

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Gina Steadman and Rich Guggenheim
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 5, 2024
SUBJECT: Proposed Initiative Measure 2023-2024 #221, concerning Public Athletics Programs for Minors

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado Constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with a series of initiatives, including proposed initiatives 2023-2024 #220 and 222. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memorandum for proposed initiative 2023-2024 #220, except as necessary to fully understand the issues raised by this proposed initiative. Comments and questions addressed in the memorandum for proposed initiative 2023-2024 #220 are relevant, and those questions

and comments are hereby incorporated by reference in this memorandum. Only new comments and questions are included in this memorandum.

Purposes

The major purposes of the proposed amendments to the Colorado Revised Statutes appear to be:

1. To require any interscholastic, intramural, or club athletic team, sport, or athletic event that is sponsored or sanctioned by a public athletics program for minors to specify whether each team, sport, or event is for:
 - a. Females, women, or girls;
 - b. Males, men, or boys; or
 - c. Coeducational or mixed.
2. To require that only students who are female based on their biological sex at birth may participate in an event designated for females, women, or girls; and
3. To create a cause of action for a student who suffers harm as a result of noncompliance with this proposed initiative.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado Constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. In section (2) of the proposed initiative, it states that sovereign immunity is waived for an action brought pursuant to section 22-32-116.6 (3)(a). The same provision in proposed initiative 2023-2024 #220 refers to an action brought pursuant to section 22-32-116.6 (3)(a), (3)(b), or (3)(c). (*Emphasis added*) What do the proponents intend by only making reference to subsection (3)(a) in the proposed initiative?

Technical Comments

There are no new technical comments.