



# COLORADO LEGISLATIVE DRAFTING MANUAL

*prepared by*  
**THE OFFICE OF LEGISLATIVE  
LEGAL SERVICES**

*an agency of the  
Colorado General Assembly*

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## INTRODUCTORY NOTE

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This Legislative Drafting Manual is designed primarily for legislative drafters in the Colorado General Assembly's Office of Legislative Legal Services. The first edition of the Drafting Manual was prepared in 1977 by the Legislative Drafting Office. Subsequent editions have occurred over the years and updates have been issued through replacement pages. Effective October 2009, the Drafting Manual will be updated electronically.

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"section" is not capitalized. References to federal law found in the United States Code take the following form: "42 U.S.C. sec. 1315". References to federal public laws are written "Federal Public Law 92-603". If the sponsor's intention is to include future amendments to the federal law in the citation, the phrase "as amended" should be included and is preferable to the phrases "and amendments thereto" or "as from time to time amended". The drafter should use as many references to a short title, U.S.C.A., and statutes at large as are available and known to be accurate.

#### D. References to Committees of Reference

When referring to a committee of reference in a bill or a resolution, the drafter should use the correct name of the committee followed by the phrase "or any successor committee". This is necessary to avoid inaccurate references in the statutes if the general assembly changes the name of the committee. For example, "The report shall be submitted to the business affairs and labor committee of the house of representatives, or any successor committee, and the business, labor and technology committee of the senate, or any successor committee." If the committee of reference is a statutorily created committee like joint budget committee or legislative audit committee use the statutorily-given name and do not include the successor committee phrase.

### VII. GRAMMAR, STYLE, AND USE OF PLAIN LANGUAGE

This manual does not attempt to educate the drafter thoroughly in grammatical construction or punctuation in writing bills. Numerous legislative manuals of other states and a textbook titled "Legislative Drafting" by Reed Dickerson discuss rules of grammatical construction and word usage in great detail. These manuals and textbook are available in the Office of Legislative Legal Services for any drafter who wishes to become more familiar with practices followed in well-worded and well-constructed legislation. Basically, the fundamental rules of grammatical construction used in composition are used in statutory drafting. In addition, bills and amendments are required by statute to be drafted in plain language. To avoid confusion and duplication, the guidelines on the use of plain language and the principles of grammar and style have been consolidated in this chapter.

Under section 2-2-801, C.R.S., the staff of the Office of Legislative Legal Services and others are required to draft bills and amendments in plain, nontechnical language:

**2-2-801. Plain language requirement in state laws.** Any person, including members of the general assembly and employees of each house of the general assembly, the office of legislative legal services, the legislative council staff, and the staff of the joint budget committee, shall ensure that, to the extent possible, *all bills and amendments to bills prepared or proposed by such person are written in plain, nontechnical language and in a clear and coherent manner using words with common and everyday meaning which are understandable to the average reader.* Enactment of a bill by the general assembly shall create a presumption that such bill conforms to this section. (Emphasis added.)

In addition, section 1-40-105 (1), C.R.S., provides similar requirements for initiatives:

**1-40-105. Filing procedure - review and comment - amendments - filing with secretary of state.** (1) The original typewritten draft of every initiative petition for a proposed law or amendment to the state constitution to be enacted by the people, before it is signed by any elector, shall be submitted by the proponents of the petition to the directors of the legislative council and the office of legislative legal services for review and comment. *Proponents are encouraged to write such drafts in plain, nontechnical language and in a clear and coherent manner using words with common and everyday meaning which are understandable to the average reader.* Upon request, any agency in the executive department shall assist in reviewing and preparing comments on the petition. No later than two weeks after the date of submission of the original draft, unless it is withdrawn by the proponents, the directors of the legislative council and the office of legislative legal services, or their designees, shall render their comments to the proponents of the petition concerning the format or contents of the petition at a meeting open to the public. *Where appropriate, such comments shall also contain suggested editorial changes to promote compliance with the plain language provisions of this section.* Except with the permission of the proponents, the comments shall not be disclosed to any person other than the proponents prior to the public meeting with the proponents of the petition. (Emphasis added.)

