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0005 An Analysis of 1954 Ballot Proposals

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LEGISLATIVE COUNCIL

of the

COLORADO GENERAL ASSEMBLY

Presents an Analysis

of

1954 BALLOT PROPOSALS

Research Publication No. 5

1954

LEGISLATIVE COUNCIL

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In conformance with the provisions of Chapter 123, Session Laws of 1953, which require the Legislative Council to, among other duties, "... examine the effects of constitutional provisions...", there is presented herein a copy of its analysis of the 1954 ballot proposals. In addition to listing the PROVISIONS and COMMENTS relating to each such proposal, there is also listed the most common arguments for and against each.

It should be emphasized that the LEGISLATIVE COUNCIL takes no position pro or con with respect to the merits of these proposals. In listing the ARGUMENTS FOR and the ARGUMENTS AGAINST, the council is merely putting forth the most common arguments offered by proponents and opponents of each proposal. The quantity or quality of the FOR and AGAINST paragraphs listed for each proposal are not to be interpreted as indications or inferences of Council sentiment.

BALLOT TITLES

Constitutional Amendments submitted by the General Assembly:

1. Amendment to the Constitution of the State of Colorado vesting in the State of Colorado the authority to regulate public utilities.
2. Amendment to Article XII of the Constitution of the State of Colorado, relating to civil service.
3. Amendment to Sections 1 and 19, and the repeal of Section 21, of Article IV of the Constitution of the State of Colorado, relating to the Executive Department.
4. Amendment of Section 6 of Article XXIV of the Constitution of the State of Colorado relating to old age pensions.
5. Amendment to Article V of the Constitution of the State of Colorado, relating to the General Assembly and the apportionment of the members thereof.

Proposed Law referred by the General Assembly:

6. The construction, improvement and reconstruction of public highways and bridges and the issuance of state highway fund revenue anticipation warrants, the expenditure of such funds and for the retirement of such warrants.

Constitutional Amendment submitted by the General Assembly:

7. Amendment to Article X of the Constitution of the State of Colorado, relating to taxation.

Constitutional Amendment submitted by initiated petition:

8. An Act to amend Article XIV, Section 8, of the State Constitution to provide for a four (4) year term of office beginning in 1955 for the following county officials, to-wit: clerk, sheriff, coroner, treasurer, superintendent of schools, surveyor, assessor, and county attorney who may be elected or appointed as shall be provided by law, and providing for their salary or compensation.

AMENDMENT NO. 1. PUBLIC UTILITIES.

PROVISIONS. This amendment adds to the State Constitution a new article vesting in the Public Utilities Commission, or such state agency as the General Assembly shall hereafter designate, the power to regulate the facilities, service and rates and charges of all public utilities except those municipally owned, whether within or without a home rule city or home rule town. The power of municipalities to exercise reasonable police and licensing powers and granting of franchises shall not be affected.

COMMENTS. This amendment differs in two respects from a similar ballot proposal which was defeated in 1952: (1) this amendment applies to taxicabs and hacks operating wholly within a municipality to which the 1952 proposal did not apply, and (2) this amendment would give the Public Utilities Commission authority to regulate facilities and service, in addition to rates and charges, whereas the 1952 proposal applied only to rates. This amendment applies only within home rule cities and home rule towns, because authority outside home rule cities and home rule towns is already vested in the state and the Public Utilities Commission. It does not apply to the Telephone Company which, by Supreme Court decision, has already been placed under the State Public Utilities Commission.

There are 14 home rule cities and towns. Of these Denver and Canon City permit this authority presently to be exercised by the State Public Utilities Commission and Sterling permits the regulation of rates by the State Public Utilities Commission. The 11 other home rule cities in which authority would pass to the State Public Utilities Commission under this amendment are:

Boulder	Durango	Grand Junction	Monte Vista
Colorado Springs	Fort Collins	Montrose	Wray
Delta	Fort Morgan	Pueblo	

None of the home rule cities will be affected insofar as water is concerned, because each operates its own water system.

