

2013-2014 #108 – Final

Revised proposed ballot initiative **#108**: regarding using \$5 million annually from the state's retail marijuana 10 percent sales tax to establish and operate the workers' compensation public defender's office to end fraud against mentally disabled claimants.

Proposal submitted by Paula Rhoads Hook, Craig Hall and Brian Nemeth, and revised after April 2 review with Legislative Council Staff and Office of Legislative Legal Services.

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

"In the Constitution of the State of Colorado, add Sections 1 to 20 to ARTICLE 56 as follows:

8-56-101. Workers' Compensation Public Defender's Office – creation – powers and duties.

SECTION 1: THERE IS HEREBY CREATED THE COLORADO WORKERS' COMPENSATION PUBLIC DEFENDER'S OFFICE, WHICH SHALL BE ESTABLISHED TO SERVE THE PUBLIC'S BEST INTERESTS BY ACCOMMODATING MENTALLY DISABLED CLAIMANTS TO PREVENT FUNDAMENTAL UNFAIRNESS, FRAUD, ABUSE, MISTREATMENT, DISCRIMINATION, ENTRAPMENT, PROCEDURAL GAMESMANSHIP, RELIANCE ON PUBLIC ASSISTANCE, CONVERSION OF DISABILITY SYMPTOMS TO CRIMINAL CHARGES VIA C.R.S. 8-42-113, OR CORRUPTED TRANSCRIPTS OR RECORDINGS.

SECTION 2. THE CHIEF PUBLIC DEFENDER SHALL BE ELECTED BY THE PEOPLE DURING THE SAME ELECTIONS IN WHICH THE ATTORNEY GENERAL IS SELECTED.

SECTION 3. THE CHIEF PUBLIC DEFENDER SHALL HIRE A STAFF OF QUALIFIED REPUTABLE LICENSED ATTORNEYS WITH ADEQUATE STAFFS TO ACCOMPLISH THEIR DUTIES EXPEDIENTLY.

SECTION 4. THE PUBLIC DEFENDER'S OFFICE SHALL ACCOMMODATE APPLICANTS BY ASSISTING THEM TO HIRE LEGAL REPRESENTATION, OR IN THE EVENT THEY ARE UNABLE TO HIRE LEGAL REPRESENTATION, PROVIDING SUCH REPRESENTATION DIRECTLY.

SECTION 5. THE PUBLIC DEFENDER'S OFFICE SHALL HAVE THE POWER TO PROVIDE TRIPLE TESSLA MRI BRAINSCANS TO ANY APPLICANT IN NEED.

SECTION 6. THE PUBLIC DEFENDER'S OFFICE SHALL BE VESTED WITH THE POWER TO SUBROGATE AGAINST THIRD PARTIES.

SECTION 7. THE PUBLIC DEFENDER SHALL HAVE THE POWER TO ENTER A BUSINESS UNANNOUNCED, DEMAND DOCUMENTS FOR INSPECTION AND COPYING, OR IN THE EVENT OF OBFUSCATION, SHUT THE BUSINESS DOWN.

SECTION 8. THE PUBLIC DEFENDER'S OFFICE SHALL HAVE THE POWER TO INVESTIGATE ANY BUSINESS OPERATING IN COLORADO TO VERIFY IT IS PROPERLY INSURED TO COMPLY WITH THE LAW.

SECTION 9. THE PUBLIC DEFENDER'S OFFICE SHALL BE VESTED WITH THE POWER TO REVIEW CLOSED CLAIMS FOR WRONGFUL DENIALS, AND PETITION TO REOPEN THEM.

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S. WARD

4:20 P.M.

SECTION 10. THE PUBLIC DEFENDER'S OFFICE SHALL HAVE THE POWER TO INVESTIGATE AND PROSECUTE ANY WITNESS, INCLUDING A DEFENSE WITNESS, FOR FALSE STATEMENTS ACCORDING TO C.R.S. 8-43-402.

SECTION 11. THE CHIEF PUBLIC DEFENDER SHALL HAVE THE POWER TO INVESTIGATE ADMINISTRATIVE LAW JUDGES FOR MISUSE OF OFFICE OR MALFEASANCE OR UNFAIR HEARINGS, AND RECOMMEND REMOVAL BY PUBLIC VOTE OR PROSECUTE ON BEHALF OF INJURED CLAIMANTS.

SECTION 12. THE PUBLIC DEFENDER'S OFFICE SHALL HAVE THE POWER TO PROSECUTE PHYSICIANS FOR FALSE STATEMENTS OR FALSE MEDICAL REPORTS.

SECTION 13. THE PUBLIC DEFENDER'S OFFICE SHALL HAVE THE POWER TO LITIGATE IN THE OFFICE OF ADMINISTRATIVE COURTS OR ANY OTHER COURT IN COLORADO OR THE UNITED STATES THAT IS APPROPRIATE TO THE CASE.

SECTION 14. THE PUBLIC DEFENDER'S OFFICE SHALL VIDEOTAPE ALL HEARINGS, PREHEARINGS AND COURT LOBBIES TO INSURE ACCURATE RECORDINGS AND TRANSCRIPTS.