### **Guidelines for the Use of Plain Language and Principles of Grammar and Style**

In drafting bills and amendments, drafters should consider the following guidelines to ensure that the written product is written in plain language and uses proper grammar:

**1. The meaning of statutes should be clear and easily understood.**

All of the concepts presented here are directed towards making the statutes clear in meaning and understandable to the public.

**2. Use proper grammar and follow the drafting manual requirements - use standard English.**

**3. Use simple sentences and use simple words**

For example, "A violation of this act *is* a misdemeanor" is preferable to "A violation of this act *constitutes* a misdemeanor" ..

**4. Be brief, but not to the extent that clarity is lost. Draft short sections, subsections, and paragraphs and use short and simple sentences wherever possible.**

Generally, *the shorter a bill can be drafted, the better*; but do not become so intent on brevity that all necessary requirements are not adequately treated. For example, a drafter once wrote that "Absentee voting shall be permitted in the election provided for in this act" but set up no procedure as to how such absentee voting would be handled. The drafter should have outlined a detailed procedure providing for the method of absentee voting or,

better still, referred to and adopted the specific procedure used for absentee voting in an election law already on the statute books that was adaptable to the bill.

**5. Use the structure of the statutes to assist you.**

A sentence that is lengthy or difficult to follow may be made clear through the proper use of subdivisions in the statutes.

**6. Use the active voice in your sentences.**

*Passive voice:* A notice *shall be mailed* by first class mail by the commission to the parties within fifteen days after issuance of an order.

*Active voice:* The *commission shall mail* a notice by first class mail to the parties within fifteen days after issuance of the order.

*Passive voice:* A permit *shall be issued* by the state engineer.

*Active voice:* The state engineer *shall issue* a permit.

**7. Provisions should generally be stated in the present tense. Avoid use of the future tense.**

*Future tense:* The penalty for any violation of this section *shall be* one hundred dollars.

Also note that this sentence uses "shall" to indicate a future occurrence. In the statutes, "shall" should be used to indicate a command. (See paragraph 20. a. below.)

*Present tense:* The penalty for any violation of this section *is* one hundred dollars.

Do not use the word "shall" to state a rule of law but use it only to differentiate between mandatory and permissive statements. For example, "A violation of any provision of this article *is* a misdemeanor" is preferable to "A violation of any provision of this article *shall be* a misdemeanor".

**8. Use the singular instead of the plural wherever possible.** Part 1 of article 4 of title 2, C.R.S., provides in part as follows:

**2-4-102. Singular and plural.** The singular includes the plural, and the plural includes the singular.

If the plural must be used in a compound word, the significant word takes the plural:

attorneys-at-law

corporation counsels

deputy sheriffs

grants-in-aid  
judge advocates

notaries public  
rights-of-way

trade unions

#### 9. Use base verbs.

*Nominalization:* The commission shall *make a determination* whether the application is approved within fifteen days of filing.

*Base verb:* The commission shall *determine* whether the application is approved within fifteen days of filing.

**10. Use common words, avoiding technical terms or "legalese". However, terms of art should be used if they are appropriate.**

#### 11. Use the common meanings of words.

Strained meanings for words, even if precisely defined in the statutes, may lead to confusion or misinterpretation.

#### 12. Avoid redundant phrases.

Examples: Null and void; full and complete; true and correct.

For "null and void" use "void"; for "shall be in force and effect" use "shall take effect"; and for "authorized and empowered" use "may".

#### 13. Use only necessary words.

Courts attempt to give meaning to all words in a statute. There shouldn't be any unneeded words.

For example, the following is too verbose:

The chief clerk is hereby authorized and it shall be his duty to sign and approve every order which may be issued by the commission, and said chief clerk shall have every such order published as provided for in this article.

A more concise and direct statement follows:

The chief clerk shall sign every order of the commission and provide for the publication of such order as required by section X-X-XXX.

#### 14. Avoid the use of archaic terms.

For example, words like "whomsoever" or "aforementioned". In short, never use a "big" word when a simple word will do.