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1964

LEGISLATIVE COUNCIL OF THE
COLORADO GENERAL ASSEMBLY

RESEARCH PUB. NO. 89

AN ANALYSIS OF 1964 BALLOT
PROPOSALS

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Colorado. General Assembly.
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An analysis of 1964 ballot
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Edward J. Byrne
Frank L. Gill
Floyd Oliver

Robert L. Knous, Lt. Governor

Representatives

John D. Vanderhoof
Joseph V. Calabrese
John L. Kane
William O. Lennox
John W. Nichols
Clarence H. Quinlan

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 1964 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 24, 1964

This analysis of the constitutional amendments to be voted upon at the 1964 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,

Representative C. P. (Doc) Lamb
Chairman

BALLOT TITLES

Constitutional Amendments Submitted by the General Assembly

1. An amendment to articles IV and V of the constitution of the state of Colorado, providing for a state auditor under the legislative department to replace the auditor of state under the executive department.

2. An amendment to article IX of the constitution of the state of Colorado, providing that the office of county superintendent of schools may be abolished by the qualified electors of any county, and eliminating inoperative provisions with respect to certain duties of the county superintendent.

Provisions:

This amendment:

1. replaces the elected Auditor of State with a State Auditor appointed by the legislature;
2. retains the present Auditor of State until the expiration of his current term of office on the second Tuesday of January in 1967;
3. directs the legislature to appoint a State Auditor, who must be a certified public accountant, without regard to political affiliation;
4. limits the term of office of the State Auditor to five years, with no person being eligible for more than two consecutive terms as State Auditor;
5. prohibits the State Auditor from being appointed or elected to public office within this state during his term of office, or for two years following the termination of his services as State Auditor;
6. authorizes the removal of the State Auditor for cause by a two-thirds' vote of the members in each house of the legislature;
7. provides the State Auditor with the duty of conducting post-audits of all financial transactions and accounts kept by all agencies, departments, and institutions of state government, plus performing such similar or related duties with respect to political subdivisions of the state as may be required by law;
8. requires that not more than three members of the staff of the State Auditor may be non-civil service employees; and
9. removes constitutional prohibition against the State Treasurer succeeding himself in office.

Comments:

Three major changes are embodied in this amendment. First, the post-auditing of state agency expenditures would be made a function independent of the executive branch. Second, the office of State Auditor would be an appointive position (by the legislature) instead of being an elective position. And third, professional qualifications would be required for the official in charge of post-audits.

This amendment resulted from a study by the Legislative Council's Committee on Organization of State Government. In its report to the legislature, the committee noted that, under the provisions of the Colorado Constitution, any person may be a candidate for the office of Auditor of State if he (or she) is at least

25 years of age, a citizen of the United States, and has resided within the state for at least two years next preceding the election, but no other qualifications are required.

The committee noted further that the constitutional prohibition against the State Auditor and State Treasurer from being re-elected as their own immediate successor has been avoided in the past through the practice of the State Auditor becoming a candidate for the office of State Treasurer when the auditor's term was expiring, and vice versa. This has led to the situation whereby the State Auditor is in charge of auditing his transactions while having served as State Treasurer.

A survey of practices in other states showed that some 21 states provide for a post-audit service under the control and supervision of the legislature. This trend represents a realization that the post-auditing program, which serves as a check on the spending of appropriated funds by the executive branch, should be conducted by the legislative branch if it is to fulfill its function as the guardian of public funds.

Popular Arguments For:

1. Post-auditing the expenditures of state monies is a function which properly belongs in the legislative branch of state government if the legislature is to carry out its traditional duty of controlling the purse strings of government. Under the present arrangement, once the legislature appropriates the funds to finance state government, it has no first-hand knowledge as to whether these funds are spent in the manner for which they were appropriated.

2. The popular election of the State Auditor gives him some independence from the executive branch, but it does not provide the legislature with an auditing officer directly responsible to it so that he can be required to provide the legislature with maximum information on which to base its future appropriation policies.

3. Post-auditing is a professional function, and the official in charge should be required to have professional qualifications. It is not a policy-making position, nor should it be, and the State Auditor should be selected on the basis of professional qualifications and not on the basis of the person receiving the most votes on Election Day.

4. A greater knowledge of the relationship between the appropriating and spending of state funds by executive departments will enable the legislature to appropriate such funds more wisely and more efficiently.

5. Safeguards are included in the amendment to prevent any person appointed from using the office of State Auditor for personal political gain.

6. The bulk of the State Auditor's staff will be under the classified civil service system, but he will be allowed to have no more than three employees exempt from civil service to assist in directing and carrying out the functions of his office. This provision will help to solve the practical problem of the future employment of the civil service employees in the auditing office at the present time.

Popular Arguments Against:

1. Consistent with the democratic tradition, state officials should be elected by the people. This amendment jeopardizes this tradition and would reduce the power of the people by changing the method of selecting the State Auditor.

2. Historically, the State Auditor in Colorado has been elected by the people and there is no assurance that requiring this official to be a certified public accountant will improve the post-auditing program to any extent.

3. Neither does the fact that more knowledge of the relationship between appropriations and expenditures necessarily mean the legislature will appropriate funds more wisely and more efficiently.

4. If this official is going to be appointed on the basis of professional qualifications, without regard to political party affiliation, why is it necessary to include a prohibition in the amendment that he will be ineligible for election to public office while serving as State Auditor or for two years following the termination of his services as State Auditor?

