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0018 An Analysis of 1956 Ballot Proposals

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1956

LEGISLATIVE COUNCIL OF THE
COLORADO GENERAL ASSEMBLY
AN ANALYSIS OF
1956 BALLOT PROPOSALS

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COLORADO GENERAL ASSEMBLY

An Analysis of

1956 BALLOT PROPOSALS

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An analysis of 1956 ballot
proposals

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Vernon A. Cheever, V-Chairman
Donald G. Brotzman
Ray B. Danks
Clifford J. Gobble
Martin C. Molholm

Stephen L. R. McNichols,
Lt. Governor

Representatives

Palmer L. Burch, Chairman
W. K. Burchfield
Ed Harding
S. T. Parsons
C. Gale Sellens
John D. Vanderhoof

In conformance with the provisions of Chapter 123, Session Laws of 1953, which requires the Legislative Council, among other duties, to "...examine the effects of constitutional provisions ...," there is presented herein a copy of its analysis of the 1956 ballot proposals. In addition to listing the PROVISIONS and COMMENTS relating to each such proposal, there are also listed the arguments most commonly given for and against each, as well as the differences between the proposed amendments for 1956 and similar amendments which appeared on the ballot in 1954.

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 arguments most commonly offered by proponents and opponents of each proposal. The quantity or quality of the FOR and AGAINST paragraphs listed for each proposal is not to be interpreted as indications or inferences of Council sentiment.

BALLOT TITLES

Constitutional Amendments Submitted by the General Assembly:

1. An amendment to the state constitution providing for four-year terms of office for the governor, lieutenant-governor, secretary of state, auditor of state, state treasurer, and attorney-general, beginning in January, 1959.
2. An amendment of section 3 of article X of the constitution of the state of Colorado, permitting the general assembly to exempt from taxation household furnishings and personal effects which are not used for the production of income at any time.
3. An amendment to article XII of the constitution, providing for employment and tenure in the classified civil service of the state on the basis of merit, and for the administration of the state civil service by a state civil service commission.

Constitutional Amendments Submitted by Initiated Petition:

4. An act to amend article V of the state constitution, providing for apportionment of members of the General Assembly; provides that the membership of the senate shall be thirty-five and of the house sixty-five; requires the supreme court to divide the state into senatorial and representative districts by December 31, 1957, and following each decennial United States census thereafter; provides each senatorial district shall contain not less than two and three-fourth per cent and each representative district shall contain not less than one and one-half per cent of the state's population, each senatorial district being entitled to one senator and each representative district being entitled to one representative for each whole multiple of said population percentages; that no county shall be divided and that counties must be contiguous in the formation of a district consisting of more than one county.
5. An act re-enacting article XXIV of the Colorado constitution and amending same to provide for basic minimum old age pension payments of \$100 monthly and to authorize adjustment of the basic minimum pension payments above \$100 monthly; to create a fund of \$5 million dollars to stabilize payment of basic minimum pensions; to provide for establishment of a health and medical care fund and program for persons qualified to receive old age pensions; to provide that after payment of basic minimum pensions and establishment of stabilization and health and medical care funds any excess moneys be transferred to the general fund.

AMENDMENT NO. 1 - EXECUTIVE DEPARTMENT

PROVISIONS. This amendment provides that the executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, state treasurer, and attorney-general, each of whom shall hold his office for the term of four years, commencing on the second Tuesday of January in the year 1959 and each fourth year thereafter. It eliminates reference to the office of superintendent of public schools (which was abolished by constitutional amendment in 1948).

COMMENTS. The term of office for the designated officers would be increased from two to four years. The tendency has been toward longer terms for governors, twenty-nine of the states now having a four-year term for that office. A four-year term for the governor of the state of Ohio will become effective in 1958, making a total of thirty states with four-year gubernatorial terms. In Colorado, people traditionally favor longer terms for their governors. Each of the four governors elected in the last sixteen year prior to 1954 was re-elected to a second two-year term.

