
STATEWIDE ELECTION DAY IS
Tuesday, November 6, 2012
Polling places open from 7 a.m. to 7 p.m.
(Early Voting Begins October 22, 2012)

Contact information for county election offices appears
inside the back cover of this booklet



**2012 STATE BALLOT
INFORMATION BOOKLET**

and

**Recommendations on
Retention of Judges**

Legislative Council of the
Colorado General Assembly

Research Publication No. 614

**Amendment S
State Personnel System**

Amendment S proposes amending the Colorado Constitution to:

- ◆ increase the number and types of state employees who may be exempt from the state civil service system, also known as the state personnel system;
- ◆ change testing and hiring procedures for filling vacancies in the state personnel system;
- ◆ expand hiring preferences for veterans; and
- ◆ adjust the terms of service and duties for members of the State Personnel Board, and the standard to remove certain members.

Summary and Analysis

Amendment S makes changes to the state personnel system, impacting approximately 32,500 individuals in full- and part-time permanent positions in state government. The measure applies only to classified employees in the state personnel system and does not affect nonclassified employees (about 41,000 individuals), most of whom work in the legislative and judicial branches and at institutions of higher education. All employees are covered under applicable state and federal employment laws, such as those protecting against discrimination.

State personnel system. In 1918, Colorado voters amended the state constitution to create the state civil service system. In 1970, the system was updated and renamed the state personnel system. It currently requires that:

- employees be hired and promoted according to merit and fitness;
- job candidates be scored and ranked using a competitive exam;

- hiring decisions be made from among job candidates with the three highest scores on competitive exams;
- eligible veterans be able to receive a hiring preference for only one position;
- positions be filled by Colorado residents unless certain conditions are met; and
- employees provide 12 months of satisfactory service before becoming certified as classified.

Other portions of the system are governed by state law or rule, including processes to evaluate candidates and job performance, respond to grievances, and terminate employment. The system is administered by the state personnel director (head of the Department of Personnel and Administration), with oversight from the independent State Personnel Board.

Exemption from the state personnel system. Exempted positions are specifically listed in the state constitution and include most employees of the state courts, the legislature, and the state's institutions of higher education, as well as department heads and members of certain boards and commissions. Political appointees serving the administration of the Governor and Lieutenant Governor are also exempt. Similar to the private sector, exempted employees and their state agency employers may each end the employment relationship at any time. In these positions, there are no universal standards for evaluating candidates, assessing job performance, or responding to grievances.

Amendment S allows the state personnel director to exempt certain additional management and support positions, up to 1 percent of the total number of employees in the state personnel system. Based on the current figure of about 32,500 classified employees, the measure allows an estimated 325 new positions to be exempted. Currently, most departments have only one exempt position, the department head. If voters approve Amendment S, additional exemptions may include deputy department heads, chief financial officers, public information officers, legislative liaisons, human resource directors, executive assistants to department heads, and members of the senior executive service (SES). The SES is a performance pay plan authorized by state statute to compensate up to 125 positions with a high level of management responsibility. SES positions are currently allocated according to department size, and new exemptions may be similarly distributed.

Evaluating and hiring job candidates. Currently, candidates must be ranked based on the results of a competitive exam using criteria set by each department and following rules issued by the State Personnel Board. In practice, each candidate is awarded up to 100 points based on the results of his or her exam, with additional points awarded if he or she qualifies for a veterans' preference. The measure allows for the use of other objective methods to evaluate, compare, and rank job candidates. These other methods may include written exams, oral boards, search committees, or the use of non-numerical criteria, as long as they meet professionally accepted standards.

Current law requires hiring managers to choose among the three candidates with the highest scores. Amendment S allows the top six candidates to be considered, regardless of the evaluation and ranking method used. Under the measure, the state personnel director, rather than the State Personnel Board, will be required to issue rules for the evaluation and ranking of candidates through the public rule-making process.

Hiring preferences for veterans. Under the current evaluation process, an eligible veteran or his or her surviving spouse receives five additional points on his or her competitive exam score. A disabled veteran receives ten additional points. Once an individual has been hired by the state using a veterans' preference, he or she may not apply the preference again to another position. Amendment S allows a veteran to continue to use preference points when applying for most other positions in the system.

Hiring temporary employees. Colorado's constitution allows for temporary employment of persons for up to 6 months to address a short-term or urgent hiring need. State rules clarify that a temporary appointment may not exceed 6 months within a 12-month period. The measure extends the time limit for temporary employment to 9 months, and state rules may be adjusted accordingly.

Residency. Colorado's constitution requires that positions within the personnel system be filled by residents of Colorado unless the State Personnel Board finds the position requires special education or special qualifications and the position cannot be readily filled by a Colorado resident. Amendment S gives the state personnel director the authority to waive residency requirements as well. It also eliminates the residency requirement for positions located within 30 miles of the state border.

