

LEGISLATIVE LETTER ARTICLE 3/7/08

JOINT SELECT COMMITTEE ON CONSTITUTION REFORM

On February 12 a group of 6 legislators chaired by Sen. Abel Tapia (D) and vice chaired by Rep. Al White (R) with Rep. Ellen Roberts (R), Rep. Andy Kerr (D), Sen. Brandon Shaffer (D), and Sen. Shawn Mitchell (R), began a process to make recommendations to the legislature on revising the Colorado State Constitution concerning initiated petitions. They met for 4 weeks, every Tuesday, Wednesday, and Thursday for an hour at 8AM and one noon meeting March 5. They all had a sense of urgency that something had to be done to clean up the constitution and the initiative process.

Their charge was 1) "Should the state provide additional incentives for citizens to seek statutory changes instead of constitutional changes?" and 2) "Should the rules by which constitutional changes are initiated differ from the rules that govern statutory initiatives?". They consulted the recent DU Strategic Issues study on "Foundations of a Great State: The Future of Colorado's Constitution," and had that committee report twice to the committee. They also consulted groups which had done some work on the subject—Action 22, The Bell Policy Center, Colorado Futures, and the League. The legislative committee had several advisors including former Sens. Norma Anderson, Penfield Tate, and Stan Matsunaka; Barbara Montgomery of Action 22, Cathy Shull from Colorado Futures, and Lorenz Meinhold. They also used the study of the National Conference of State Legislatures on the "Use of the Statutory Initiative vs. the Constitutional Initiative". Rep. Alice Madden (D) presented her own drafted resolution containing many of the same issues that might be combined with the committee's recommendations or vice versa.

All the members of the committee seemed to be in agreement on basic issues—a difference in number of signatures for statutory vs. constitutional initiatives, a geographical distribution for signatures, protection for an initiated statute once passed by the voters from legislative changes, some process for educating the public about constitutional initiatives, and the creation of a Constitutional Review Commission.

The League has positions on the Constitution and on Initiatives. We support clarity of language, suitability of topic and detail in constitutional amendments allowing for flexibility in a concise, understandable, integrated statement of basic law free of statutory detail: a constitution that is logically organized, internally consistent, with methods to revise, amend, or replace. The committee basically agreed with these tenets.

League also supports the use of statutory rather than constitutional amendments with a waiting time before statutory initiatives can be changed by the legislature. We also like more stringent requirements for constitutional amendments including a greater number of signatures on petitions and a supermajority of votes to pass. We have opposed geographical distribution requirements. The trend in initiatives since the adoption of our position in 1995 suggest that petition signature thresholds are ineffective in pushing initiatives toward statutory changes.

In the end the committee recommended : 1) The number of signatures for an initiated statute would be 4% of the votes cast for governor (instead of the current 5% of Secretary of State) in the last general

election and 6% (instead of 5%) for constitutional initiatives; 2) A geographical distribution to include at least 10% of the total required signatures be from each of the US Congressional Districts; 3) A passed initiated statute would have 6 years of protection from change by the legislature unless there was a legislative supermajority vote to do so; and 4) some process to provide public education on an initiated constitutional amendment before the vote, which might include lengthening the current time frame. The League's statement noted that the League would be a nonpartisan organization that could do such public education.

What was discussed but didn't make the recommendation was the Constitutional Review Commission from the DU study. This commission would convene every 10 years (DU number), 6 years proposed by the committee, to review up to 1/3 of the constitution for conflicts, obsolescence, revision, etc and present their findings directly to the voters. The committee liked this idea but it was not within the purview of their charge. Nor did they look at existing fiscal conflicts within the Constitution; this wasn't even discussed - again not in the charge. And they only briefly discussed a supermajority of votes to pass a constitutional amendment.

This now goes to Legal Services for drafting. Then, we hope, a concurrent resolution will be presented to the legislature that might go to the ballot in November. This is a good first and we are happy to see some progress to cleaning up the Constitution.

Special thanks to Lois Schafer who attended every meeting.

Alice Ramsey