Twenty-six of the states elect their attorney-generals for four-year terms, while twenty-one states provide a four-year term for the secretary of state. Election of administrative officers in non-presidential general elections would allow state issues to be judged in an atmosphere divorced from considerations affecting national elections. At the same time, all biennial general elections would continue to hold interest because the election of either a president or a governor would be at stake.

ARGUMENTS FOR. (a) It is generally agreed that a two-year term is too short to enable a key state officer to become thoroughly familiar with the duties of his office, and that a four-year term of office gives an officer the opportunity to plan and develop long-range programs and to carry out his policies. This is particularly true in view of the growth of state government which, like the federal government, has expanded its services and the scope of its activities into many areas unforeseen by the framers of the state constitution.

(b) A four-year term tends to provide a state with more effective leadership than is the case under the two-year system; the influence of politics and political considerations is decreased.

(c) A four-year term for all state administrative officers will decrease the amount of time during which an incoming administration would operate under its predecessor's budget from six months out of two years to

six months out of four years. This will make possible greater and more consistent economy of administration; it will reduce the inevitable extravagance and waste connected with more frequent changes.

(d) A four-year term gives the voter a better basis and opportunity for appraising the performance of government and for forming a qualified judgment in exercising his voting franchise.

(e) A four-year term for elected state officers increases the opportunity and the necessity for closer attention to management, by providing a greater interval between campaigns for re-election.

(f) An officer who serves a four-year term will undoubtedly give more serious consideration to the type of personnel appointed by him or assigned to his staff. Long tenure in appointive positions will tend to improve the caliber of persons interested in appointment to such positions.

(g) An unsatisfactory governor is still subject to recall.

ARGUMENTS AGAINST. (a) Elected officers should be made to account to the voters more frequently for their actions. Election of a poor officer could cause a great deal of harm to state government before expiration of his term or recall.

(b) There is usually less voter interest in non-presidential elections; consequently, unqualified candidates might stand a better chance of being elected. It would also be easier to elect a governor with minority support.

(c) This amendment proposes four-year terms for other elective administrative officers--the secretary of state, state auditor, state treasurer, and attorney-general--who should not be subject to election but, rather, should be appointed as are cabinet officers in the federal government. Thus, the amendment postpones basic state government reorganization in that regard.

(d) Recall is a very difficult procedure which is used only as a last resort.

* * *

AMENDMENT NO. 2 - PERSONAL PROPERTY TAX EXEMPTIONS

PROVISIONS. This amendment removes the present constitutional provision for a \$200 personal property tax exemption for each head of family and substitutes a general provision allowing the general assembly to exempt from taxation household furnishings and personal effects which are not used for the production of income at any time. The amendment rewords section 3 of article X, to spell out more clearly the authority of the general assembly over assessment methods.

COMMENTS. The purpose of this amendment is to provide the legislature with the authority to exempt from taxation household goods and personal effects not used for the production of income at any time. Instead of continuing a specified small property tax exemption in the constitution, the amendment places the authority for making such exemption in the general assembly.

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 enforce this tax adequately and completely, making it even more unfair for taxpayers residing in counties where a serious attempt is made to collect this tax.

(b) The \$200 exemption, adopted in 1904, was for the purpose of eliminating 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. This amendment will make it possible for the general assembly to make such exemption and to adjust it from time to time as it sees fit.

(c) 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.

ARGUMENTS AGAINST. (a) The amendment gives too much power to the general assembly.

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

(c) The amendment will require counties and other political subdivisions to find a replacement source of revenue for the funds formerly received through personal property taxes, and new revenue sources are already a matter of great concern to local units of government.

(d) This amendment does not really offer protection to those persons paying personal property taxes since it eliminates the \$200 exemption and leaves to the legislature the authorization to provide by statute for an exemption from the personal property taxation or to continue the elimination of such exemption entirely if it feels so inclined.