5. The amendment specifies that the State Auditor who was elected in 1962 shall continue in office until January 1967. It does not, however, specify what is to happen to his present staff members who are under the classified civil service system.

6. The three non-civil service positions in this amendment are not designated, thereby providing the opportunity to switch or change these exempt positions periodically so that the balance of the staff could be consistently subject to undue political pressure.

Provisions:

1. Under this amendment, the people of any county could vote to abolish the office of county superintendent of schools. The question could be submitted at any general election to the qualified electors of the county. If the majority of the votes cast in the county were in favor of abolishment, the term of office of the county superintendent would end on the following June 30.

2. The amendment also eliminates an inoperative provision stating that the county superintendent is ex officio commissioner of lands within the county. County superintendents have no duties in this capacity.

Comments:

1. The constitution now provides that a county superintendent must be elected every four years in each county in the state (except the City and County of Denver, where the county superintendent is appointed). By statute the county superintendent must be a qualified elector who has resided in the county for at least one year; must hold a valid Colorado teaching certificate; and must have at least eight months of teaching experience. His statutory duties include supervising the schools of his county, coordinating efforts toward school district reorganization, making reports, keeping records, and performing numerous miscellaneous functions connected with the children and schools of the county. His salary is set by state law and differs among the counties according to population.

2. During the years when Colorado had numerous small districts, the county superintendent played an essential supervisory role in the school affairs of his county. But school district reorganization has changed the complexion of the office in many counties. (There were 1,822 school districts in the state in 1949, while there are only 205 in 1964.) Several of these districts are county-wide and most of them employ their own district superintendents. In reorganized counties with only a few districts, there is little need for the supervisory services of the county superintendent. Consequently his workload decreases unless he undertakes to provide new types of services to replace the supervisory and organizational functions which previously kept him busy.

3. This constitutional amendment was recommended by an interim committee of the Colorado legislature after extensive study of various alternative approaches. Recognizing the differences among counties (size and population of county, degree of reorganization, and the incumbent's concept of the office), the committee concluded that the people in the counties should have the right to determine for themselves whether or not to abolish the county superintendent's office.

4. If this amendment is passed, there will necessarily be legislation to transfer the duties of the county superintendent to appropriate officials (school district superintendents, State Depart-

ment of Education, county clerk, and possibly others) in counties which abolish the office.

5. Passage of this amendment would not automatically abolish the county superintendent's office in any county. It would simply remove the constitutional requirement that each county have a county superintendent and would let the people in the individual counties decide whether the office is needed any longer.

6. The first opportunity for a county to vote to abolish the county superintendent's office under this amendment would be in the 1966 general election. Although each county will be electing a county superintendent that year, the term of office would be only until the following June 30 in any county in which the abolishment question was submitted and passed.

Popular Arguments For:

1. The office of county superintendent has outlived its usefulness in some counties. Duties which were logically assigned to the county superintendent many years ago can now be performed more efficiently by the district superintendents or by the State Department of Education. This is particularly true in reorganized counties where there are only one or two districts.

2. Some county superintendents publicly favor abolishing their own positions. A few have taken full-time teaching positions while nominally serving as county superintendent. Thus the county superintendents themselves have demonstrated that, at least in some counties, the office has lost its effectiveness. If the officeholders and their constituents feel that the office should be discontinued, the constitution should not prevent them from doing so.

3. Because of the declining role of the county superintendent and the relatively low salary of the office, it is sometimes difficult to find qualified persons who are willing to put forth the time, effort, and money necessary to campaign for election. This is most likely to happen when a long-time incumbent decides not to run for re-election.

4. Taxpayers are always concerned about property taxes and the efficient use of the tax dollar. This proposal would offer them the chance to cut the county's budget by eliminating the cost of maintaining the county superintendent's office.

5. This amendment recognizes the differences among counties. While it is true that some counties no longer need a county superintendent, others still benefit from his services and have no desire to discontinue the office. The provision for local determination means that no county superintendent's office could be abolished until a majority of the voters agree that it is no longer worthwhile.

Popular Arguments Against:

1. County superintendents are still needed in Colorado. They perform valuable services which would be sorely missed if the office were discontinued. Many of these services are taken for granted, however, and voters might not realize the full impact of abolishing the office until it was too late. The amendment makes no provision for re-establishing the office of county superintendent once it has been abolished in a county.

2. The office of county superintendent should be strengthened, not abolished. Higher qualifications, higher salaries, and a meaningful redefinition of duties could enhance the status of county superintendents and contribute greatly to elementary and secondary education throughout the state.

3. If this proposed amendment passes and some counties vote to abolish the county superintendent's office, confusion will result. In some counties the county superintendent would continue to perform his functions as in the past, while in other counties these functions would either be discontinued or relegated to other officials. The amendment would create an administratively awkward situation.

4. The abolishment of the county superintendent's office would be another step toward centralization of authority in the State Department of Education. Local control of education must be carefully guarded, and any attempts to encourage the trend toward state control should be thwarted. County superintendents who are locally elected and locally oriented help to keep control of education at the local level.

5. The county superintendent, as an independent elected officer, can act as coordinator and informal adviser for the school districts of his county. He can also serve his constituents by receiving questions, complaints, and problems which for some reason would not be taken to the district superintendent or a school board member. Services of this type cannot be transferred to some other officer if the county superintendent's office is abolished.