

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Greg Kishiyama and Ned Southwick
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 17, 2020
SUBJECT: Proposed initiative measure 2019-2020 #297, concerning Prohibit Restrictions on the Utilization of Natural Gas

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 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.

Purpose

The major purpose of the proposed amendment to the Colorado constitution appears to be to prohibit governmental inhibition of consumer choice through restrictions on the installation of natural gas utilization.

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 will be the effective date of the proposed initiative?
3. Under section 1-40-105.5, Colorado Revised Statutes, 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.
4. The proposed initiative covers natural gas, but not oil. May the state and local governments inhibit consumer choice regarding oil, and if so, why?
5. The relevant part of the "State Administrative Procedure Act," section 24-4-102 (15), Colorado Revised Statutes, defines "rule" to include "regulation." If the proponents intend to restrict state agency rules, would they consider changing "regulation" to "rule"?
6. What types of entities are covered by the phrase "local government"? Do the proponents wish to define the term and, if so, how?
7. What does the "installation of natural gas utilization" mean? The installation of equipment that can use natural gas? Something else? What does the phrase "install natural gas" mean? Would the proponents consider clarifying their intent?
8. The proposed initiative refers to the installation of natural gas utilization "in homes and businesses." Is there a place where natural gas utilization might be installed

that would not be covered by the proposed initiative? If so, would the proponents consider clarifying their intent?

9. A number of state statutes and rules and local government regulations related to broad topics, such as regulations requiring construction permits, taxation, or labor, could indirectly limit a consumer's ability to use or install natural gas for reasons other than safety. Do you intend that this initiative would prohibit those general regulations?
10. The last sentence indicates that the proposed initiative would modify, limit, or supersede any conflicting state statute or regulation. Would the proponents consider adding language that conflicting local ordinances or resolutions are preempted?

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. The amending clause should be rephrased, with bold formatting added to the word "add", as follows:

SECTION 1. In the constitution of the state of Colorado, **add** section 17 to article XVIII as follows:

2. The proposed initiative should add a section number and heading to the new proposed constitutional language. For example:

Section 17. [Insert the heading here]. NO STATE STATUTE . . .