* * *

AMENDMENT NO. 3 - CIVIL SERVICE

PROVISIONS. The amendment (1) authorizes six confidential employees of the governor's office staff to be exempt from civil service and authorizes the general assembly to exempt from civil service, if it desires, the controller as well as the directors of institutions, purchasing, and revenue; (2) exempts officers and teachers in educational institutions, persons performing duties educational in character, the commissioner of education (presently exempt), and persons holding valid teaching certificates and performing teaching duties in any state institution; (3) eliminates the mandatory requirement that a person may be promoted only after taking a competitive examination; (4) requires that a probation period, not to exceed six months, must be served prior to obtaining permanent status; (5) authorizes the civil service commission to establish rules concerning service and conduct, and failure to comply with such rules shall constitute a basis for discharge; (6) requires that in matters of discipline and discharge, the employee so complained against shall be provided promptly with a written copy of the charges; (7) removes the requirement that "all appointees shall be qualified electors of the state"; (8) changes certain administrative features of the civil service as follows: (a) Makes appointments to the civil service commission subject to senate ratification; (b) Extends the terms of the commissioners so as to expire at the start of a governor's term of office; (c) Provides that the supervision of the civil service system shall be vested in the commission; (d) Provides that the commission, in accordance with law, shall make and enforce rules to carry out the purpose of this amendment; (e) omits the constitutional minimum for the salary of the commissioners.

COMMENTS. Under this proposed amendment, the basic coverage under civil service remains unchanged from existing provisions. Exemptions are broadened by allowing the governor a confidential office staff of six persons and by exempting persons performing duties educational in character and persons holding teaching certificates and performing teaching duties in any state institution. In addition, the general assembly may exempt the controller and the directors of institutions, purchasing, and revenue, the latter three now being exempt as confidential employees of the governor.

The amendment retains the competitive examination as a requirement for all original appointments in state service but eliminates the mandatory requirement for promotional exams. The "rule of one" (meaning that the person placing highest in the examination must be first hired) is retained. However, the amendment provides for a probationary period of not to exceed six months to be established for original appointments. The amendment makes no changes in the tenure rights of civil service employees. Failure to comply with rules established by the civil service commission, concerning service and conduct, constitutes an additional reason for discharge. The amendment requires that in cases where it is sought to discipline or discharge a civil service employee, the employee shall be furnished promptly with a written copy of the charges, a right not provided by the existing constitutional provisions. The amendment also adds the supervisor to the list of those who may file charges against an employee.

The amendment broadens the provisions covering discriminatory action along the lines of the concept of the Colorado Fair Employment Practices Act.

This amendment requires senate ratification of civil service commission appointments (as do most gubernatorial appointments to major policy-making boards and commissions). The terms of the commissioners are extended so as to expire at the beginning of a governor's term of office rather than at the end of his term of office, the purpose being to encourage the more careful selection of commissioners and to promote a closer liaison between the office of the chief executive, who is chosen by the people, and the central personnel agency of the state. In addition, this amendment provides that the supervision of the civil service system shall be vested in the commission.

The present constitutional civil service provisions state that "laws shall be made to enforce the provisions of this section." The wording of the proposed amendment on this point is: "The supervision of the classified civil service of the state shall be vested in a state civil service commission which shall, in accordance with law, make and enforce rules to carry out the purposes of this section and the laws enacted in pursuance thereof." This change will shift the emphasis of authority for setting the general policies with regard to over-all personnel matters from the civil service commission to the general assembly.

ARGUMENTS FOR. (a) Actually, this amendment provides the tools whereby the general assembly can take a 1918 vehicle and equip it to operate under 1957 conditions. It allows the governor six confidential employees on his office staff and authorizes the general assembly to exempt the position of controller, so that the chief executive of the state government can provide

the necessary leadership which is required in budgetary preparation and execution. The amendment would enable the state's penal, reformatory, and other such institutions to employ certified teachers for classroom teaching duties without going through civil service "red tape."

