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Colorado General Assembly

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MEMORANDUM

TO: Diane Schwenke and David Davia
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: April 1, 2020
SUBJECT: Proposed initiative measure 2019-2020 #307, concerning the Colorado Independent Oil and Gas Board

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado Constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of the Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with a series of initiatives including proposed initiatives 2019-2020 #308 to #313. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2019-2020 #308 to #313, except as necessary to fully understand the issues raised by this proposed initiative. Comments and questions addressed in the other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendments to the Colorado Constitution and Colorado Revised Statutes appear to be:

1. To replace the existing oil and gas conservation commission (hereafter, the "commission") with a newly established Colorado independent oil and gas board (hereafter, "independent board");
2. To remove the independent board from partisan, political, and interest group pressure as far as is practicable;
3. To require that the independent board:
 - a. In general, balance the protection of the public health, safety, and welfare of citizens with the responsible development of oil, gas, and mineral resources;
 - b. Specifically establish minimum distance requirements for new oil and gas development as a statewide standard and set a minimum financial assurance per well;
 - c. Not repeal or make less stringent certain listed rules; and
 - d. Promulgate new rules only upon joint agreement of the independent board and certain other listed state rule-making entities; and
4. To specify that local governments:
 - a. Shall ensure that their oil and gas development laws and regulations are feasible, reasonable, and balanced between protection of the public health, safety, and welfare of citizens and responsible development of oil, gas, and mineral resources; and
 - b. Have the authority to plan for and regulate oil and gas development by:
 - i. Requiring a 1,000-foot setback for new oil and natural gas development from certain areas;
 - ii. Requiring new permit holders to conduct additional air quality monitoring around new oil and gas locations;

- iii. Requiring new permit holders to ensure the safety of plugged and abandoned wells in areas where new production has occurred;
- iv. Regulating flowlines; and
- v. Requiring enhanced health and safety training for workers in the oil and gas industry.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado Constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. Under section 1-40-105.5, C.R.S., the director of research of the Legislative Council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
 - a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
 - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
 - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the Legislative Council staff at BallotImpactEstimates.ga@state.co.us.
3. The section of the proposed initiative that amends the Colorado Constitution may be amended only by a subsequent amendment to the constitution. Is this your intention?
4. In several subsections of section 17 of article XVIII, including specifically subsection (1)(a), a new regulatory paradigm is stated: The independent board is directed to ensure that its regulation of oil and gas development is balanced between protection of the public health, safety, and welfare of citizens and the responsible development of oil, gas, and mineral resources. Existing statute

already states an overall regulatory paradigm. In particular, section 34-60-102 (1)(a)(I) and (1)(a)(IV), C.R.S., directs the commission to:

Regulate the development and production of the natural resources of oil and gas in the state of Colorado in a manner that protects public health, safety, and welfare, including protection of the environment and wildlife resources; [and p]lan and manage oil and gas operations in a manner that balances development with wildlife conservation.

And 34-60-106 (2.5)(a), C.R.S., directs the commission to:

Regulate oil and gas operations in a reasonable manner to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and shall protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations.

- a. The proposed initiative amends numerous statutes that are apparently inconsistent with the proposed initiative, but does not amend these statutory directives to the commission. If the proposed initiative were adopted, is it the proponents' intent that these statutory directives would become void as being inconsistent with the proposed initiative? Or is it the proponents' intent that the independent board would have to construe the existing statutory directives in line with the new constitutional requirements? Would the proponents consider clarifying this issue?
 - b. The new regulatory paradigm relates to the responsible development of "oil, gas and mineral resources." What mineral resources would the independent board regulate other than oil and gas? If none, would the proponents consider deleting all references to "mineral resources"?
5. With regard to section 17 (1)(b) of article XVIII:
- a. There is a reference to "producers." Is a producer the same as an "operator" as that term is defined in section 34-60-103 (6.8), C.R.S.? If so, would the proponents consider using the already established term? Compare this use of the term with the use of the term "operator" in section 17 (11)(e).
 - b. There is a reference to "rules, regulations and other decisions . . .". Numerous other provisions in the proposed initiative also refer to "regulations" in connection with the word "rule." Section 24-4-102 (15), C.R.S., specifies that "[r]ule' includes 'regulation.'" Do the proponents intend "regulation" to mean something other than a rule adopted by a

state rule-making entity? If not, would you consider deleting all references to "regulation" and using only the term "rule"?

