

Document: Colo. Const. Art. IV, Section 9

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[Colorado Revised Statutes Annotated](#) [Constitution of the State of Colorado](#) [Article IV](#)
[Executive Department](#)

Section 9. GOVERNOR MAY CONVENE LEGISLATURE OR SENATE

The governor may, on extraordinary occasions convene the general assembly, by proclamation, stating therein the purpose for which it is to assemble; but at such special session no business shall be transacted other than that specially named in the proclamation. He may by proclamation, convene the senate in extraordinary session for the transaction of executive business.

History

Source: Entire article added, effective August 1, 1876, see **L. 1877**, P. 35.

▼ Annotations

State Notes

ANNOTATION

Law reviews. For article, "How the Colorado General Assembly Works", see 45 Colo. Law. 33 (Dec. 2016).

This section is one of the exceptions referred to in art. III of this constitution. People v. McKenna, 199 Colo. 452, 611 P.2d 574 (1980).

Governor's authority not to offend separation of powers. The governor's authority to prescribe the matters for legislative action must be reasonably interpreted so as not to offend the separation of powers requirement. Empire Sav., Bldg. & Loan Ass'n v. Otero Sav. & Loan Ass'n, 640 P.2d 1151 (Colo. 1982).

Executive alone determines necessity of session. The necessity for the convention of the general assembly in special session, under this section, rests entirely with the executive. In re State Census, 9 Colo. 642, 21 P. 477 (1886).

Legislation not within items of governor's call prohibited. The general assembly was prohibited from attempting to repeal aid to needy disabled under § 26-1-109 (9)(a) and replace it with an aid to temporarily disabled program where the legislation was not within items of governor's call. (Decided under prior version of § 7 of article V.) Burciaga v. Shea, 187 Colo. 78, 530 P.2d 508 (1974).

Scope of sessions. The session in even-numbered years is a "limited one" in which only fiscal matters and bills pertaining to subjects designated by the governor in writing during the first 10 days of the session can be considered. (Decided under prior version of § 7 of article V.) In re Legislative Reapportionment, 150 Colo. 380, 374 P.2d 66 (1962).

Governor may not prescribe form of legislation. The governor may define the appropriate subject matter for legislative consideration, but he may not prescribe the specific form that the legislation will take. Empire Sav., Bldg. & Loan Ass'n v. Otero Sav. & Loan Ass'n, 640 P.2d 1151 (Colo. 1982).

He must specially name subject matter of legislation. This constitutional provision contemplates that there shall first exist in the executive's mind a definite conception of a public emergency, which demands an extraordinary session, and then he may convene the general assembly for action upon that particular subject matter, to be specially named. Denver & R. G. R. R. v. Moss, 50 Colo. 282, 115 P. 696 (1911).

By this section, the governor is invested with extraordinary powers; he alone is to determine when there is an extraordinary occasion for convening the general assembly; and he alone is to designate the business which the general assembly is to transact when thus convened. In re Governor's Proclamation, 19 Colo. 333, 35 P. 530 (1894).

Extraordinary sessions of the general assembly can only be convened by the governor, and the business transacted therein is limited to that named in the proclamation. In re Interrogatories of Senate, 94 Colo. 215, 29 P.2d 705 (1934).

Otherwise no law at all can be enacted. The executive, in convening the general assembly in special session, has, under the constitution, the sole authority to designate the particular subject matter to which legislation shall be directed. If this duty is not performed by the executive, and if the proclamation calling the special session fails to name any particular subject matter to which the general assembly is to direct its attention, it can enact no law at all. Denver & R. G. R. R. v. Moss, 50 Colo. 282, 115 P. 696 (1911).

As the general assembly cannot go beyond limits of business specially named in the proclamation; nor can it legislate upon business not named in the proclamation. In re Governor's Proclamation, 19 Colo. 333, 35 P. 530 (1894).

But within limits of such business it may act freely, in whole or in part, or not at all, as deemed expedient according to its own judgment. The general assembly must do this much, or the right of legislating by the representatives of a free people at a special session is destroyed, and all our ideas of such right are rendered obsolete. In re Governor's Proclamation, 19 Colo. 333, 35 P. 530 (1894).

The executive, in convening the general assembly in special session, has no power to direct what legislation shall be enacted. Denver & R. G. R. R. v. Moss, 50 Colo. 282, 115 P. 696 (1911).

In designating in the proclamation convening the general assembly the law in relation to elections, the whole subject matter of such laws was before the general assembly, and specific instructions as to an amendment to such laws could be regarded only as advisory. People ex rel. McGaffey v. District Court, 23 Colo. 150, 46 P. 681 (1896).

Proclamation may include proposals for amendments to constitution. There is no express provision in this section, or elsewhere in the constitution which prohibits the governor from including in his proclamation, convening a special session of the general assembly, proposals for amendments to the constitution. Pearce v. People ex rel. Tate, 53 Colo. 399, 127 P. 224 (1912).

But where purpose of proclamation too broad. A proclamation convening the general assembly in special session, naming as the purpose for which it is to assemble, "To enact any and all legislation relating to, or in any wise affecting, corporations, both foreign and domestic, of a quasi-public nature", was too broad and indefinite to comply with the intent of the constitution,

because it leaves to the general assembly itself, the choice of the subject matter or matters upon which legislation shall be undertaken. *Denver & R. G. R. R. v. Moss*, 50 Colo. 282, 115 P. 696 (1911).

Legislation within purview of proclamation. A house bill concerning emergency relief legislation and employment on public works was within the purview of the governor's proclamation calling a second extraordinary session of the general assembly for the purpose of enacting legislation to allay public discontent and social unrest and to prevent disaster in the critical emergency. *In re Senate Resolution No. 2*, 94 Colo. 101, 31 P.2d 325 (1933).

Successful grounds for challenging legislation passed by general assembly. Challenges to legislation on the basis that the bill passed by the general assembly exceeded the limits of the governor's call for a special session have been successful on two grounds: (1) That the governor's call was too broad (*Denver & R.G.R.R. v. Moss*, 50 Colo. 282, 115 P. 696 (1911)); or (2) that the governor's call was too specific (*People ex rel. McGaffey v. District Court*, 23 Colo. 150, 46 P. 681 (1896); *In re Governor's Proclamation*, 19 Colo. 333, 35 P. 530 (1894)). *People v. McKenna*, 199 Colo. 452, 611 P.2d 574 (1980).

Applied in *Parsons v. People*, 32 Colo. 221, 76 P. 666 (1904).

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