ARGUMENTS FOR. By placing all utility regulation under a state commission, the regulation of utilities will be uniform throughout the state; duplicating city and state regulatory agencies will be avoided, thus reducing expenses, and also confusion and litigation will be materially diminished.

ARGUMENTS AGAINST. This is a further relinquishment by home rule cities of control of local matters and would be additional precedent for

further relinquishment of local matters to state control. Home rule cities acting cooperatively can operate more efficiently than a state agency which to date has been under-financed and inadequately staffed. Cities would still have to maintain agencies to represent them and their voters in matters affecting them before the State Public Utilities Commission. City agencies are more intimately acquainted with the public utilities operating within their borders, their rate structures and problems than would be a state commission.

* * *

AMENDMENT NO. 2. CIVIL SERVICE.

PROVISIONS. This amendment: (a) adds the position of director of The Colorado Water Conservation Board to the list of officers exempt from the classified civil service of Colorado; (b) It deletes reference to the already abolished position of Deputy Commissioner of Labor.

COMMENTS. (a) The director of the Colorado Water Conservation Board serves as chief administrative officer of the board and carries out the policies and directives of the board with respect to the conservation, development and utilization of the state's water resources and, as directed by the board, acts as official representative of the state in interstate and international water compacts. The position requires and intimate knowledge of water conservation, utilization and protection, hydraulic engineering, methods of making hydrological investigations, and legal aspects relating to these subjects. It requires and understanding of interstate water compacts and the principles of interstate and intrastate adjustment of water problems. The director must represent the state before state and federal agencies, commissions, interested water organizations, and committees of congress. The director must be possessed of resourcefulness, tact, good judgment and demonstrated executive ability.

(b) The position of Deputy Commissioner of Labor was abolished by the administrative code of 1933, which transferred the duties of the office to the Industrial Commission.

ARGUMENT FOR. (a) The director is an important state officer, and must

be in a position to speak authoritatively, and must be possessed of qualifications not readily ascertainable by civil service examination. He must be accountable to the board and should, at all times, be a person in whom the board has confidence. Such a position should not be under civil service. In no other state is this position under civil service.

ARGUMENTS AGAINST. (a) Such a position should be under civil service. The removal of this position from civil service may result in an ultimate breakdown of the complete civil service system by leading to subsequent piecemeal removals.

AMENDMENT NO. 3. EXECUTIVE DEPARTMENT.

PROVISIONS. This amendment provides: (a) The term of office of the governor, lieutenant governor, secretary of state, auditor of state, state treasurer and attorney general shall be four years, beginning with those elected in the year 1954; (b) Each elected officer may appoint two additional confidential employees who would not be subject to civil service; (c) The salary of each of the elected officers may be increased or decreased during his term of office; (d) The state treasurer and state auditor would be eligible to succeed themselves; (e) Obsolete provisions relating to the collection of fees and reference to the abolished office of superintendent of public instruction are deleted.

COMMENTS. (a) The term of office of these officers would be increased from two years to four years. The first four year term would begin with the officers elected in 1954. Twenty-nine states now have a four year term of office for governor, and the trend is in that direction, the latest example of this being Tennessee, which has just voted to change its term from two years to four years. In the federal government the president has a four year term of office. The City and County of Denver and other home rule cities in Colorado have four year terms for their municipal officers.

(b) Four employees of the governor and the deputy auditor, deputy treasurer, deputy secretary of state and all attorneys in the office of the Attorney General are now exempt from civil service. The additional employees permitted by this amendment would be likewise exempt.

(c) An amendment permitting an increase or decrease of judges' salaries during their term of office was adopted by the voters in 1952.

(d) The state treasurer and state auditor are now prohibited from succeeding themselves. The practice of trading offices at the end of each term has developed accordingly.