(b) By changing the provisions relating to promotional examinations, this amendment would make it possible to have a career service in state employment.

(c) The probationary period will give an additional "check" on the capability of a person to adequately perform the duties for which he was hired. This will help to screen persons who are good "test takers" but poor "performers."

(d) This amendment will provide sufficient flexibility for the creation of the position of a professionally qualified personnel director, working under the policy direction of the commission. Thus, the commission would become a policy-making and appeal body, with the administration of the personnel office being under the direction of a trained careerist in the field of personnel.

(e) By eliminating the requirement that appointees be "qualified electors of the state," this amendment will enable the state government to recruit for qualified employees in the 18-21 age bracket. This group, containing numerous trained and qualified employees, cannot at present gain entry into the classified civil service of the state.

ARGUMENTS AGAINST. (a) Fundamentally, this amendment removes state personnel control from the "independent status" civil service commission, which will lead to a return to the "spoils system."

(b) Promotions should be handled as they now are because competitive examinations are a much more objective method of judging the ability of persons, and any possibility of favoritism or political maneuvering in state service is eliminated.

(c) The proposed amendment does not spell out the details of how the probationary period will operate; therefore, it leaves the employee with insufficient protection.

(d) Creation of the position of personnel director will result in having a dictator over all personnel matters affecting the thousands of civil service employees.

* * *

AMENDMENT NO. 4 - REAPPORTIONMENT

PROVISIONS. This amendment (a) establishes the membership of the senate at thirty-five members and of the house of representatives at sixty-five members; (b) requires the supreme court to cause the state to be divided into senatorial and representative districts by December 31, 1957, and thereafter by March 1 of each even-numbered year immediately following each decennial United States census; (c) requires that both houses of the legislature be apportioned on the basis of population.

Each senatorial district created shall contain not less than two and three-fourths per cent of the total population of the state; each representative district shall contain not less than one and one-half per cent of the total population of the state. If a county contains the minimum population required for either a senatorial or a representative district, that county shall alone constitute such a district; no county shall be divided, and when a district is composed of two or more counties, such counties shall be contiguous and the district shall be as compact as possible; and further, if the division of the state into senatorial and representative districts results in any of the senatorial seats or any of the representative seats remaining unassigned, the supreme court shall assign such seats to the several districts in such manner as it deems equitable and just; provided, however, that no senatorial districts entitled to five or more senators shall be assigned additional senators, and no representative district entitled to ten or more representatives shall be assigned any additional representatives. Nothing in the amendment shall be construed to work the removal of any senator from his office for the term for which he may have been elected.

COMMENTS. The 1950 United States census lists Colorado's population as 1,325,089. Under this proposed amendment, a senatorial district must contain not less than two and three-fourths per cent of the total state population, or, on the basis of the 1950 census, 36,440 people, and representative districts must contain not less than one and one-half per cent of the total state population, or, on the basis of the 1950 census, 19,876 people. These figures will determine the apportionment which the supreme court must make by December 31, 1957. Upon completion of the 1960 United States census, and prior to March 1, 1962, and each ten years thereafter, the supreme court must again apportion senate and representative districts on the basis of the new population figures.

The supreme court shall certify to the secretary of state the boundaries of the senatorial and representative districts so created, and the secretary of state shall by proclamation declare the districts so created to exist for the general election immediately following and thereafter, until the supreme court shall re-district the state as aforesaid.

Basically, this amendment boils down to the issue of whether or not the apportionment of seats in both houses of the Colorado legislature should be determined strictly on the basis of population.

ARGUMENTS FOR.* (a) The constitution of the state of Colorado requires that the legislature reapportion the seats in the senate and the house of representatives every ten years on the basis of population, according to ratios to be fixed by law. The legislature has failed to do this.

(b) Each person in Colorado is entitled to an equal voice in state government. However, the present allotment of senate and house seats gives some citizens more than 2 1/2 times the representation that others have. This amendment will correct this unequal assignment of senators and representatives and will give each citizen of Colorado an approximately equal voice in his state government.