State personnel system oversight. The five-member State Personnel Board, which includes three members appointed by the Governor and two members elected by classified employees, sets policy for the system. None of the members may be a state employee. Currently, board members may serve an unlimited number of five-year terms and may only be removed for cause. The board is responsible for setting rules for conducting competitive exams used to evaluate candidates for positions in the system, approving exemptions from residency requirements, and hearing appeals to certain decisions made by the state personnel director.

If approved, Amendment S:

- reduces board terms from five years to three years for members appointed or elected after January 1, 2013;
- limits board members from serving more than two terms;
- allows two appointees to serve or be removed at the Governor's pleasure;
- removes the authority of the board to set rules for the process and criteria used to evaluate and hire candidates for positions in the system; and
- allows the state personnel director to set the rules for evaluating and hiring candidates and to approve residency exemptions.

For information on those issue committees that support or oppose the measures on the ballot at the November 6, 2012, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

Arguments For

1) State employees provide a wide variety of services to meet the needs of citizens, and the public deserves the most qualified employees to do the job. The current hiring process limits the pool of eligible candidates and may favor the best test-takers over applicants with practical experience. The measure expands the pool of eligible candidates and allows state agencies to consider other objective methods for evaluating job applicants. An improved applicant

evaluation process increases the ability of the state to hire the best candidate for each position.

2) The measure updates the state personnel system to better align the state with current business practices and make it more efficient and accountable to Colorado taxpayers. It gives the Governor the ability to hire key staff, allowing for a quicker implementation of the policy agenda he or she is elected to enact. Under the measure, the state is better equipped to complete special projects and respond to seasonal demands with temporary employees who are allowed to work nine months rather than six. It also allows for the hiring of nonresidents in positions located close to the state border, helping state agencies to identify the best candidates for difficult-to-fill positions in a timely manner and from a wider applicant pool. Additionally, the measure recognizes the sacrifice of veterans, allowing them to use a hiring preference whenever they apply for a state position, rather than only once.

Arguments Against

1) The measure gives the Governor and political appointees, including the state personnel director, too much power over the state's personnel system. The Governor's administration will be able to exempt about 325 additional positions from the system, and members of the constitutionally independent State Personnel Board could be removed without cause. Also, the state personnel director, appointed by the Governor, will now have policymaking authority over areas of the system that the board has traditionally overseen, including job candidate evaluation and exemption from residency requirements. This overlap in authority could lead to potential conflicts between the director and the board and create confusion for candidates and employees.

2) The state personnel system exists, in part, to protect state employees from undue political influence, and this measure removes some of those protections, making the system more vulnerable to favoritism and abuse. Evaluating qualifications, rather than using numerical exam scores, makes it more difficult for state agencies to objectively compare candidates. The new system could make it easier to hire persons based on political or personal connections rather than merit and result in more appeals of hiring decisions. In addition, the new exemptions could displace experienced existing state employees with political appointees. This may result in the loss of institutional

knowledge and subject traditionally neutral positions, such as chief financial officers and human resource directors, to political pressure.

Estimate of Fiscal Impact

Allowing certain state jobs to be filled by nonresidents could affect state and local government revenue, mainly sales taxes and vehicle fees. Positions filled by a nonresident that would have otherwise been filled by a Colorado resident will reduce revenue, and positions that would have otherwise gone unfilled will increase revenue. Changing the rules for hiring state employees could also affect expenditures, but the overall impact is not expected to be significant.

Amendment 64 Use and Regulation of Marijuana

Amendment 64 proposes amending the Colorado Constitution to:

- ◆ regulate the growth, manufacture, and sale of marijuana in a system of licensed establishments overseen by state and local governments;
- ◆ allow individuals who are 21 years old or older to possess, use, display, purchase, transport, and transfer—to individuals who are 21 years old or older—one ounce or less of marijuana;
- ◆ allow individuals who are 21 years old or older to possess, grow, process, and transport up to six marijuana plants, with certain restrictions;
- ◆ require the state legislature to enact an excise tax on marijuana sales, of which the first \$40 million in revenue raised annually must be credited to a state fund used for constructing public schools. The excise tax must be approved by a separate statewide vote; and
- ◆ require the state legislature to enact legislation concerning the growth, processing, and sale of industrial hemp.

Summary and Analysis

Marijuana is a plant that contains the psychoactive component delta-9 tetrahydrocannabinol (THC). Marijuana can be used in various ways, including smoking it, inhaling it as vapor, and consuming it in food. Currently, individuals who grow, transfer, manufacture, possess, or sell marijuana violate federal, state, and, in some cases, local laws. However, state penalties for marijuana offenses are not as severe as penalties for many other drug-related offenses. Although the use of marijuana for medical purposes is not authorized under federal law, Colorado and several other states have enacted legislation allowing the use of medical marijuana. To date, state regulation of medical marijuana establishments has generally been allowed to occur, although the federal government has ordered some businesses to close.

