court action under this amendment because the supreme court would be put in the unusual position of ruling upon its own decision.

4. Authorizing representative subdistricts within a county by vote of the people does not preclude the possibility of gerrymandering and might give greater political control to fewer people.

5. Allowing a person to be a candidate for state representative in subdistricted counties without being a resident of the subdistrict is completely foreign to our traditional system of representation.

6. The composition of the proposed commission is a unique departure from the concept used by other states in apportioning legislative seats. Tremendous political power would be concentrated in the hands of three commission members who would not be directly responsible to the people. The three commission members would be appointed by: 1) the State Board of Education, whose members are not elected to apportion the General Assembly; 2) the Lieutenant Governor, who has no other administrative appointive powers; and 3) the Attorney General, who is the elected legal officer of the state and not the overseer of the General Assembly.