(c) The proposition that, while the house of representatives should be apportioned on the basis of population, the senate should be apportioned on some other basis, such as geographic areas or interest, is contrary to the concept of democracy.

(d) An attempt to liken apportionment in the state legislature to that of the United States Congress is falacious because the United States was created by the several sovereign states, and the United States senate consists of two senators from each such sovereign state. In Colorado, the state created the counties and it derives no power therefrom.

(e) Reapportionment should not be thought of solely in terms of a conflict of interest between the urban and the rural areas. In the long run, the interests of all in an equitable system of representation which will strengthen the state government is far more important than any temporary advantage to an area enjoying over-representation.

ARGUMENTS AGAINST. (a) Apportionment of seats in the legislature should reflect not only population, but also the major elements in this state's economy, such as agriculture, mining, and the small business communities which serve these activities in the sparsely settled areas of the state.

*Taken from the material prepared by the sponsors of the initiated amendment.

(b) Having both houses apportioned strictly on the basis of population is practically the same as having a unicameral legislature--only one state has even tried a "one house" legislative body, and indications are that it has not been too successful.

(c) The matter of apportioning senatorial and representative seats in the legislature is a "political" matter and should not be turned over to the supreme court. This will place upon the court, which is not a political body, a burden which is highly political in nature.

* * *

AMENDMENT NO. 5 - OLD AGE PENSION

PROVISIONS. This amendment will (a) establish a monthly cash award of \$100 to each person qualified for the Colorado old age pension; (b) authorize the state board of public welfare to adjust the monthly cash award above \$100 in the event of cost of living increases; (c) provide for a stabilization fund of \$5 million to assure \$100 monthly payments during periods of low tax collections; (d) provide for the establishment of a health and medical care fund not to exceed \$10 million annually; (e) provide for transfer of all revenues over and above the amounts needed to pay the cash monthly award and to establish and maintain the stabilization fund and the health and medical care fund into the state general fund; (f) add a prohibition against relative responsibility laws insofar as old age pension recipients are concerned; (g) permit state laws to be changed to allow pensioners to retain nominal outside income.

COMMENTS. The amendment does not change the present sources of revenue for the old age pension fund. It continues the present eligibility requirements for old age pension recipients and the prohibition against lien laws.

This amendment will eliminate the existing procedure whereby the monthly old age pension award is determined principally on the basis of the amount of revenue in the old age pension fund, thus removing one of the major criticisms which the Social Security Administration has leveled against the Colorado old age assistance program.

No money shall be transferred from the old age pension fund to the state general fund until:

1. the basic old age pension awards have been paid, and
2. there is \$5 million in the stabilization fund, and
3. there is \$10 million available annually in the health and medical care fund.

Although the state board of public welfare will have the power to adjust the basic minimum monthly award above \$100 if, in its discretion, living costs have changed sufficiently to justify such action, the board has no power to decrease such award to less than \$100 per month.

Persons eligible for and receiving old age benefits under present laws and constitutional provisions will remain on the rolls without making new applications.

Basic awards would have first priority in the distribution of pension money. After full payment of the basic minimum awards, the stabilization fund would have second priority.

Patients in institutions for tuberculosis and mental disease who are qualified to receive old age pension awards are exempted from health and medical care benefits.

The effective date of the amendment will be January 1, 1957.

ARGUMENTS FOR. (a) The elimination of the "jackpot" provision removes the danger of losing federal grants for old age assistance.

(b) The health and medical care provisions will permit Colorado to qualify for matching federal funds for medical care of the aged, if and when available. This is not possible under present constitutional provisions.

(c) The amendment offers relief to counties since the cost of hospitalization and medical care at present is paid for by county property taxes.

(d) The amendment will permit future shifting of excess funds to other state purposes. As more and more aged persons are provided for, in whole or in part, by government and private retirement plans, the demands on the old age pension fund may diminish.