6. Section 17 (1)(c) of article XVIII refers to "checks and balances that would prevent any one person, any one political party, or any one interest group from exerting control or undue influence over the decisions of the independent board." The proponents might consider adding "or more" after "one" in these contexts. It's possible that no one person, political party, or interest group would exert control or undue influence but that, in collaboration, two or more could. A similar issue applies in section 17 (1)(f).
7. Section 17 (3)(b) of article XVIII refers to prohibited conflicts of interest.
 - a. This phrase could be interpreted to mean a person avidly opposed to, or avidly in support of, oil and gas development instead of meaning a person with a personal or pecuniary interest in a particular oil and gas development. The proponents should consider clarifying the proposed initiative in this regard.
 - b. Unlike the examples given for serving in the General Assembly and serving as a paid political party employee, there is no time period associated with the examples for being registered as a lobbyist or serving in an official capacity with an entity that educates or advocates for or against oil and gas activity. Is it the proponents' intent that these activities only create conflicts of interest for the period that the individual is registered as a lobbyist or serves in such official capacity? Or is it the proponents' intent that these activities create lifetime conflicts of interest, beyond the time that a person is registered as a lobbyist or serving in such official capacity? Would the proponents consider clarifying the proposed initiative in this regard?
 - c. With respect to the last sentence, would a person who "has worked for an energy or environmental entity [and whose] experience shows subject matter knowledge coupled with an ability to render informed, thorough, and balanced decision-making" still be eligible to serve on the independent board if that person worked for the energy or environmental entity as a lobbyist or in an official capacity for an energy or environmental entity that advocates for or against oil and gas activity?
8. Section 17 (4)(a) of article XVIII refers to "appointing authorities," but section 17 (6)(d) specifies that it is the panel appointed by the chief justice pursuant to section 17 (5)(a) that actually appoints members to the independent board. Do the proponents mean the panel by the reference to "appointing authorities"? If

so, would the proponents consider referring instead to the panel? If not, what is meant by "appointing authorities?" Do the proponents mean the "nominating authorities" described in section 17 (6)(c)?

9. With regard to the appointment of the panel pursuant to section 17 (5)(a) of article XVIII, does the judicial department require retired justices or judges to report their political affiliations or otherwise keep records on this information? If not, how would the chief justice determine retired justices' and judges' political affiliations?
10. With regard to the decisions of the panel pursuant to section 17 (5)(b) of article XVIII:
 - a. Would the panel's meetings be subject to the open meetings law, part 4 of article 6 of title 24, C.R.S.?
 - b. The judicial branch is not currently subject to the "Colorado Open Records Act," article 72 of title 24, C.R.S. Here, however, it could be argued that the panel is not acting in a judicial capacity, but performing more of an executive function. Do the proponents intend that the panel's records be open records subject to inspection?
11. Section 17 (5)(c) of article XVIII requires the General Assembly to prescribe by law the compensation of members of the panel. Section 17 (6)(b)(I) requires the panel to be established no later than March 15, 2021. Therefore, the General Assembly would need to pass, and the Governor would need to sign, a law providing for the panel's compensation before March 15, 2021, just two months after the 2021 session of the General Assembly commences. So as not to require the General Assembly to rush a bill through the first half of the 2021 session, would the proponents consider establishing an initial amount of compensation in the proposed initiative itself and allowing the General Assembly to adjust the compensation amount through passage of a bill?
12. Section 17 (5)(c) of article XVIII also specifies that "[n]onpartisan staff shall assist the panel in carrying out its duties." Pursuant to section 17 (5)(a), the panel consists of retired justices and judges appointed by the chief justice of the Colorado Supreme Court.
 - a. By having nonpartisan staff assist judicial officials in their duties, does this provision comply with separation of powers principles as specified in article III of the Colorado Constitution?
 - b. Many of the staff members of the Office of Legislative Legal Services are attorneys. The attorneys in the office serve their legal client, the

General Assembly, and its constituents, the legislators. Would providing the panel with legal advice, e.g., advising on how to interpret the board member qualifications under the proposed initiative, create a conflict for the attorney's role as counsel for the General Assembly, which is sometimes a party in cases before the judicial branch?

