

## Ever Wonder How Statewide “Citizen Initiatives” End Up on Your Ballot?

By Celeste Landry

You have probably signed or been asked to sign a petition to get an initiative on the state ballot. You may even have circulated a petition, as many LWV members are doing this year with Initiative 89 Right to Abortion. Several other steps precede collecting signatures so let’s look at the initiative process from beginning to end.

First, let’s review Colorado’s 3 types of state ballot measures – listed below from least common to most common:

- Citizen referendum, sometimes called a “veto referendum”: Recent example: Citizens who challenged Senate Bill 19-042 collected signatures to put Prop 113 on the 2020 ballot, asking voters to affirm or reject Colorado’s entry in the National Popular Vote Compact.
- Legislative referendum: The legislature by a 2/3 vote in each chamber places on the ballot a constitutional change, a change requiring voter approval (e.g., TABOR requires voter approval of tax increases), or other changes which the legislature wants to give to the voters to decide. LWVCO was part of a coalition that successfully got Amendments Y and Z referred to the voters, thereby avoiding the expense of collecting signatures.
- Citizen initiative: About half the states allow for some type of citizen-initiated measures. Colorado allows both constitutional and statutory initiatives. Constitutional changes require 55% of the vote, unless the change is only a repeal of existing language. Statutory changes require more than 50% of the vote.

The initiative process works on a two-year cycle. TABOR only allows state fiscal measures on the ballot in odd years so even years end up with many more ballot measures. At the Secretary of State’s website, you can see that the [2021-22 cycle](#) resulted in only three 2021 citizen initiatives and twice that many 2022 citizen initiatives. In 2023 Colorado had zero state initiatives on the ballot, but 2024 is shaping up to be a long ballot!

After a person or group gets an idea for an initiative, the first step is to **write up the statutory or constitutional change** using language similar to legislative bill language. Having an attorney help draft the language is highly recommended. Many proponents who pursue a citizen initiative do so because the legislature is not willing or able to pass a bill or referendum to accomplish the same objective.

Each initiative must have two designated representatives who are required to attend in person every public hearing. (During the pandemic, the designated reps could appear on Zoom.) The designated reps often remain quiet and let an attorney do the talking at the public hearings.

**The initiative is filed with the Legislative Council Staff (LCS).** The filing deadline for the 2023-24 cycle was Friday, March 22, 2024. A total of 314 initiatives have been filed in this cycle, over 50 on the final possible day. A fascinating March 26 [report](#) by CPR’s Sam Brasch reported on last-minute filed initiatives to ban oil and gas drilling that are sponsored by the oil and gas industry! (You can see all the initiatives with their current LCS status on the CO legislature’s [Initiatives Filed](#) page.) In contrast, proponents only filed 151 initiatives in the 2021-22 cycle. As noted above, nine (6%) of the 2021-22 initiatives ended up on your ballot.

A few people are responsible for a majority of the initiatives filed in the current 2023-24 cycle:

- Kent Thiry's attorneys have filed 70 election initiatives: 98-100, 117-136, 186-197, 209-219, 231-243, 253-255, 307-314. Most of them are variations on a nonpartisan blanket "open" choose-one primary with the top-4 vote-getters advancing to a general election using Instant-Runoff Voting (like Boulder's mayoral contest). Different variations are filed as a test to see what makes it through Title Board and what pushback arises. LWVCO is attending the coalition campaign meetings.
- Michael Fields of Advance Colorado and Suzanne Taheri (formerly Staiert), who was Wayne Williams' Deputy Secretary of State, have jointly or with a different designated rep filed 70 initiatives on taxes, school choice, parole, law enforcement and more, including Initiative 279 to eliminate the Title Board.
- Jon Caldara of the Independence Institute has also filed a large number of initiatives, both in this cycle and in previous cycles.

The LCS reviews the initiative language and writes a memo stating what the purposes of the initiative appear to be and making substantive comments and questions and technical comments. **The LCS and the initiative proponents review the memo at a public, recorded hearing.** The hearing can be canceled if the proponents withdraw their initiatives or if the initiative has the same designated reps and is similar enough to a previous initiative that there are no new comments or questions. The proponents may change the initiative language in response to the LCS hearing.

The next step is a **Title Board hearing**. The [Title Board](#) consists of the Sec of State, the Attorney General and the Director of the Office of Legislative Legal Services or their designees. The Title Board meets on the first and third Wednesday of the month. If many initiatives are scheduled for a hearing, the Title Board hearing may go very late and/or may finish the following day.

The Title Board has two tasks: determine if the initiative meets the single-subject requirement and, if so, write a ballot title that is understandable to voters and that adequately represents the changes to law. A proponent or Colorado registered elector who disagrees with the Title Board's decision has seven days following the decision to **file a motion for rehearing at the next Title Board hearing**. The result of the rehearing may be **appealed to the Colorado Supreme Court**.

Once the ballot title is set and the deadline for rehearing motions has passed, the **petition process** can begin. The Sec of State must approve the petitions before any signatures can be collected. The proponents have to collect over 100,000 signatures for statutory changes; the specific number is dependent on the turnout in the previous Sec of State election. Fewer total valid signatures are needed for constitutional changes, but at least 2% of the registered voters in each of Colorado's 35 senate districts must sign the petition.

The Secretary of State has 30 days after the petition signatures are submitted to **issue a statement of sufficiency or insufficiency**. A sufficient petition results in the initiative being placed on the ballot.

"Citizen initiative" is arguably a misnomer. The [process](#) of getting a "citizen initiative" on the ballot is complex and requires a lot of people hours all across the state. Adequate funds to hire attorneys and petition gatherers are, for all practical purposes, a necessity. Only a very wealthy citizen or a citizen backed by a well-funded organization can fund a statewide initiative.