SECTION 15. THE PUBLIC DEFENDER'S OFFICE SHALL MAINTAIN A LIBRARY OF THESE RECORDINGS FOR 20 YEARS, OR LONGER IF THE CLAIMANT SO REQUESTS.

SECTION 16. THE PUBLIC DEFENDER SHALL REPORT ANNUALLY TO THE PEOPLE OF COLORADO ABOUT HIS OFFICE'S ACTIVITIES IN THE MONTH OF SEPTEMBER ON PUBLIC ACCESS TELEVISION STATIONS AND IN OTHER MEDIA OF STATEWIDE DISTRIBUTION.

SECTION 17. THE PUBLIC DEFENDER'S OFFICE SHALL SUBMIT TO THE STATE AUDITOR FOR REVIEW EVERY FOUR YEARS FOR A REPORT TO BE ISSUED TO THE PUBLIC BY AUGUST.

SECTION 18. ANY MONEY UNENCUMBERED IN THE PUBLIC DEFENDER'S BUDGET ON OCTOBER 31 WILL REVERT TO THE COLORADO BRAIN INJURY PROGRAM FOR USE IN INDIVIDUAL GRANTS FOR COGNITIVE REHABILITATION OR FAMILY SUPPORT.

SECTION 19. THE PUBLIC DEFENDER SHALL NOT BE AN EMPLOYEE OF THE COLORADO WORKER'S COMPENSATION DIVISION, THE ATTORNEY GENERAL'S OFFICE, PINNACOL ASSURANCE, THE LEGISLATURE, THE OFFICE OF ADMINISTRATIVE COURTS, THE INDUSTRIAL CLAIMS OFFICE, THE DIRECTOR OF THE DIVISION, ANY EMPLOYER, ANY INSURANCE COMPANY, OR ANY OTHER INTEREST WHICH PROVIDES A BIAS, PREJUDICE, CONFLICT OF INTEREST OR OTHERWISE COMPROMISES HIS ALLEGIANCE TO DISABLED CLAIMANTS AND THE PEOPLE OF COLORADO.

SECTION 20. THE CHIEF PUBLIC DEFENDER MAY RECOMMEND MODIFICATIONS OF THIS ARTICLE TO THE PUBLIC FOR PUBLIC VOTE.

We the people have a right under the Constitution of the state of Colorado to modify or abolish our government. Currently, the Colorado Worker's Compensation Division fails in its DUTY to the people,

and has caused outrage for the unmitigated fraud and corruption against disabled claimants. Claimants unable to hire legal representation hear indifference that this must mean they do not have a case. Statute indicates other measurements are applicable, not decisions of attorneys for their own profit motives. It is the PUBLIC's best interests which are being disregarded in a state agency improperly established for SPECIAL INTEREST GROUPS REGULATING THEMSELVES in a core government function of health, safety and welfare of the people daily and statewide.

PURPOSE: to end the rampant fraud of the Colorado Workers' Compensation system against mentally disabled claimants unable to hire legal representation at all because of disability discrimination in public service. Fraud statutes already include indicators that "weak-minded" individuals are commonly victims of fraud. Colorado's worker's compensation division suffers from boards improperly established in violation of federal law using occupational restrictions that violate the 14th Amendment and excluding the public despite the Workers' Compensation Act indicating in several places that it is "for the best interests of the public." The problem with claimants being unable to hire legal representation in the work comp system was identified as early as Jan. 13, 2000 by Janet Frickey in a letter stating that attorneys were either leaving for other specializations or switching sides. Attorneys have discussed this discrimination with me numerous times. Colorado's Revised Statutes Title 8 in 8-43-211(1)(c) indicates that claimants have a "right to be represented by an attorney ..." yet claimants cannot hire legal representation, leaving them as sitting ducks for procedural gamesmanship and disability discrimination in public service, which was previously encouraged by those "gainsharing bonuses" the state auditor criticized as being "indistinguishable from bribes."

The attorney general has contracted with Pinnacol Assurance for investigation and prosecution of worker's comp fraud, while betraying his duty, ignoring and dismissing claimants with the same complaint of fraud against employers and insurance companies. The DA excuses himself saying his workload of dangerous cases is more important. Mentally disabled claimants with physical trauma to their brains are forced against their will to be "pro se," while administrative law judges violate the law and the claimant's constitutional rights continually and all authorities turn a blind eye. The Legislature is made up of a 2/3rds majority business owners/employers.

Fraud against people disabled on jobsites by brain injuries does not serve the public's best interests, but actually is quite contrary to the public's best interests as well as contrary to the original worker's compensation legislation and beneficent purposes. The disabled experience extreme cruelty, delay and denial of benefits, financial insolvency that causes foreclosures, bankruptcies and divorce, destruction of marriages and harm to children that is completely absolutely unsanitary.

The public is outraged by the corruption of Colorado's Workers' Compensation system, which influences other sectors of state government and destroys American democracy. It is an incompetent police power state agency wrongfully exercising governmental authority over us. Pinnacol Assurance has never, to my knowledge, sat for a vote of the public that might qualify as "consent of the governed" as mentioned in the Declaration of Independence. The public is outraged by Pinnacol Assurance's malfeasance.