13. The introductory portion to section 17 (6)(c) of article XVIII and section 17 (6)(c)(III) refer to "officials," while section 17 (6)(c)(II) and 17 (6)(c)(IV) refer to "officials in this subsection" and section 17 (6)(d) refers to "officials in subsection (6)(c)." If the proponents intend to refer to the "officials specified in this subsection (6)(c)" or "officials specified in subsection (6)(c) of this section," would you consider using those phrases to eliminate ambiguity?
14. Section 17 (6)(c)(III) of article XVIII provides that if there are an insufficient number of qualified applicants, "then the officials may nominate only qualified applicants." It is unclear what the quoted phrase means. If the proponents intend the phrase to mean that the officials may nominate a fewer number of qualified applicants than the number required in section 17 (6)(c), would the proponents consider clarifying that intent?
15. Section 17 (6)(d) of article XVIII directs the panel, which is a judicial branch entity, to appoint members to the independent board, which is an executive branch entity. Under the separation of powers doctrine, article III of the Colorado Constitution, and as stated in the case *People v. Herrera*, 516 P.2d 626, 628 (Colo. 1973), "it seems obvious that the legislature is [] powerless to confer executive powers upon the judiciary." By granting members of the judicial branch the power to appoint independent board members within the executive branch, does this measure comply with separation of powers principles?
16. Subsections (8) and (10) of section 17 of article XVIII require independent board members and the director of the independent board to take oaths of office before commencing their official duties.
 - a. Section 8 of article XII of the Colorado Constitution requires civil officers "to take and subscribe an oath or affirmation." Likewise, section 24-12-101, C.R.S., governing oaths of office, authorizes a person to take an oath or affirmation. Would the proponents consider adding "or affirmation" after "oath" in both subsections (8) and (10) to comply with the constitutional and statutory provisions governing oaths?
 - b. Subsection (10) requires the director's oath to be filed with the Secretary of State, but subsection (8) does not require this for the board members'

oaths. Section 9 of article XII of the Colorado Constitution already requires that all executive officers' oaths be filed with the Secretary of State. Would the proponents consider adding the filing language in subsection (8) or removing it from subsection (10) to make the provisions consistent?

17. Section 17 (11)(a) of article XVIII twice refers to oil and gas "development and operations." Every other reference in the proposed initiative is to "oil and gas development" without any reference to "operations," while there are references to "oil and gas operations" in subsections (12)(a), (12)(b), (12)(c), (12)(d)(I), (12)(d)(II), and (13)(a). Do the proponents intend this distinction to have a substantive effect and, if so, what is that effect? If not, would the proponents consider making the references consistent?
18. Section 17 (11)(a) also provides that "all power and jurisdiction over oil and gas development and operations are hereby vested in the [independent] board."
 - a. It is not clear from this sentence that it refers only to regulatory power and jurisdiction and could be misconstrued to refer to the types of economic power and jurisdiction held by the owners of oil and gas development and operations. Would the proponents consider adding the word "regulatory" before "power" in that sentence to clarify?
 - b. How does vesting the independent board with all regulatory power and jurisdiction in this subsection (11)(a) accord with subsection (12), which authorizes the independent board to "share regulatory authority" with four other state rule-making entities?
 - c. How does vesting the independent board with all regulatory power and jurisdiction in this subsection (11)(a) accord with a local government's regulatory authority described in subsection (13)?
19. Section 17 (11)(d) of article XVIII requires the independent board to "establish minimum distance requirements for new oil and gas development as a statewide standard . . .". What is a "distance requirement"? If the distance requirement is a distance from new oil and gas development, what is the distance measured to?
20. Section 17 (11)(e) of article XVIII requires the independent board to set a minimum financial assurance per well.
 - a. In addition to meeting the requirements specified in this subsection (11)(e), must the financial assurance be sufficient to pay for the reasonably anticipated cost of ensuring compliance with all applicable requirements of the oil and gas laws?

