

STATE OF COLORADO

Colorado General Assembly

Natalie Mullis, Director
Legislative Council Staff

Colorado Legislative Council
200 East Colfax Avenue Suite 029
Denver, Colorado 80203-1716
Telephone 303-866-3521
Facsimile 303-866-3855
Email: lcs.ga@state.co.us



Sharon L. Eubanks, Director
Office of Legislative Legal Services

Office of Legislative Legal Services
200 East Colfax Avenue Suite 091
Denver, Colorado 80203-1716
Telephone 303-866-2045
Facsimile 303-866-4157
Email: olls.ga@state.co.us

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 #311, 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 #307 to #310 and #312 and #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 #307 to #310 and #312 and #313, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those 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 amendment to the Colorado Constitution and Colorado Revised Statutes appear to be:

1. To replace the existing oil and gas conservation 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; and
3. To require that the independent board balance the protection of the public health, safety, and welfare of citizens with the responsible development of oil, gas, and mineral resources.

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. What is the proponents' intent in not including in this proposed initiative the following provisions of article XVIII that were included in proposed initiative 2019-2020 #307?
 - a. Section 17 (11)(b), which would require the independent board's actions, in addition to being reasonable, to be "necessary" and "feasible;"
 - b. Section 17 (11)(d), which would require the independent board to "establish minimum distance requirements for new oil and gas development as a statewide standard . . .";
 - c. Section 17 (11)(e), which would require the independent board to set a minimum financial assurance per well; and
 - d. Section 17 (13)(b) and (13)(c), which listed exceptions to the general rule that nothing in article XVII 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.

Technical Comments

No new technical comments were raised by this proposed initiative.