Current federal and state penalties for marijuana offenses.

Sentences for drug offenses are discretionary, and depend on the law violated and the severity and circumstances of the crime. Under federal law, penalties for marijuana offenses range from up to one year in prison and a fine of \$1,000 for a first offense of possession, to up to life in prison and a fine of \$4 million for the sale of 1,000 kilograms (about 2,200 pounds) or more of marijuana.

Under current state law, marijuana offenses range from a class 2 petty offense to a class 3 felony. For example, individuals accused of possession of two ounces of marijuana or less may be required to appear in court and, if convicted, can be fined up to a maximum of \$100. Other penalties range from no jail time or fine for sharing small amounts of marijuana without payment, to up to 12 years in prison, a fine of \$750,000, or both for transferring any amount of marijuana to a person under 15 years old, provided that the offender is at least 18 years old, or for knowingly distributing more than 100 pounds of marijuana. Individuals convicted of marijuana offenses are also required to pay a drug offender surcharge, which may range from \$200 to \$3,000, depending on the severity of the crime. It is not clear how the state's current criminal laws would be changed in response to Amendment 64.

Personal use of marijuana. Under the measure, individuals who are 21 years old or older (adults) may possess, use, display, purchase, and transport up to one ounce of marijuana. Adults may share up to one ounce of marijuana with other individuals who are at least 21 years old, but are not allowed to sell marijuana. The use of marijuana in public or in a manner that endangers others is prohibited. The measure allows adults to grow their own marijuana or to purchase marijuana from a licensed retail marijuana store with proof of age. Adults may possess up to six marijuana plants, of which three or fewer are mature, flowering plants, as well as the marijuana harvested from the plants, provided that the plants are kept in an enclosed and locked space and are not grown openly or publicly. The marijuana harvested must remain on the premises where the plants were grown. Adults are also permitted to possess, use, display, purchase, and transport marijuana accessories that are used for the growth, manufacture, and consumption of marijuana.

Amendment 64 states that its provisions are not intended to:

- allow driving under the influence of or while impaired by marijuana;
- permit underage access to or use of marijuana;

- affect the ability of an employer to restrict the use or possession of marijuana by employees; or
- prevent a school, hospital, or other property owner from prohibiting or otherwise regulating the use, possession, growth, manufacture, or sale of marijuana on the property.

Regulation by the state. Amendment 64 requires the Colorado Department of Revenue (DOR) to adopt regulations by July 1, 2013, concerning licensing and security requirements for marijuana establishments, the prevention of marijuana sales to underage individuals, labeling requirements for marijuana products, health and safety standards for marijuana manufacturing, advertising restrictions, and civil penalties for violations. The measure specifies that the regulations may not prohibit marijuana establishments or make the operation of such establishments unreasonably impracticable.

The DOR must also develop a schedule of application, licensing, and renewal fees. The application fees may not exceed \$5,000, adjusted annually for inflation, unless the DOR determines that a greater fee is necessary. If a licensed medical marijuana business applies for a separate license created by the measure, the application fee may not exceed \$500. The measure does not limit the amounts that may be charged for licensing and renewal fees. After the DOR receives a license application from a prospective marijuana establishment, it must forward the application and half of the application fee to the local government involved. The DOR must issue or deny the license within 90 days. If the DOR denies the license, it must notify the applicant in writing of its reason for doing so.

In the event that the DOR does not adopt regulations by July 1, 2013, the measure states that marijuana establishment applicants may apply for an annual license with a local government. Applicants may only apply for a locally issued license after October 1, 2013, which is the deadline for local governments to identify which local agency will process marijuana license applications if necessary. Applicants may also apply for a locally issued license if the DOR adopts regulations but has not issued any licenses by January 1, 2014. While operating under a locally issued license, the marijuana establishments are not subject to regulation by the DOR.

Regulation by local governments. Local governments may enact regulations concerning the time, place, manner, and number of marijuana establishments in their community. In addition, local governments may prohibit the operation of marijuana establishments through an ordinance or a referred ballot measure; citizens may pursue

such a prohibition through an initiated ballot measure. Even if marijuana establishments are prohibited by a local government, individuals in that community who are at least 21 years old may still possess, grow, and use marijuana as allowed by the measure.

Types of licenses. Under Amendment 64, marijuana growth, processing, testing, and sales are authorized to be carried out by four types of regulated marijuana establishments, which are described in Table 1. The measure directs the DOR to implement procedures for issuing, renewing, suspending, and revoking licenses for the establishments.

