

Five Facts



about Amending Colorado's Constitution



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Colorado lawmakers are considering major changes to the state's citizen initiative process in the form of Senate Concurrent Resolution 1 (SCR-1), a constitutional amendment that would (a) mandate that future amendments receive a 60 percent supermajority at the polls to pass, (b) require citizen initiatives to qualify petition signatures in all seven Colorado congressional districts as well as statewide in order to appear on the ballot, and (c) force legislators to garner a 2/3 vote or to wait 3 years before repealing all or part of a voter-approved initiated statute.

As this amendment, SCR-1, has passed the Colorado senate and is now pending on the floor of the Colorado House of Representatives, the Truth in Governance project of Citizens in Charge Foundation looks into Colorado's amendment history, drawing comparisons between Colorado's constitution and those in other states.

1

Historically, Colorado is Near the National Average

The average state constitution has been amended 146 times. Colorado's constitution has been amended 155 times, which is 5.2 percent more than the national average. Compared to Colorado, 14 other state constitutions – representing more than a quarter of the nation – have as many amendments or more. (See Table 1)

Interestingly, half of these 14 states constitutions with higher numbers of amendments don't have any process through which citizens can propose amendments by petition. Constitutions in three states lacking any initiative process – Alabama, South Carolina, and Texas – have been amended more than twice as often as Colorado's constitution.

In fact, the number of amendments to Colorado's constitution (155) is roughly on par with amendments to Delaware's constitution (140). Delaware not only doesn't have a citizen initiative process, it's the only state in which citizens are not afforded any vote at all on amendments to the state constitution. Two-thirds of both houses of Delaware's legislature can amend that state's constitution.

2

Colorado Average in Amendments in Recent Years, Too

Between 2003 and today, the national average for the number of amendments to state constitutions was 12, which is certainly close to Colorado's 13 constitutional amendments passed during this same period. During this time, constitutions in three states without a citizen initiative process – Alabama, Louisiana and Texas – had three times as many amendments as did Colorado.

Five Facts About Amendments to the Colorado Constitution – Truth in Governance

3

Most Amendments Come from State Legislators -- Not Citizen Initiatives

The Colorado Constitution has been amended 155 times, but only 42 of those (or less than a third) were proposed by citizens through the state's initiative process. These numbers are a bit misleading, though, because Colorado's constitution was adopted in 1876, while Coloradans didn't establish the initiative process until 1912. Since the initiative was adopted, voters have approved 112 amendments to the state constitution – 70 amendments (63 percent) were referred to voters by the General Assembly and only 42 measures (37 percent) were placed on the ballot by citizens through the initiative. (See Table 2)

In recent years, the trend of state legislators proposing more amendments to Colorado's constitution than have been proposed through the citizen initiative has continued. In the last 20 years, there have been 38 new amendments – 20 of them placed on the ballot by legislators and 18 by way of citizen petition.

4

One Source of Constitutional Material

In 2002, Colorado voters passed Amendment 27, a constitutional measure concerning campaign finance reform. Voters deemed this issue required amending the constitution only after the state legislature repealed parts of a similar law that had been overwhelmingly approved by voters as an initiated statute in 1996. This single constitutional amendment added 5,685 words to the Colorado Constitution – roughly 8 percent.

While Senate Concurrent Resolution 1 would make it much more difficult to amend the state constitution, it does also have a provision to make it more difficult for the state legislature to amend or repeal voter-enacted statutes. Yet, notably, had SCR-1 been the law between 1996 and 2002, it would *not* have protected the 1996 campaign finance statute from the legislature's actions against it.

5

What's Missing?

While the frequency of constitutional amendments is worth consideration, the content of those amendments is what is most important. SCR-1 would require a 60 percent supermajority of the vote to pass a constitutional amendment. If SCR-1 had been in effect from 1990 until today, what would Colorado citizens be missing from their state constitution? Under SCR-1 during this period, 17 of the 25 initiative amendments would have failed. In other words, 68 percent of the ballot measures passed by a majority of Coloradans would be gone – including the Taxpayer Bill of Rights (TABOR), Amendment 23 on funding for public schools, three separate term limits measures, medical marijuana and Colorado's minimum wage. (See Table 3)

Five Facts About Amendments to the Colorado Constitution – Truth in Governance

Table 1: Colorado’s Constitution Has Near the National Average Number of Amendments

