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DEC 21 2015

S. WARD

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

MARKUP #54

Colorado Secretary of State

Article XXI of the Colorado Constitution is repealed and re-enacted as follows:

Article XXI. PUBLIC ACCOUNTABILITY OF OFFICERS.

Section 1. Accountability. All state and local legislative and executive elective officers, ~~and all judicial officers,~~ shall ~~also~~ be accountable to voters in only one of the two alternate ways stated in this article.

Section 2. Recall. (1) Any two registered electors in the recall area may file at any time signed requests to recall eligible elective officers. Legislative, council, and other local election districts shall be the recall area of their officers. Statewide recalls shall be conducted by the Secretary of State and local recalls by the election office of any county, or city and county, in the recall area.

(2) Election offices shall deliver a sample petition section within two days. Each black ink section shall contain 100 entry lines, 20 per 8 1/2" by 14" page in portrait layout; an affidavit form usable in 2006 for state initiatives; and the question, "Shall (names of officers) be removed as (titles)?" Up to four officers in one recall area may be listed on one recall petition, but shall be voted on separately.

(3) Any adult citizen may circulate any petition. No one shall knowingly sign a petition more than once or if ineligible. No government agent shall detain, stop, cite, or arrest circulators or signers for, while, or related to peaceably petitioning, but petition-based perjury, forgery, and other felony frauds shall be prosecuted.

(4) Statewide petition entries shall be first filed within 360 days of sample section delivery, and local entries within 90 days. One 30-day extension to file added entries made at any time shall start when a first report of invalidity is issued. Added entries shall be reviewed similarly.

(5) The required number of valid petition entries is 7% of active registered electors in the recall area and shall not exceed 100,000. Signers shall be registered electors in the recall area. Entry lines shall require only signature, printed name, residential address, and city or town. No error, use, or lack of minor details like middle name, common nickname, initials, street type or direction, apartment, date, or postal code shall void entries. No sample section or affidavit error shall void entries. Entries shall be reviewed individually, with no random or statistical sampling or machine reading. Varied entries with a signature, readable first and last name and street address, and attached affidavit with or without errors shall be presumed valid until the officer disproves validity by clear and convincing evidence in a court review.

(6) Within 15 days of filings, the election office shall count, review, itemize, and report entries for validity. Within five days of the report, only recall filers and the officers may each protest without fee to the Supreme Court for its new review of disputed entries. A report of that validity review shall issue within 30 days of protest filing. Only recall filers prevailing in a protest shall receive attorney fees and costs.

(7) Local recall elections shall occur on a Tuesday within 60 days after final validation, and statewide elections on the first November election date at least 60 days after. Ballots shall repeat the question on each officer, list "Yes" and "No" choices, and list one website each from the officer and recall filers. Death or immediate resignation shall stop recalls but not pending successor petitions or elections.

(8) Ballots shall then list eligible successors and one website from each. The officer is ineligible. The required number of valid successor petition entries is 0.35% of active registered electors in the recall area and shall not exceed 5,000. Successor entries shall be first filed by 90 days before the election. Successor entry validation and extension time shall be 20% of that time for recall entries. Otherwise, relevant recall petition procedures shall apply to successor nomination petitions.

(9) Recalled officers shall lose their offices instantly. ~~If no successor be elected, local successors shall be elected similarly within 120 days, and statewide successors at the next November election date, unless a regular election for that office intervenes or coincides.~~ Runoff elections are prohibited. ~~Interim replacement of governor and mayors only shall occur.~~ Successors are ineligible for recall for two years.

(10) Recalled officers and those who resign during a recall process shall not be any officer for five years. Officers defeating a recall election are ineligible for recall from that office for four years. A recall occurs on its last election date. Election dates also include the first Tuesday in November of odd-numbered years.

(11) To reduce retaliation and coercion, donations and expenditures for a recall and circulator payments shall never be identified, reported, or limited. Other campaign costs and all petitions shall be public records. Except to provide public records, no one shall directly or indirectly give or receive government funds, labor, or other aid in any recall or successor campaign or to repay its costs. Added recall requirements and any local recall laws are prohibited.

~~Section 3. Retention. All non-elected judicial officers shall face a retention vote every four years or fewer. Ballots shall list the officer's website and websites against retention filed by 60 days before that vote. Official retention reports shall state facts only, not opinions; appear on websites only; and not advise how to vote. Donations and expenditures against retention shall never be identified, reported, or limited. Judicial officers defeated for retention shall be instantly ineligible for judicial office for ten years.~~

Section 4. Enforcement. "Elective" means in an office subject to election, even if term limited. ~~"Judicial officer" means any state or local active or senior justice or judge.~~ This article also applies in all home rule governments as a matter of statewide concern. To enforce this article unrelated to specific petition entry validity, any adult citizen may file a court case in any district court, and the case shall be decided within 30 days. Direct appeals shall be filed within 10 days to the Supreme Court and shall be decided within 30 days of appeal filing. Only successful plaintiffs enforcing this article shall be awarded their costs, attorney fees, and damages, and only against governments and officers. This article shall be self-executing, severable, and effective upon passage. It shall be interpreted strictly in favor of this fundamental right to vote and against governments and officers. It shall supersede any conflicting state or local constitutional, statutory, charter, ordinance, or other law, prior opinion, rule, regulation, or legal provision.