Table 1. Types of Licensed Marijuana Establishments Under Amendment 64

Type of Establishment	Activities	Sale of Marijuana
Marijuana Cultivation Facility	Grows, prepares, and packages marijuana.	May sell marijuana to other cultivation facilities, manufacturing facilities, or retail marijuana stores.
Marijuana Product Manufacturing Facility	Purchases, manufactures, prepares, and packages marijuana and marijuana products.	May sell marijuana and marijuana products to retail stores or other marijuana product manufacturing facilities.
Marijuana Testing Facility	Analyzes and certifies the safety and potency of marijuana.	Not permitted to sell marijuana.
Retail Marijuana Store	Purchases and sells marijuana and marijuana products from cultivation and product manufacturing facilities.	May sell marijuana to consumers who are 21 years old or older.

Taxes. This measure requires that the state legislature enact an excise tax. The current Colorado Constitution forbids a member of the state legislature to be bound to vote for or against any bill or measure pending or proposed to the state legislature. Because of this inherent conflict, the excise tax outlined in the measure might not be imposed. Additionally, this issue may result in significant litigation.

Under the measure, marijuana is subject to existing state and local sales taxes and a new state excise tax to be set by the legislature. An excise tax is a tax on the use or consumption of certain products such as gasoline, alcohol, or cigarettes. The tax is generally collected at the wholesale level and passed on to consumers in the retail price. Marijuana cultivation facilities will pay the excise tax when selling marijuana to either marijuana product manufacturing facilities or to retail marijuana stores.

Amendment 64 requires the legislature to enact the state excise tax; however, the Taxpayer's Bill of Rights (TABOR) requires a separate statewide vote to approve the tax and any future tax increases. Under the measure, the excise tax is limited to 15 percent until January 1, 2017, when the legislature may set it at any rate. Each year, the first \$40 million in revenue raised by the excise tax will be credited to a state fund used for constructing public schools. Medical marijuana is not subject to the state excise tax required by the measure, or to any existing state excise tax.

Effect on medical marijuana laws. Amendment 64 does not change existing state medical marijuana laws, which allow Colorado citizens who have certain debilitating medical conditions to use medical marijuana. Medical marijuana patients and primary caregivers register with the state health agency, and businesses that grow, manufacture, and sell medical marijuana are regulated by the DOR and by local licensing authorities throughout the state. Medical marijuana patients are permitted to possess up to two ounces of marijuana and to grow up to six marijuana plants, with three or fewer being mature, flowering plants. Caregivers are subject to the same possession and growth limitations as patients and may serve up to five patients.

Under the measure, licensed medical marijuana cultivators, manufacturers, and dispensaries may apply for a separate marijuana establishment license, and are eligible for a reduced application fee. However, medical marijuana dispensaries may not sell marijuana to retail customers or operate on the same premises as retail marijuana stores. If competition for licenses exists, applicants with prior experience producing or distributing medical marijuana and who have complied with state medical marijuana regulations are granted preference in licensing.

Industrial hemp. The measure requires the state legislature to enact, by July 1, 2014, legislation concerning the growth, processing, and sale of industrial hemp, but does not specify what provisions must

be included, or whether such activities should be authorized. The measure defines industrial hemp as the same plant as marijuana, but with a THC concentration of no more than three-tenths percent. THC is the primary psychoactive component of marijuana. Federal law currently prohibits the growth of industrial hemp, although it is legal to sell imported hemp and hemp products in the United States. Hemp seeds are sold as food, and hemp fibers are used to manufacture rope, clothing, and building materials.

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<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

Arguments For

1) Current state policies that criminalize marijuana fail to prevent its use and availability and have contributed to an underground market. By creating a framework for marijuana to be legal, taxed, and regulated under state law, Amendment 64 provides a new direction for the state.

2) It is preferable for adults who choose to use marijuana to grow it themselves or purchase it from licensed businesses that are required to follow health and safety standards, rather than purchasing products of unknown origin from individuals involved in the underground market. A regulated market will provide a safer environment for adults who purchase marijuana and, by requiring age verification, will restrict underage access to marijuana. The measure will also add sales tax revenue and may add job opportunities to the state economy.

3) The adoption of Amendment 64 will send a message to the federal government and other states that marijuana should be legal and regulated and that industrial hemp should be treated differently than marijuana. Adults should have the choice to use marijuana, just as they have that choice with other substances such as alcohol and tobacco. Further, because of its commercial applications in fuel, building materials, clothing, and food, industrial hemp should be allowed to be grown, processed, and sold domestically.

Arguments Against

1) Even if Amendment 64 is adopted, the possession, manufacture, and sale of marijuana remain illegal under current federal law, so the adoption of the measure may expose Colorado consumers, businesses, and governments to federal criminal charges and other risks. People who invest time and money to open marijuana establishments have no protections against federal seizure of their money and property. Because federal banking laws do not allow banks to accept the proceeds of, or loan money for, activities that are illegal under federal law, marijuana businesses will likely need to be cash-only businesses. In addition, enhanced federal scrutiny and competition from retail marijuana establishments could jeopardize the existing medical marijuana system. The efforts of individuals who feel that marijuana use should be legal for all adults are more appropriately directed at changing federal law.