ARGUMENTS FOR. (a) The six executive state officers named in the amendment would be elected in the biennial general elections in which the president is not elected, and thus presidential elections would be devoted primarily to national issues and national candidates and nonpresidential elections primarily to state and local issues and candidates, which would materially shorten the ballot in presidential election years and keep the issues better defined. An officer serving a four year term would require less time to campaign for re-election and would have more time to devote to the duties of his office. He would be able to adopt a long term program instead of making day-to-day decisions on the basis of political expediency. A four year term should offer more incentive to qualified persons to run for office. Each of the four governors elected during the last 16 years has been re-elected to a succeeding two year term thus providing political tradition for the longer term. An officer elected for four years may be recalled before the end of his term if circumstances justify.

(b) Exemption of additional employees from civil service is not out of line with the expansion of the staffs of these officers since the civil service amendment was first adopted in 1918.

(c) The provision permitting the increase or decrease of salaries during the term of office is desirable in order to keep salaries in line with prevailing economic conditions.

(d) The practice of trading offices between the state treasurer and the state auditor because they cannot succeed themselves results in the auditor's auditing his actions during his preceding term as treasurer.

ARGUMENTS AGAINST. (a) Unqualified candidates might have a better chance of being elected, because there are usually fewer persons who vote in nonpresidential elections than vote in presidential elections. Elected officials should be made to account frequently to the voters for their actions. The persons elected for a four year term who turns out to be a bad officer can do a lot of harm

before his term expires or he can be recalled.

(b) This amendment does not correct the primary defect in the organization of state government, which could be remedied by the election of the governor and lieutenant governor only, making the other department heads appointees of the governor, thus creating a cabinet form of government as in the federal structure.

(c) The amount of the salary should remain constant during the term of an elected official.

(d) It is better to have a regular turnover in the offices of auditor and treasurer, than to permit these offices to be occupied for indefinite periods by the same person.

(e) Additional state employees should be subject to civil service provision.

* * *

AMENDMENT NO. 4. OLD AGE PENSIONS

PROVISIONS. This amendment adds the phrase "unless otherwise provided for by law" to the existing provisions requiring deduction of net income from the amount of pension otherwise receivable.

COMMENTS. The Constitution and federal law now provide that the old age pension shall be reduced by the amount of the pensioner's income from sources other than his pension. Because of the fact that under present federal law persons receiving aid to the blind are permitted \$50 of other income without having their aid to the blind payments reduced, it is possible that federal law might be changed to permit old age pensioners to likewise have other income without reducing their old age pension. The purpose of the amendment is to enable the General Assembly to act quickly in the event of such a change in the federal law. Any act of the General Assembly would have to coincide with the federal law, with respect to other income, or it would jeopardize federal contributions to the state old age pension fund.

ARGUMENTS FOR. This amendment would authorize the General Assembly to act quickly in changing the state law to permit old age pensioners to earn money or have other income without having that sum deducted from their pensions in the event the federal pension law is changed to permit it. It is desirable that old age pensioners be encouraged to engage in useful endeavor.

ARGUMENTS AGAINST. It would be possible for the General Assembly to abolish the requirement that the old age pension of a person should be reduced by the amount of other income without waiting for the change in federal law, and thus jeopardize the federal pension aid. This amendment would permit able-bodied old age pensioners to earn money in addition to their pensions and thus increase their financial resources while those not physically able to work would still be in need of more income. This would place old age pensioners in the labor market.

AMENDMENT NO. 5. REAPPORTIONMENT

PROVISIONS. This amendment provides: (a) That membership of the Senate shall be 35 members and membership of the House 65 members; (b) In the Constitution for the senatorial districts and the number of senators from each district; (c) For representation in the House according to population; (d) That at the first regular session of the General Assembly following the completion of each federal census, in 1960 and every ten years thereafter the General Assembly shall reapportion and adjust the representative districts as nearly equal in population as may be. Should the General Assembly fail to make such a reapportionment, it shall be the duty of a commission appointed by the Chief Justice of the Supreme Court to make such reapportionment within three months after such regular session shall have adjourned, which apportionment shall take effect upon approval by the Supreme Court and remain in effect until completion of the next federal census; (e) That a county may be divided into representative districts but no part of a county shall be united with any other county or part of county in forming a representative district; (f) That representatives shall be first elected under the terms of this amendment in November, 1962 and (g) For the deletion of the required state census every ten years.