- b. Is financial assurance not required for oil and gas facilities that are not wells, such as tanks, pipelines, etc.?
21. Section 17 (11)(f) of article XVIII requires the independent board to adopt as its initial rules and policies the commission's rules and policies as they existed on the effective date of the proposed initiative. Would the independent board need to conduct full rule-making processes to adopt the rules?
22. Section 17 (11)(g) of article XVIII prohibits the independent board from repealing certain listed rules or amending them to make them less stringent.
- a. What standards should be used to determine whether an amendment to one of the rules listed in the proposed initiative is "less stringent" than what existed in the rule on January 1, 2020, and who should make that determination?
 - b. Some of the rules incorporate national codes and standards by reference, thus making the codes and standards apply to Colorado oil and gas development. For example, Rule 603.e. (3), 2 CCR 404-1, of the commission requires drilling tests to be performed in accordance with American Petroleum Institute Standard 53: "Blowout Prevention Equipment Systems for Drilling Wells," 4th Edition (November 2012). If the standard itself is repealed or amended in a manner that makes it less stringent, that portion of the rule that requires compliance with the standard will effectively be rendered less stringent than what existed in the rule on January 1, 2020. If the proponents intend the proposed initiative to prohibit such consequence, how, if at all, does the current language in the proposed measure accomplish that?
 - c. Portions of the rules require compliance with federal law, most notably with the federal "Clean Air Act," 42 U.S.C. sec. 7412 et seq., as amended, and section 404 of the "Federal Water Pollution Control Act Amendments of 1972," better known as the "Clean Water Act," 33 U.S.C. sec. 1251 et seq., as amended. If either of these federal acts are repealed or amended in a manner that makes the federal act less stringent, that portion of a rule that requires compliance with the federal act will effectively be rendered less stringent than what existed in the rule on January 1, 2020. If you intend the proposed initiative to prohibit such consequence, how, if at all, does the current language in the proposed measure accomplish that?
 - d. What happens if circumstances change to the extent that one or more of the listed rules becomes so obsolete that it should, in keeping with the

proposed initiative's new regulatory paradigm, be repealed? Must the constitution be amended to allow for this?

- e. Two of the listed rules, in section 17 (11)(g)(VI) and (11)(g)(VII), were promulgated by the air quality control commission. The independent board has no legal authority to repeal or amend those rules. Would the proponents consider deleting these rules from section 17 (11)(g)?

23. Section 17 (12) of article XVIII specifies that the independent board shall "share regulatory authority and new rules shall become effective upon joint agreement of the independent board" and several listed state rule-making entities.

- a. Does this mean that all of the commission's existing statutory rule-making authority, which will become the independent board's statutory rule-making authority, may be exercised only upon joint agreement of the independent board and the applicable state rule-making entity? Or do some types of rule-making authority not require the joint agreement of any other state rule-making entity? If so, which types and how is this determined?
- b. In addition to restricting the independent board's rule-making authority, this subsection (12) also correspondingly increases the listed state rule-making entities' rule-making authority. But the proposed initiative does not amend the applicable statutory grants of rule-making authority for either the independent board or the listed state rule-making entities, and indicates only that section 34-60-105 (4), C.R.S., continues to govern the independent board's authority. Would the proponents consider clarifying the proposed initiative in this regard?
- c. How do the proponents envision that regulatory authority would be shared and that joint agreement of the entities would be reached and demonstrated?

24. Section 17 (13) of article XVIII specifies that, with listed exceptions, nothing in article XVIII affects local governments' authority to regulate oil and gas operations pursuant to article 65.1 of title 24 and sections 29-20-104 and 34-60-131, C.R.S.

- a. The proposed initiative does not define "local government." Would the existing statutory definition of that term in section 34-60-103 (5.3), C.R.S, apply or would it need to be amended?

- b. Section 17 (13)(c)(I) specifies that a local government may require any new oil and natural gas development to be located up to, but impliedly not more than, 1,000 feet from certain areas. What would happen if the independent board, pursuant to section 17 (11)(d), established a minimum distance requirement for new oil and gas development that exceeds 1,000 feet? Or does the 1,000 foot limit in section 17 (13)(c)(I) limit the independent board's authority in section 17 (11)(d)?
 - c. Section 17 (13)(c)(II) specifies that a local government may require "additional" air quality monitoring and section 17 (13)(c)(V) specifies that a local government may require "enhanced" health and safety training. What monitoring and training requirements are these extra local governmental requirements supplementing? Those required by existing local law? State law? Federal law? Those required by any future state or federal law?
25. Section 4 of the proposed initiative, which repeals section 34-60-104, C.R.S., is unnecessary because that section will be repealed no later than July 1, 2020. Would the proponents consider deleting section 4?
26. In repealing section 34-60-104.3, C.R.S., in section 5 of the proposed initiative:
- a. The proponents have repealed the requirement in subsection (3) that the commission report to the executive director of the department of natural resources at the times and on matters as the executive director requires. Do the proponents intend to repeal that provision with regard to the independent board? If so, why? If not, the proponents should add a corresponding statutory provision.
 - b. The proponents have repealed the requirement in subsection (4) that publications of the commission circulated outside the executive branch are subject to the approval of the executive director. Do the proponents intend to repeal that provision? If so, why? If not, the proponents should add a corresponding statutory provision.
27. In section 7 of the proposed initiative:
- a. By specifying that the commission's powers, duties, and functions are transferred by a **type 3** transfer to the independent board, several of the legal effects specified in parts of the new section 34-60-104.7, C.R.S., are redundant due to how a **type 3** transfer is defined in section 24-1-105, C.R.S. In particular, subsection (2) and the last sentence of subsection