2) Marijuana impairs users' coordination and reasoning and can lead to addiction. Allowing state-regulated stores to sell marijuana will make it more accessible, which is likely to increase use and may give the impression that there are no health risks or negative consequences to marijuana use. Greater accessibility and acceptance of marijuana may increase the number of children and young adults who use the drug, which, due to their ongoing brain development, may be especially dangerous. Furthermore, because more people are likely to use marijuana, the number of those who drive while under the influence of or while impaired by the drug may increase.

3) A ballot measure cannot direct any vote cast by a legislator. Amendment 64 asks voters to approve a regulatory structure for the sale of marijuana, but does not specify critical details about what the regulations will entail. Furthermore, because the provisions of Amendment 64 will be in the state constitution and not in the state statutes, where most other business regulations appear, there may be unintended consequences that cannot be easily remedied. For example, the state legislature cannot adjust the deadlines, fees, and other details regarding the implementation of the measure. In addition, by constitutionally permitting marijuana use, the measure, despite its stated intent, could create conflicts with existing employment, housing, and other laws and policies that ban the use of illegal drugs.

Estimate of Fiscal Impact

Amendment 64 is expected to increase revenue and spending at both the state and local level. The exact amount of each will depend on the value of marijuana sold, the regulations and fees adopted by the Department of Revenue (DOR) and local governments, and future actions taken by the state legislature. The fiscal impact assumes that the DOR will regulate marijuana under this measure in the same way it regulates medical marijuana under current law, using some of the same resources.

State revenue. State revenue from sales taxes and licensing fees is expected to increase between approximately \$5.0 million and \$22.0 million per year. The measure also allows a separate excise tax to be levied on wholesale marijuana sales, but that tax has not been included in this analysis because the tax rate must first be set by the state legislature and then be approved by voters in a statewide election.

State spending. Currently, the DOR is allocated \$5.7 million per year for licensing, regulation, and enforcement costs related to medical marijuana. These costs will increase by an estimated \$1.3 million in the first year and by \$0.7 million annually thereafter in order to expand DOR regulation to marijuana establishments authorized by the measure. These new costs will likely be paid from fees assessed on marijuana establishments. Although it is not clear how the state's criminal laws would be changed in response to Amendment 64, if the number of prison sentences for marijuana offenses decreases, prison costs will be reduced.

Local revenue and spending. Sales tax revenue for local governments will increase along with spending for regulation and enforcement. Due to differences in local tax rates and regulations, the impact to local governments cannot be determined.

Amendment 65

Colorado Congressional Delegation to Support Campaign Finance Limits

Amendment 65 proposes amending the Colorado Constitution and Colorado statutes to:

- ◆ instruct the Colorado congressional delegation to propose and support an amendment to the U.S. Constitution that allows Congress and the states to limit campaign contributions and spending; and
- ◆ instruct the state legislature to ratify any such amendment passed by Congress.

Summary and Analysis

Colorado and federal law currently limit the amount of money that individuals, political action committees, and other organizations may give directly to candidates, campaigns, political parties, and other political groups. Colorado has also established voluntary spending limits that political candidates and campaigns may choose to follow. However, there are no mandatory limits in state or federal law on how much money campaigns may spend overall.

In the past, courts have ruled that limiting contributions to candidates and campaigns is a permissible restriction on money in politics so as to prevent corruption or the appearance of corruption. However, the courts have also ruled that spending money is a form of protected political speech. Therefore, overall spending limits on campaigns are not allowed, and spending by persons and organizations who are independent of political campaigns cannot be restricted.

Changes under Amendment 65. The measure does not directly affect current state or federal campaign finance laws, or create campaign spending limits. Instead, it amends state law to encourage Congress and the state legislature to take steps to amend the U.S. Constitution to allow greater limits on the role of money in state and federal elections. The measure also expresses the intent of voters that state law should establish mandatory campaign spending limits, rather than encourage voluntary spending limits.

Amending the U.S. Constitution. An amendment to the U.S. Constitution may be proposed with a two-thirds majority vote in both houses of Congress. Then, the amendment must be ratified by the state legislatures in three-fourths of the states, or 38 of the 50 states, in order to take effect.

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hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

Arguments For

1) The current system of financing political campaigns gives too much influence over elections and public policy to wealthy individuals and organizations. This measure sends a message from Colorado voters to their elected representatives that money in politics should be limited so that other perspectives can be heard. Further, it gives elected representatives in Congress and the state legislature clear instructions to make the necessary changes to create a more level playing field in politics.

2) Prior court rulings have increased the ability of wealthy individuals and organizations to spend unlimited amounts of money to influence campaigns and elections, as well as public policy. In many cases, the public does not know who is providing this money because the source does not have to be disclosed. The surest way to reverse these changes is to amend the U.S. Constitution as recommended by this measure. Amendment 65 takes the first step in that process by encouraging Congress to take action.