(e) The amendment will stabilize monthly old age pension awards.

ARGUMENTS AGAINST. (a) The amendment may result in an increase in tax rates for sources of revenue to the old age pension fund, in order that the monies in the stabilization fund and the health and medical care fund can be more quickly accumulated than will be possible under present tax rates, and thereby provide for an earlier transfer of money from these sources to the general fund.

(b) Having both houses apportioned strictly on the basis of population is practically the same as having a unicameral legislature--only one state has even tried a "one house" legislative body, and indications are that it has not been too successful.

(c) The matter of apportioning senatorial and representative seats in the legislature is a "political" matter and should not be turned over to the supreme court. This will place upon the court, which is not a political body, a burden which is highly political in nature.

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ARGUMENTS AGAINST. (a) The amendment may result in an increase in tax rates for sources of revenue to the old age pension fund, in order that the monies in the stabilization fund and the health and medical care fund can be more quickly accumulated than will be possible under present tax rates, and thereby provide for an earlier transfer of money from these sources to the general fund.

(b) The amendment will not only continue the highest monthly old age pension cash award of any state in the United States but it adds thereto medical and health benefits. Based upon "modest but adequate" budgets for elderly couples, as developed by the Federal Security Agency and the Bureau of Labor Statistics, it is indicated that a realistic monthly "need" in Denver would be \$83.33 per person.

(c) The amendment does not set forth standards for developing a health and medical program.

(d) The amendment does not set forth standards for determining changes in cost of living.

(e) Why change the program at all?

DIFFERENCES BETWEEN THE
1956 AMENDMENTS AND THE 1954 AMENDMENTS

In November, 1954, amendments were proposed which related to the same articles of the constitution as the amendments which will be on the ballot in November, 1956. To assist the reader in differentiating between proposals made in 1954 and those to be voted on in 1956, the following brief summary of the differences is presented.

1956 AMENDMENT NO. 1 (The four-year term) is more simple than its counterpart in 1954. The 1956 proposal is limited to amending section 1 of article IV, to provide for the four-year term, effective in 1959. The 1954 amendment sought not only to do this but also to make the change effective immediately. In addition, it provided for other complicating changes in sections 1, 19, and 21 of article IV.

1956 AMENDMENT NO. 2 (Household goods exemption) is more simple than its counterpart in 1954. For all practical purposes, the 1956 proposal is limited to removing the \$200 constitutional exemption of personal property and providing in lieu thereof that the general assembly may exempt from taxation household furnishings and personal effects which are not used for the production of income at any time. In contrast, the 1954 version gave the legislature broader powers to provide for exemptions of personal property, and it also sought to change the provisions relating to taxation of trailers and to the distribution of the specific ownership tax.

1956 AMENDMENT NO. 3 (Civil service) is more complex than its counterpart in 1954. The 1956 proposal sets forth a series of basic changes to the civil service section of article XII. The 1954 proposal merely added the position of director of the Colorado water conservation board to the list of officers exempt from the classified service. This change is not included in the 1956 amendment.

1956 AMENDMENT NO. 4 (Reapportionment) approaches the matter of apportioning legislative seats in a manner different from the proposal two years ago. The 1956 proposal places the apportionment of all legislative seats strictly upon the basis of population, with the supreme court responsible for the districting, and the first such apportionment to be made by it in 1957. In 1954, the senatorial districts were set forth in the amendment, and they provided for area representation. The seats in the house of representatives were to be apportioned on the basis of population, with the general assembly responsible

for the districting (the chief justice of the supreme court to appoint a commission for this purpose in the event the legislature failed to act). The 1954 amendment was to become effective in 1962.

1956 AMENDMENT NO. 5 (Old age pension) provides a number of changes to article XXIV, whereas in 1954 the proposed amendment merely added the phrase "unless otherwise provided for by law" to the existing provisions requiring deduction of net income from the amount of pension otherwise receivable.