(3) appear to be redundant. The proponents may wish to consider deleting those provisions.

- b. The independent board would be created in the Colorado Constitution under the proposed initiative. But the proposed initiative does not currently specify which type of transfer applies to the independent board. The proponents may wish to consider specifying in section 34-60-104.7, C.R.S., whether the independent board is transferred by a **type 1** or a **type 2** transfer and making a conforming amendment to section 24-1-124.

28. Section 9 of the proposed initiative states that local governments have regulatory authority over oil and gas development "as provided in paragraph (12) of section 17 of article XVIII of the Colorado constitution." But section 17 (12) does not mention local governments. Section 17 (13) does specify that nothing in article XVIII "alters, impairs, or negates the authority of a local government to regulate oil and gas operations pursuant to article 65.1 of title 24 and sections 29-20-104 and 34-60-131 . . .". Did the proponents intend to cite to section 17 (13) rather than section 17 (12)?

29. Section 10 of the proposed initiative specifies that staff of the independent board are covered officials for purposes of the portion of the "Colorado Sunshine Act of 1972" that regulates lobbyists' interactions with covered officials. This appears to be inconsistent with the existing statutory definition of a "covered official":

24-6-301. Definitions - legislative declaration. (1.7) "Covered official" means:

(b) For the type of lobbying defined in subparagraph (IV) of paragraph (a) of subsection (3.5) of this section, a member of a rule-making board or commission or a rule-making official of a state agency which has jurisdiction over the subject matter of a rule, standard, or rate.

A staff member of the independent board is not "a member of a rule-making board or commission or a rule-making official of a state agency which has jurisdiction over the subject matter of a rule, standard, or rate." If the proponents intend staff to be considered a covered official, you should consider amending this statutory definition.

30. Section 14 of the proposed initiative provides that sections 1 of and 2 of the proposed initiative take effect upon the Governor's proclamation and all other sections take effect July 1, 2021. Would the proponents consider adding section

13, the severability clause, to the list of sections that take effect upon the Governor's proclamation?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Each section in the Colorado Revised Statutes and the Colorado Constitution has a section number and a headnote. Headnotes briefly describe the content of the section.
 - a. A headnote should be added to sections 1 and 2 of the proposed initiative and be in bold-face type. For example:

Section 13. State personnel system – merit system. (2)(a) The state personnel system shall . . .
 - b. A headnote should not be in small capital letters and it is not necessary to show changes to a headnote in strikes or small capital letters. For example:

Section 17. Colorado independent oil and gas board. (1) **Declaration of the people.** THE PEOPLE OF THE STATE OF COLORADO . . .

34-60-104.5. Director of independent board – duties. (1) Pursuant to
2. Each nonstatutory section in a proposed initiative should also have a bold-face headnote.
 - a. Section 12 needs a bold-face headnote, such as "**Revisor of statutes.**"
 - b. The headnotes for sections 13 and 14 of the proposed initiative should be bold-face.
3. For constitutional and statutory citations:
 - a. It is standard drafting practice when referencing statutory sections to include the word "section" before the number. For example in section 17 (12) of article XVIII, "section 34-60-105 (4)."