COMMENTS. (a) The amendment fixes the membership of the Senate at 35 members and the membership of the House at 65 members, which is the present constitutional maximum membership of each.

(b) The senatorial districts and number of senators from each as provided for by the 1953 legislative reapportionment act would be fixed in the Con-

stitution except that Teller County would be transferred from the twenty-fifth district to the twenty-third district.

(c) The amendment provides that representative districts shall be constituted as to give representation so far as practicable in equal proportion to population, but it further provides that after each federal census the General Assembly shall reapportion and adjust the representative districts to be as nearly equal in population as may be. Under present constitutional provisions apportionment of the Senate and the House is according to ratios to be fixed by law. By establishing a ratio of a small number of people for the first Representative from a district and a much larger number for each succeeding Representative, representative districts may be formed in accordance with present constitutional provisions but still not have representation in equal proportion to population. In the 1953 legislative act a district is entitled to one representative for the first 8,000 of population and one additional representative for each additional 25,000 or fraction over 22,400. This amendment would change this so that the senatorial districts would be fixed in the constitution and would not be based on population but representative districts would be based on population.

(d) Under present constitutional provisions the General Assembly is required to reapportion both houses after each federal census. If the General Assembly fails to act the only alternative now is the passage of an initiated law. The General Assembly did not reapportion between 1913 and 1953, and the only reapportionment, during this period was made in 1932, by initiated law. Under this amendment, if the General Assembly fails to act, reapportionment of the House would be made by a commission appointed by the Chief Justice of the Supreme Court.

(e) At present a county may not be divided into representative districts, and a county entitled to several representatives must elect them at large from the entire county. This amendment provides that counties entitled to more than one representative may be divided into representative districts. The present provision that no part of a county shall be combined with another county or part of county in the formation of a representative district is retained.

(g) The present constitutional provision requiring a state census every ten years, which provision has been ignored by the General Assembly, is eliminated from the Constitution.

ARGUMENTS FOR. Whereas under present constitutional provision representation in both the House and the Senate are theoretically based on population, in fact neither of them is. This means that persons in the more sparsely populated districts (generally rural) have a larger proportionate vote in both houses of the General Assembly than do the people in the more thickly populated districts (generally urban). Under the amendment persons in the more sparsely populated areas would continue to have a voice in the Senate out of proportion, but in the House all districts, whether sparsely or thickly populated, would have voice in proportion to population. In this way neither urban nor rural interests are likely to dominate both houses of the General Assembly at any given time, and it would be difficult to pass legislation through both houses seriously detrimental to either group, in view of the fact that such legislation would have to pass two houses constituted on completely different theories of representation. This is similar to the federal system where the senatorial districts (states) each have the same number of senators regardless of population, whereas the House has representation in accordance with population. Districting within a county will materially shorten the ballot in some counties by reducing the number of candidates to be voted upon and thus improving the ability of the voters to know their candidates. The provision for reapportionment by a commission in the event the General Assembly does not act is desirable because the General Assembly did not act between 1913 and 1953.

ARGUMENTS AGAINST. Apportionment in both the Senate and the House should be strictly in accordance with population, as this is the only fair method of representation. Permitting division of a county into representative districts might give greater political control to fewer people. The proposed senatorial districts are not necessarily the best districts to fix in the Constitution. The amendment does not take effect soon enough as populous areas will still remain under-represented until 1962, as the present apportionment will probably remain in effect until then. The membership of the General Assembly should be enlarged to give greater representation to populous districts without requiring sparsely populated districts to lose representatives. Apportionment of the General Assembly should not be given to the courts but should be left to the General Assembly or the people.