Arguments Against

1) A state ballot measure cannot require elected representatives in Congress or the state legislature to support or vote for certain laws and policies. Therefore, the measure will have no practical effect. Rather than using Colorado law to make a political statement, those who advocate for more restrictive campaign finance laws should instead support congressional candidates who will pursue such changes.

2) The measure could lead to restrictions that limit the fundamental rights to freedom of speech, expression, and association. Individuals and organizations should not be restricted in how they spend money to promote the ideas and candidates they support. Further, candidates and campaigns should be free to spend any contributions received from supporters.

Estimate of Fiscal Impact

Amendment 65 is not expected to affect state or local government revenue or spending.

TITLES AND TEXT

The ballot title below is a summary drafted by the professional legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado Constitution. The text of the measure that will appear in the Colorado Constitution below was referred to the voters because it passed by a two-thirds majority vote of the state senate and the state house of representatives.

Amendment S **State Personnel System** (Constitutional Amendment)

Ballot Title: Shall there be an amendment to the Colorado constitution concerning the state personnel system, and, in connection therewith, expanding the veterans' preference; increasing the number of candidates eligible to be appointed to a position; adjusting the duration of allowable temporary employment; allowing the flexibility to remove a limited number of positions from the system; modifying the residency requirement; adjusting the terms of service for members of the state personnel board; and requiring merit-based appointments to be made through a comparative analysis process?

TITLES AND TEXT

Text of Measure:

Be It Resolved by the House of Representatives of the Sixty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

In the constitution of the state of Colorado, section 13 of article XII, **amend** (1), (2), (5), (6), and (9) as follows:

Section 13. State personnel system - merit system.

(1) Appointments and promotions to offices and employments in the STATE personnel system of the state shall be made according to merit and fitness, to be ascertained by competitive tests of competence A

COMPARATIVE ANALYSIS OF CANDIDATES BASED ON OBJECTIVE CRITERIA without regard to race, creed, ~~or~~ color, or political affiliation. A NUMERICAL OR NONNUMERICAL METHOD MAY BE USED FOR THE COMPARATIVE ANALYSIS OF CANDIDATES.

(2) (a) The STATE personnel system ~~of the state~~ shall comprise all appointive public officers and employees of the state, except the following:

(I) Members of the public utilities commission, the industrial commission of Colorado, the state board of land commissioners, the Colorado tax commission, the state parole board, and the state personnel board;

(II) Members of any board or commission serving without compensation except for per diem allowances provided by law and reimbursement of expenses;

(III) The employees in the offices of the governor and the lieutenant governor whose functions are confined to such offices and whose duties are concerned only with the administration thereof;

(IV) Appointees to fill vacancies in elective offices;

(V) One deputy of each elective officer other than the governor and lieutenant governor specified in section 1 of article IV of this constitution;

(VI) Officers otherwise specified in this constitution;

(VII) Faculty members of educational institutions and departments not reformatory or charitable in character, and such administrators thereof as may be exempt by law;

(VIII) Students and inmates in state educational or other institutions employed therein;

(IX) Attorneys at law serving as assistant attorneys general; ~~and~~

(X) Members, officers, and employees of the legislative and judicial departments of the state, unless otherwise specifically provided in this constitution;

(XI) SUBJECT TO THE APPROVAL OF THE STATE PERSONNEL DIRECTOR, THE FOLLOWING PERSONS FROM EACH PRINCIPAL DEPARTMENT: DEPUTY DEPARTMENT HEADS, CHIEF FINANCIAL OFFICERS, PUBLIC INFORMATION

OFFICERS, LEGISLATIVE LIAISONS, HUMAN RESOURCE DIRECTORS, AND EXECUTIVE ASSISTANTS TO THE DEPARTMENT HEADS; AND

(XII) SUBJECT TO THE APPROVAL OF THE STATE PERSONNEL DIRECTOR, SENIOR EXECUTIVE SERVICE EMPLOYEES.

(b) THE TOTAL NUMBER OF EMPLOYEES EXEMPTED FROM THE STATE PERSONNEL SYSTEM PURSUANT TO SUBPARAGRAPHS (XI) AND (XII) OF PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL NOT EXCEED AN AMOUNT EQUAL TO ONE PERCENT OF THE TOTAL NUMBER OF PERSONS IN THE STATE PERSONNEL SYSTEM.

(5) The person to be appointed to any position under the STATE personnel system shall be one of the ~~three~~ six persons ranking highest on the eligible list for such position, or such lesser number as qualify, as determined from ~~competitive tests of competence~~ THE COMPARATIVE ANALYSIS PROCESS, subject to limitations set forth in rules of the state personnel board applicable to multiple appointments from any such list.