- b. When referring to a provision within the same constitutional or statutory section, use the word "subsection" instead of "paragraph" or "subparagraph." See the examples in 3.c. and 3.d. below.
- c. The number or letter of what the proponents are referencing needs to be specified when referring to a provision within the same provision (note that the proponents do not need to specify the section number when referencing "this section"). For example:

Subsection: "this subsection (2)"

Paragraph: "this subsection (2)(a)"

Subparagraph: "this subsection (2)(a)(I)"

Sub-subparagraph: "this subsection (2)(a)(I)(B)"

- d. When referring to a subsection that is different from the subsection the reference is in, include the phrase "of this section." For example:

"subsection (11)(b) of this section"

"subsections (13)(b) and (13)(c) of this section"

- 4. The proposed initiative refers to both the "state constitution" and the "Colorado constitution" when referencing a constitutional section in statute. Both of those terms are appropriate, but the proponents may want to consider using only one of those terms for consistency. Similarly, the proponents refer to both the "independent board" and the "board," and may want to consider using only one of those terms for consistency.
- 5. Because the proposed initiative is adding language to the Colorado Constitution and it is referring to entities outside the constitution, consider adding the phrase, "or a successor statute/board/commission" to every reference to a statute, entity, etc.
- 6. In a constitutional provision, when referring to a provision in the Colorado Revised Statutes, the phrase "Colorado Revised Statutes," set off by commas, should be added to the reference. For example:

"section 34-60-105 (4), Colorado Revised Statutes,"

"article 7 of title 25, Colorado Revised Statutes,"

7. "Except that" is always preceded by a semicolon. For example in section 17 (12) of article XVIII, "Board members shall serve terms of four years each; except that, for the initial members . . ."
8. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized: The first letter of the first word of each entry of an enumeration paragraphed after a colon.
9. Use gender neutral language in the proposed initiative. For example, instead of "his," use "the governor's."
10. It is standard drafting practice to use commas to connect two independent clauses. Also, sometimes the proposed initiative uses a serial (or Oxford) comma before the second-to-last item in a series of three or more items, and sometimes it does not. The proponents should consider using one approach or the other. For comparison, the Colorado Revised Statutes uses the Oxford comma.
11. It is standard drafting practice to write numbers as words rather than as digits. For example, "1,000 feet" should be written as "one thousand feet."
12. It is unnecessary to capitalize the word "Citizen" in the proposed initiative.
13. Add hyphens to the following words for correct spelling: "decision making" and "vice chair."
14. Provisions that follow an introductory portion (IP) that are not complete sentences on their own should end with a semicolon. However, when a provision follows an IP and contains more than one sentence, it ends with a period. For example, subsections (1)(b) and (1)(c) in section 1 of the proposed initiative, which follow the IP in subsection (1), should end with periods because they each contain a full sentence.
15. Various provisions of the proposed initiative refer to the "Colorado" oil and gas conservation commission. Section 34-60-104 (1)(a), C.R.S., creates "the oil and gas conservation commission." Would the proponents consider deleting the word "Colorado" in these provisions?
16. With regard to section 17 (1)(c) of article XVIII:
 - a. Is "environmental and natural resource management" one thing? If so, an "and" is needed after "engineering."

- b. The phrase "who are biased, unqualified, or who have a conflict of interest" should be rewritten "who are biased or unqualified or who have a conflict of interest."
17. With regard to section 17 (1)(d) of article XVIII, does the word "seeking" relate to "through," as in "the board shall establish rules . . . through the application of best available . . . principles, through consideration of local input, and through seeking to resolve . . ."? Or should "seeking" actually be "seek," as in "the board shall establish rules . . . and shall seek to resolve . . ."? Or perhaps the "independent board shall establish rules . . . through the application of best available science . . . , and the resolution of conflicting factors . . .?"
 18. Should section 17 (1)(e) of article XVIII be rephrased to read "regulators should have comprehensive authority to monitor . . . and enforce **the** stringent development **of** laws and regulations. . .?"
 19. With regard to section 17 (6)(c) and (6)(f) of article XVIII, the phrase "relevant experience, skills and the ability to be impartial" should perhaps be rewritten to "relevant experience **and** skills and the ability to be impartial".
 20. In section 1 of the proposed initiative, there are several provisions that do not follow standard drafting practice for how to letter and organize provisions when a provision is subdivided and there is not an introductory portion. For example, subsection (4)(a) contains subparagraphs (I) and (II). In accordance with standard drafting practice, in order to subdivide subsection (4)(a) into subparagraphs as it is done in the proposed initiative, subsection (4)(a) should be an introductory portion. Since it is not, we recommend renumbering subsections (4)(a), (4)(a)(I), and (4)(a)(II) as (4)(a)(I), (4)(a)(II), and (4)(a)(III), respectively. See subsections (6)(a), (6)(c), and (6)(d) for more provisions that should be similarly reorganized.
 21. In section 1 of the proposed initiative, subsection (4)(b):
 - a. Refers to "commissioners" and "commission." Those should be changed to "members" or "board members" and "board," respectively.
 - b. Has a subject/verb disagreement. It could be rephrased as "Applicants may . . . with their application."
 22. In section 1 of the proposed initiative, subsection (6)(d) refers to "subsection 6(c)," but the parentheses are missing around the number "6."