STATUTORY REFERENDUM NO. 6.
HIGHWAY ANTICIPATION WARRANTS

PROVISIONS. This law, referred by the General Assembly to the voters, authorizes the State Highway Commission, with the approval of the Governor and the Legislative Council, to issue revenue anticipation warrants in a total amount not to exceed \$35 million, with no more than \$8 million to be issued in any one fiscal year, and no warrants to be issued more than five years after adoption of the act. Warrants would bear interest not exceeding 2 1/2% per annum, payable serially in annual installments beginning not later than five years after the date of issuance, all warrants to be paid within 20 years after date of issuance. The State Highway Commission would be required to create out of the State Highway Fund a sinking fund for the payment of the principal and interest on said warrants as they become due. No taxes or fees for the purposes of construction, improvement, reconstruction and maintenance of state highways shall be repealed or amended to reduce the aggregate of revenue so as to make them insufficient to pay the annual installments of principal and interest as they become due. It authorizes the purchase of such warrants by the State of Colorado and any of its institutions and agencies, counties municipalities, districts and any other political subdivision of the state and any department, agency or instrumentality thereof, or any political or public corporation of the state, and gives these a preference in the purchase of such warrants. Any warrants not sold after the exercise of the preference could be sold to the federal government or to private investors.

COMMENTS. The issuance of revenue bonds and warrants by state and local governments has become nationally accepted as a means of providing for capital improvements. Colorado in 1935 through its General Assembly authorized, and there was subsequently issued, \$25 million of highway revenue anticipation warrants and these have been paid off in full serially over a period of 18 years. Many miles of state highways were constructed from these funds.

ARGUMENTS FOR. There exists in Colorado a great need for improved highways to carry present and indicated future traffic, and at the present rate of annual highway revenue it will take a long time to satisfy this need. By borrowing money and building highways now, travel upon the highways will be increased and additional revenue brought into the State Highway Fund and additional income brought to the citizens of the state through increased tourist travel. The proceeds from the sale of the warrants will put the state in a better financial posi-

tion to take advantage of federal funds available for matching by state funds, and will better enable the state to participate in the construction of transcontinental highways.

ARGUMENTS AGAINST. A pay-as-you-go basis for highway financing is preferable. The 1935 bond issue of \$25 million cost \$7,672,550 in interest over its 18 year life, which money could have been better used in the actual building of highways. Without the bond issue there will be current revenue sufficient to pay most highway financing reasonably required, including the matching of federal funds and participation in transcontinental highway construction. The increased revenues anticipated from the new truck tax effective January 1, 1955 together with added federal aid available under the increased federal highway construction appropriation plus the highway revenues formerly needed to pay annual 1935 warrant redemption and interest will now be available and all of these will provide as much additional revenue as the highway department can program without having to materially increase its overhead.

* * *

AMENDMENT NO. 7. TAXATION.

PROVISIONS. This amendment: (a) removes the present constitutional provision that the personal property of every head of a family to the value of \$200 shall be exempt from taxation, and substitutes a provision that the General Assembly may allow such exemptions from personal property taxation as from time to time shall seem necessary and just; (b) Retains on motor vehicles and also on trailers and semi-trailers used exclusively for transportation of livestock, goods and commodities the graduated specific ownership tax, but makes it possible for the General Assembly to tax house trailers on an ad valorem basis; (c) The state will no longer share in the specific ownership tax as all of that tax will go to the political subdivisions of the state; (d) The amendment provides that general laws shall prescribe methods to secure a just valuation for taxation instead of regulations; (e) Deletes a provision that all laws shall be void which exempt from taxation property other than that specifically mentioned and (f) Transfers a provision with reference to the taxation of ditches, canals and flumes from Section 3 to Section 5.

COMMENTS. (a) The first principal purpose of this amendment is to provide a method for exempting household goods and personal effects from taxation. Because of the difficulty of arriving at a concise constitutional definition of

household goods, the amendment places in the General Assembly authority to make such exemptions from personal property taxation as shall from time to time seem necessary and just. The approximate value of household goods and personal effects in the State of Colorado now subject to taxation is \$95 million, producing an annual revenue to the state of approximately \$250,000 and to the political subdivisions of approximately \$4 million.