(6) (a) EXCEPT AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (6), all appointees shall reside in the state, but applications need not be limited to residents of the state as to those positions ~~found by the state personnel board to require special education or training or special professional or technical qualifications and which~~ OR THE STATE PERSONNEL DIRECTOR DETERMINES cannot be readily filled from among residents of this state.

(b) IF A POSITION IS FOR WORK THAT IS TO BE PERFORMED PRIMARILY AT A LOCATION THAT IS WITHIN THIRTY MILES OF THE STATE BORDER:

(I) APPLICATIONS FOR THE POSITION ARE NOT LIMITED TO RESIDENTS OF THE STATE; AND

(II) AN APPOINTEE TO THE POSITION IS NOT REQUIRED TO BE A RESIDENT OF THE STATE.

(9) (a) The state personnel director may authorize the temporary employment of persons, not to exceed ~~six~~ NINE months, during which time an eligible list shall be provided for permanent positions. No other temporary or emergency employment shall be permitted under the STATE personnel system.

(b) NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (9) SHALL BE CONSTRUED AS PERMITTING THE APPOINTMENT OF A TEMPORARY EMPLOYEE FOR THE PURPOSE OF ELIMINATING A PERMANENT POSITION FROM THE STATE PERSONNEL SYSTEM.

In the constitution of the state of Colorado, section 14 of article XII, **amend** (1), (2), and (3) as follows:

Section 14. State personnel board - state personnel director.

(1) There is hereby created a state personnel board to consist of five members, three of whom shall be appointed by the governor with the consent of the senate, and two of whom shall be elected by persons certified to classes and positions in the state personnel system in the manner prescribed by law. Each member APPOINTED OR ELECTED PRIOR TO JANUARY 1, 2013, shall ~~be appointed or elected~~ SERVE for a term of five years. ~~and may succeed himself, but of the members first selected, the members appointed by the governor shall serve for terms of one, two, and three years, respectively, and the members elected shall serve for terms of four and five years, respectively.~~ EACH MEMBER APPOINTED OR ELECTED ON OR AFTER JANUARY 1, 2013, SHALL SERVE FOR A TERM OF THREE YEARS. NO MEMBER SHALL SERVE MORE THAN TWO TERMS OF OFFICE, REGARDLESS OF WHETHER A TERM IS A FULL TERM OR A PARTIAL TERM FILLING A VACANCY. Each member of the board shall be a qualified elector of the state, but shall not be otherwise an officer or employee of the state or of any state employee organization, and shall receive such compensation as shall be fixed by law.

(2) (a) ~~Any member of the board~~ TWO OF THE APPOINTED MEMBERS OF THE STATE PERSONNEL BOARD SERVE AT THE PLEASURE OF THE GOVERNOR. BOTH ELECTED MEMBERS OF THE BOARD AND THE APPOINTED MEMBER SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (2) may be removed by the governor for willful misconduct in office, willful failure or inability to perform his OR HER duties, final conviction of a felony or of any other offense involving moral turpitude, or by reason of permanent disability interfering with the performance of his OR HER duties, which removal shall be subject to judicial review. Any vacancy in office shall be filled in the same manner as the selection of the person vacating the office, and for the unexpired term.

(b) THE MEMBER OF THE BOARD WHO IS APPOINTED FOR A TERM COMMENCING ON JULY 1, 2013, AND THE SUCCESSORS TO THAT POSITION DO NOT SERVE AT THE PLEASURE OF THE GOVERNOR.

(3) The state personnel board shall adopt, and may from time to time amend or repeal, rules to implement the provisions of this section and

sections 13 and 15 of this article, as amended, and laws enacted pursuant thereto, including but not limited to rules concerning standardization of positions, determination of grades of positions, standards of efficient and competent service, ~~the conduct of competitive examinations of competence~~, grievance procedures, appeals from actions by appointing authorities, and conduct of hearings by hearing officers where authorized by law.

In the constitution of the state of Colorado, section 15 of article XII, **amend** (1), (3), (4), (5), and (7); and **repeal** (6) as follows:

Section 15. Veterans' preference. (1) (a) (I) ~~The passing grade on each competitive examination~~ THE MINIMUM REQUIREMENTS FOR A CANDIDATE TO BE PLACED ON AN ELIGIBLE LIST FOR A POSITION shall be the same for each candidate for appointment or employment in the STATE personnel system ~~of the state~~ or in any comparable civil service or merit system of any agency or political subdivision of the state, including any municipality chartered or to be chartered under article XX of this constitution.

(II) If A NUMERICAL METHOD IS USED FOR THE COMPARATIVE ANALYSIS BASED ON OBJECTIVE CRITERIA, APPLICANTS ENTITLED TO PREFERENCE UNDER THIS SECTION SHALL BE GIVEN PREFERENCE IN ACCORDANCE WITH PARAGRAPHS (b) TO (e) OF THIS SUBSECTION (1). IF A NONNUMERICAL METHOD IS USED, APPLICANTS ENTITLED TO PREFERENCE UNDER THIS SECTION SHALL BE ADDED TO THE INTERVIEW ELIGIBLE LIST.