23. In section 1 of the proposed initiative, subsection (6)(e) uses the word "comprise," but that should be changed to "be comprised of" for correct grammar.
24. Regarding subsection (11)(g) in section 1 of the proposed initiative:
- a. Consider changing "COGCC" and "AQCC" to "Oil and gas conservation commission" and "Air quality control commission," respectively, for reader-friendly purposes.
 - b. In subsection (11)(g)(I) to (11)(g)(V), for correct citation format and for consistency with how the commission refers to their rules, consider changing the citations to the rules as follows:
 - 2 CCR 404-1, Rules 601 to 610
 - 2 CCR 404-1, Rules 801 to 805
 - 2 CCR 404-1, Rules 901 to 912
 - 2 CCR 404-1, Rules 1001 to 1004
 - 2 CCR 404-1, Rules 1101 to 1105
 - c. In subsection (11)(g)(IV), consider changing "1000" to "1001" for consistency with how the other citations to the other rules are written.
 - d. In subsection (11)(g)(VI), change "II-C" to "II.C" for the correct citation.
25. With regard to section 17 (12) of article XVIII:
- a. The introductory portion ends with the word "the:". However, the paragraphs following that introductory portion also begin with the word "the." Either delete the word "the" from the end of introductory portion or delete the word from the beginning of each paragraph.
 - b. Each of the paragraphs (a) through (d) in subsection (12) appear to be incomplete sentences. To address this, after each statutory citation, one of the following could be inserted: "to regulate" or "regarding". For comparison, see the language in section 34-60-105 (1)(b), C.R.S., which is repealed in section 8 of the proposed initiative. For instance, subsection (12)(a) could read (along with an excerpt from the introductory portion):

. . . new rules shall become effective upon joint agreement of the independent board and the:

(a) Air quality control commission for rules pursuant to article 7 of title 25, Colorado Revised Statutes, REGARDING [or "TO REGULATE"] the emission of air pollutants from oil and gas operations;

26. In subsection (1)(a) of section 7 of the proposed initiative, the phrase "type 3" should be bold-face.
27. In subsection (3) of section 7 of the proposed initiative, the word "commission" is missing after the phrase "Colorado oil and gas conservation."
28. In sections 8 and 11 of the proposed initiative, the subparagraph numbers and sub-subparagraph letters of the repealed provisions should also be stricken. For example:

~~(1)(b) Any delegation of authority to any other state officer, board, or commission to administer any other laws of this state relating to the conservation of oil or gas, or either of them, is hereby rescinded and withdrawn, and that authority is unqualifiedly conferred upon the commission, as provided in this section; except that, as further specified in section 34-60-131, nothing in this article 60 alters, impairs, or negates the authority of:~~

~~(IV) The solid and hazardous waste commission to:~~

~~(A) Regulate, pursuant to article 15 of title 25, the disposal of hazardous waste from oil and gas operations; or~~

29. In the amending clause for section 9 of the proposed initiative, the word "**amend**" should be located before the section number for correct format, as follows:

SECTION 9. In Colorado Revised Statutes, **amend** 34-60-131 as follows:

30. Section 10 of the proposed initiative adds a new section 34-60-133 to the Colorado Revised Statutes. However, there is not a currently existing section 34-60-132. Consider adding 34-60-132 instead so that section numbers are not skipped.

31. With regard to section 11 of the proposed initiative:

- a. Add a semicolon in the amending clause after "(1)(a)" for correct format.
- b. The only substantive change that the proponents intend appears to be the substitution of the independent board for the commission and the specification of a new initial state fiscal year for the applicable appropriations. Rather than repealing subsection 39-29-109.3 (1)(a), C.R.S., and adding subsection (1.8), the proponents' intent might be

clearer if they simply amended subsection (1)(a) to substitute the independent board for the commission and specify a new initial state fiscal year.

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