(b) The effect of the provisions relating to the specific ownership tax is to remove the specific ownership tax from house trailers used as stationary residences and to subject them to the ad valorem tax.

(c) The amount of specific ownership tax which under this amendment would revert from the state to the political subdivisions is approximately \$500,000 a year.

(d) Permitting the General Assembly to provide methods to secure a just valuation instead of regulations will enable the General Assembly to exercise a much closer supervision over actual assessment procedures throughout the state.

(e) The provision that all laws shall be void which exempt from taxation property other than that specifically mentioned was deleted since the only unqualified constitutional exemption of property from taxation is publically owned property.

ARGUMENTS FOR. (a) The tax on household goods and personal effects is almost impossible to administer fairly and equitably, and the cost of assessing and collecting the tax is far out of proportion to the revenue derived. Most counties in the state do not completely and adequately enforce this tax, making it even more unfair in the case of taxpayers residing in counties where a serious attempt is made to collect the tax. The purpose of the \$200 head of family exemption created in 1904 was to eliminate the average family's household goods from taxation. An increase in the amount of this exemption to correspond in dollars with what \$200 would buy in 1904 would again virtually eliminate household goods from taxation. Those persons who own only a small amount of household goods will no longer vote on bond issues which are usually completely paid for by real property owners.

(b) Persons living in house trailers now bear much less than their fair

burden of taxes, particularly for schools. This amendment would help correct that condition.

(c) Since the state is appropriating a large amount of state revenue to its political subdivisions, the relinquishment by the state of its share of the specific ownership tax would mean that the political subdivisions would have more local revenue.

ARGUMENTS AGAINST. (a) The amendment gives too much power to the General Assembly and would authorize it to make exemptions from personal property taxation not contemplated by those who favor exempting household goods from taxation.

(b) Personal property owners should be permitted to vote on bond issues.

(c) The amendment would require counties and the other political subdivisions to find a replacement source of revenue to the extent of \$3,500,000 (\$4 million in ad valorem taxes less \$500,000 in specific ownership tax diverted from the state).

(d) The deletion of the provision making void all laws which exempt from taxation property other than that specifically mentioned might authorize the General Assembly to exempt from taxation real property other than that specifically exempted in the Constitution or personal property other than household goods.

* * *

AMENDMENT NO. 8. COUNTY OFFICERS.

PROVISIONS. This amendment provides that the term of office of the county clerk, sheriff, coroner, county treasurer, county superintendent of schools, county surveyor, county assessor and county attorney shall be four years beginning with those elected in the year 1954.

COMMENTS. The term of office of these officers would be increased from two years to four years. The first four year term would begin with the officers elected in 1954. This amendment, which has been placed on the ballot by initiative petition, would extend to the named county officers the same

four year term of office extended to the executive state officers under amendment No. 3. It is in accord with the present trends enlarging terms of office to four years similar to the four year term of president of the United States and the four year term of municipal officers in Denver and other home rule cities in Colorado.

ARGUMENTS FOR. As in the case of Amendment No. 3, the county officers named in this amendment would be elected in the biennial general elections in which the president is not elected and would further tend to remove local issues and local candidates from the ballot in presidential election years, thereby shortening such ballot and keeping the issues better defined. An officer serving a four year term would require less time to campaign for re-election and would have more time to devote to the duties of his office. He would be able to adopt a long term program instead of making day to day decisions on the basis of political expediency. This, and the material reduction in the amount required in campaign expenses, would provide a greater incentive for qualified persons to run for office. An officer elected for four years may be recalled before the end of his term if circumstances justify.

ARGUMENTS AGAINST. Unqualified candidates might have a stronger chance of being elected, because, usually, there are fewer persons who vote in non-presidential elections than in presidential elections. Elected officials should be made to account frequently to the voters for their actions. The person elected for a four year term who turns out to be a bad officer can do a lot of harm before his term expires or he can be recalled.