State	Total Constitutional Amendments in 2011	Constitutional Amendments Added 2003-2011	Allows Citizen-Initiated Amendments
Alabama	807	64	No
Alaska	29	1	No
Arizona	147	14	Yes
Arkansas	98	3	Yes
California	525	18	Yes
Colorado	155	13	Yes
Connecticut	30	1	No
Delaware	140	4	No
Florida	118	22	Yes
Georgia	72	4	No
Hawaii	110	10	No
Idaho	123	6	No
Illinois	12	1	Yes
Indiana	47	4	No
Iowa	54	2	No
Kansas	95	3	No
Kentucky	41	1	No
Louisiana	164	51	No
Maine	171	2	No
Maryland	225	7	No
Massachusetts	120	0	Yes
Michigan	30	7	Yes
Minnesota	120	2	No
Mississippi	123	2	Yes
Missouri	114	11	Yes
Montana	31	4	Yes
Nebraska	229	10	Yes
Nevada	136	5	Yes
New Hampshire	145	2	No
New Jersey	44	1	No
New Mexico	160	14	No
New York	220	5	No
North Carolina	35	4	No
North Dakota	150	6	Yes
Ohio	171	11	Yes
Oklahoma	187	22	Yes
Oregon	249	15	Yes
Pennsylvania	30	2	No
Rhode Island	10	0	No
South Carolina	497	13	No
South Dakota	215	103	Yes
Tennessee	39	3	No
Texas	467	57	No
Utah	115	12	No
Vermont	54	1	No
Virginia	46	8	No
Washington	103	8	No
West Virginia	71	1	No
Wisconsin	145	12	No
Wyoming	98	7	No
National Average	146	12	

Citizens in states highlighted in yellow have chosen to amend their state constitution more times than Colorado voters. Source: *2010 Book of the States*

Five Facts About Amendments to the Colorado Constitution – Truth in Governance

Table 2: Most Amendments Come From Legislators, Not Voters

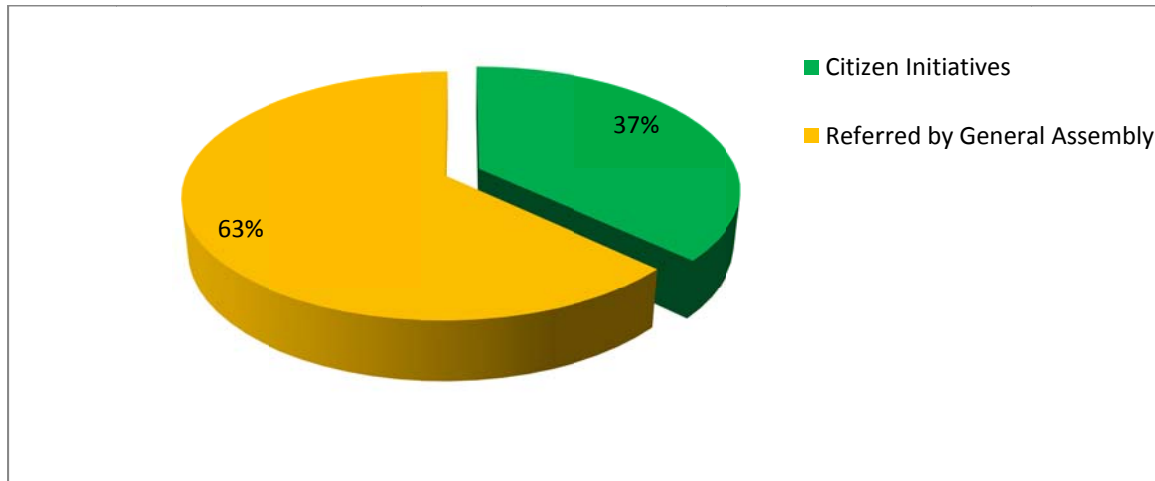


Table 3: 17 Measures Favored by a Majority of Voters Would Have Failed Under SCR-1

Year	'Yes' Vote	Measure
2008	58%	Limited Gaming: Central City, Black Hawk, Cripple Creek
2008	51%	Campaign Contributions from Certain Gov't. Contractors
2006	55%	Marriage
2006	53%	Raising Colorado's Minimum Wage
2004	53%	Renewable Energy Requirement
2000	53%	Allowing Medical Use of Marijuana
2000	52%	Increased Funding for Public Schools
1998	54%	Requiring Parental Notification for Abortion
1998	50%	Voluntary Congressional Term Limits Pledge
1996	54%	Term Limits – Ballot Notation
1996	52%	Prohibited Methods of Taking Wildlife
1996	51%	State Trust Lands
1994	51%	Term Limits On Local Officials
1992	58%	Lottery Revenues for Parks, Recreation, Wildlife
1992	53%	TABOR - Taxpayer Bill of Rights
1992	53%	No Protected Status for Sexual Orientation
1990	57%	Limited Gaming: Black Hawk, Central City, Cripple Creek

Table 4: Summary of SCR-1

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

LLS NO. R11-0301.01 Ed DeCecco

SCR11-001

SENATE SPONSORSHIP

Shaffer B. and Spence, Kopp, Brophy, Heath, Jahn, King S., Morse, Roberts, Schwartz, Steadman, Tochtrop, White