(b) Five points shall be added to the ~~grade~~ COMPARATIVE ANALYSIS SCORE of each candidate ~~on each such examination, except any promotional examination~~, who is separated under honorable conditions and who, other than for training purposes, (i) served in any branch of the armed forces of the United States during any period of any declared war or any undeclared war or other armed hostilities against an armed foreign enemy, or (ii) served on active duty in any such branch in any campaign or expedition for which a campaign badge is authorized.

(c) Ten points shall be added to the ~~passing grade~~ COMPARATIVE ANALYSIS SCORE of any candidate ~~of each such examination, except any promotional examination~~, who has so served, other than for training purposes, and who, because of disability incurred in the line of duty, is receiving monetary compensation or disability retired benefits by reason of public laws administered by the department of defense or the veterans administration, or any successor thereto.

(d) Five points shall be added to the ~~passing grade~~ COMPARATIVE ANALYSIS SCORE of any candidate ~~of each such examination, except any promotional examination~~; who is the surviving spouse of any person who was or would have been entitled to additional points under paragraph (b) or (c) of this subsection (1) or of any person who died during such service or as a result of service-connected cause while on active duty in any such branch, other than for training purposes.

(e) No more than a total of ten points shall be added to the ~~passing grade~~ COMPARATIVE ANALYSIS SCORE of any such candidate pursuant to this subsection (1).

(3) (a) When a reduction in the work force of the state or any such political subdivision thereof becomes necessary because of lack of work or curtailment of funds, employees not eligible for ~~added points~~ PREFERENCE under subsection (1) of this section shall be separated before those so entitled who have the same or more service in the employment of the state or such political subdivision, counting both military service for which such ~~points are added~~ PREFERENCE IS GIVEN and such employment with the state or such political subdivision, as the case may be, from which the employee is to be separated.

(b) In the case of such a person eligible for ~~added points~~ PREFERENCE who has completed twenty or more years of active military service, no military service shall be counted in determining length of service in respect to such retention rights. In the case of such a person who has completed less than twenty years of such military service, no more than ten years of service under subsection (1) (b) (i) and (ii) shall be counted in determining such length of service for such retention rights.

(4) The state personnel board and each comparable supervisory or administrative board of any such civil service or merit system of any agency of the state or any such political subdivision thereof shall implement the provisions of this section to assure that all persons entitled to ~~added points and preference in examinations~~ A COMPARATIVE ANALYSIS and retention shall enjoy their full privileges and rights granted by this section.

(5) ~~Any examination which is a promotional examination, but which~~ NO PERSON SHALL RECEIVE PREFERENCE PURSUANT TO THIS SECTION WITH RESPECT TO A PROMOTIONAL OPPORTUNITY. ANY PROMOTIONAL OPPORTUNITY THAT is also open to persons other than employees for whom such appointment would be a promotion, shall be considered a promotional ~~examination~~ OPPORTUNITY for the purposes of this section.

(6) ~~Any other provision of this section to the contrary notwithstanding, no person shall be entitled to the addition of points under this section for more than one appointment or employment with the same jurisdiction, personnel system, civil service, or merit system.~~

(7) This section shall be in full force and effect on and after July 1, 1971, and shall grant veterans' preference to all persons who have served in the armed forces of the United States in any declared or undeclared war, conflict, engagement, expedition, or campaign for which a campaign badge has been authorized, and who meet the requirements of service or disability, or both, as provided in this section. This section shall apply to all public employment ~~examinations~~ OPPORTUNITIES, except ~~promotional examinations~~ AS SET FORTH IN SUBSECTION (5) OF THIS SECTION, conducted on or after such date, and it shall be in all respects self-executing.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "Shall there be an amendment to the Colorado constitution concerning the state personnel system, and, in connection therewith, expanding the veterans' preference; increasing the number of candidates eligible to be appointed to a position; adjusting the duration of allowable temporary employment; allowing the flexibility to remove a limited number of positions from the system; modifying the residency requirement; adjusting the terms of service for members of the state personnel board; and requiring merit-based appointments to be made through a comparative analysis process?"

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

The ballot title below is a summary drafted by the professional staff of the offices of the Secretary of State, the Attorney General, and the legal staff for the General Assembly for ballot purposes only. The ballot title will not appear in the Colorado Constitution. The text of the measure that will appear in the Colorado Constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

Amendment 64
Use and Regulation of Marijuana
(Constitutional Amendment)

Ballot Title: Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; requiring that the first \$40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp?

TITLES AND TEXT

Text of Measure:

Be it Enacted by the People of the State of Colorado:

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

Section 16. Personal use and regulation of marijuana

(1) Purpose and findings.

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT

THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

(d) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

(2) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY