Amendment 40

Colorado Legislative Council Staff

FISCAL IMPACT STATEMENT

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Fiscal Analyst: Gary J. Estenson — 303-866-4976

BALLOT TITLE: An amendment to the Colorado constitution concerning term limits for appellate court judges, and, in connection therewith, reducing the terms of office for justices of the Supreme Court and judges of the Court of Appeals to four years, requiring appellate judges serving as of January 1, 2007, to stand for retention at the next general election, if eligible for another term, prohibiting an appellate judge from serving more than three terms, specifying that a provisional term constitutes a full term, and making any appellate judge who has served ten or more years at one court level ineligible for another term at that level.

Summary of Amendment

Under current law, regular judicial terms equal ten years for members of the Colorado Supreme Court and eight years for members of the Colorado Court of Appeals. Prior to serving a regular term, members serve a provisional term. The provisional term must equal at least two years and begins the date a member is sworn into office and ends the second Tuesday in January following a general election. At the general election preceding the end of a term, a member "stands for retention" which gives voters the option of either keeping or removing the member from the bench. However, voters cannot choose a replacement judge or justice. The number of terms a member may serve is unlimited as long as he or she continues to be retained by voters.

Amendment 40 reduces from ten years to four years the regular term length for state Supreme Court members and from eight years to four years the regular term length for state Court of Appeals members. Effective January 1, 2007, all incumbent members shall stand for retention at the next general election (November 4, 2008) unless the member has served ten years or more, in which case the member shall be ineligible to stand for retention. The amendment limits to three the number of judicial terms that a member may serve, defines a provisional term to equal one term, and prohibits members who have served at least ten years at any one appellate court level from serving additional terms.

State Expenditures

While the amendment is effective January 1, 2007, no fiscal impact is anticipated in FY 2006-07 or FY 2007-08 because no court members will be required to vacate office during these budget years. The fiscal impact in subsequent years is unknown because the number of cases pending in the state appellate court system at the time current members leave office cannot be quantified at this time.
Amendment 40 will increase turnover among the seven justices on the Colorado Supreme Court and the nineteen judges on the Colorado Court of Appeals. Specifically, it will require five justices and seven judges to vacate office on January 13, 2009. It also subjects all other justices and judges serving on these courts to a retention vote on November 4, 2008, which could further increase turnover.

New justices and judges will need time to receive training in judicial procedure and review pending cases, which could increase the time required to resolve cases as well as increase the backlog of cases. Even if these impacts do not directly affect costs in the short-term, in the future they will likely affect appellate court caseloads and may affect associated staffing levels, both within the courts and in those agencies that work with the courts.

The increase in judicial turnover will also increase membership in the state judicial retirement system. However, retirement costs are not anticipated to increase because a reduction in length of service per judge will offset the increases in retirement system membership. The fiscal note assumes that any additional resources requested by the Judicial Branch will be considered as part of the annual budget process.