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Senate Committees

State, Veterans & Military Affairs

House Committees

SENATE CONCURRENT RESOLUTION 11-001

101 **SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF**
102 **COLORADO AN AMENDMENT TO THE COLORADO CONSTITUTION**
103 **CONCERNING BALLOT MEASURES, AND, IN CONNECTION**
104 **THEREWITH, INCREASING THE NUMBER OF VOTES NEEDED TO**
105 **PASS A CONSTITUTIONAL AMENDMENT FROM A MAJORITY TO AT**
106 **LEAST SIXTY PERCENT OF THE VOTES CAST; ALLOWING A**
107 **CONSTITUTIONAL AMENDMENT PASSED PRIOR TO 2013 TO BE**
108 **REPEALED BY A MAJORITY OF THE VOTES CAST; ADDING A**
109 **REQUIREMENT THAT A MINIMUM NUMBER OF PETITION**
110 **SIGNATURES FOR A CITIZEN-INITIATED CONSTITUTIONAL**
111 **AMENDMENT BE GATHERED FROM VOTERS WHO RESIDE IN EACH**
112 **COLORADO CONGRESSIONAL DISTRICT; AND INCREASING THE**
113 **REQUIREMENT FROM A MAJORITY TO A TWO-THIRDS VOTE OF**

Table 4: Summary of SCR-1 Continued

101	THE STATE LEGISLATURE TO CHANGE, REPEAL, OR SUPERSEDE
102	A CITIZEN-INITIATED LAW FOR THREE YEARS AFTER IT BECOMES
103	EFFECTIVE.

Resolution Summary

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

This concurrent resolution makes the following changes to the state constitution related to ballot measures:

- ! An initiated or referred constitutional amendment must be approved by at least 60% of the votes cast thereon in order to become part of the constitution. Currently, a majority vote is necessary to pass such an amendment.
- ! The increased vote requirement does not apply to an amendment that is limited to repealing, in whole or in part, one or more constitutional amendments approved by voters prior to the 2013 odd-year election; except that an amendment to repeal any provision included in this concurrent resolution requires 60% voter approval.
- ! A portion of the signatures for a petition for an initiated constitutional amendment must be geographically distributed throughout the state based on a formula that requires a minimum number of the total required signatures to be from each congressional district in the state. The minimum number of the total signatures required for such a petition is equal to 5% of the votes cast in the previous election for the secretary of state, and currently there is no requirement for geographic distribution of those signatures.
- ! A 2/3 vote of all members elected to each house of the general assembly is required to amend, repeal, or supersede an initiated law that was approved at an election after the 2012 general election for a period of 3 years from the date the law takes effect. Currently, initiated laws can be changed by a majority vote of such members.

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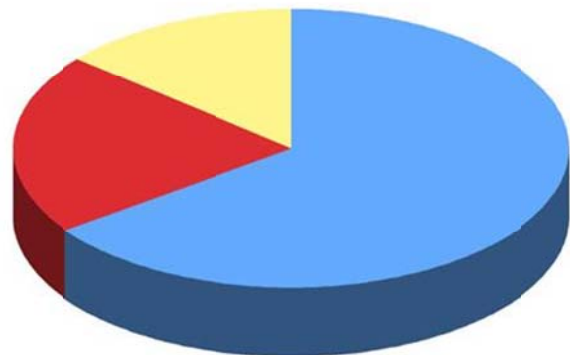
Table 5: Colorado Voters Value Their Right to Initiative

In a 2010 survey conducted by Pulse Opinion Research, 500 likely Colorado voters were asked this question:

“In 26 states citizens can sign a petition to put laws or constitutional amendments on the ballot to be decided by voters at a statewide election. This process is known as initiative and referendum. Would you favor or oppose the initiative or referendum process in your state?”

Colorado

Favor 65%
Oppose 21%
Not Sure 14%





The Truth in Governance Project

Truth in Governance, a project of Citizens in Charge Foundation, produces fact-based reports on the initiative and referendum process throughout the United States. *Truth in Governance* reports identify sources of initiative campaign funding, research and quantify cases of ballot initiative fraud and provide information on legal precedents as well as state-by-state comparisons of initiative rules and results.

Too many citizens, legislators and opinion makers lack basic knowledge concerning the initiative process or remain uncertain about the extent of petition rights under the First Amendment. One of the most critical roles the Foundation plays is in providing accurate and objective information to the public through these *Truth in Governance* reports.



Citizens in Charge Foundation is the only national organization committed to providing education and litigation services to protect the initiative and referendum rights of every American, without any regard to partisanship or the particular political issue involved. Citizens in Charge Foundation believes citizens should be in charge of their government, and that the initiative and referendum process comprises one of the most effective tools citizens possess for holding public officials accountable and making necessary reforms to public policy.

The Foundation works with activists, legislators, opinion leaders and, most importantly, citizens across the country, who come together to defend their rights and protect the initiative and referendum process in the 26 states where it exists in some form, and also to extend this process to states currently without statewide initiative and referendum. Citizens in Charge Foundation educates the general public on the benefits of citizen initiative, referendum and recall. The Foundation also litigates in state and federal courts to protect and expand the petition rights of Americans. For more information visit CitizensInChargeFoundation.org