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MEMORANDUM

April 4, 2012

TO: Maria Berry and Bruce Etkin

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2011-2012 #88, concerning county control of local development

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 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 proposed initiative 2011-2012 #87. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memorandum for proposed initiative 2011-2012 #87, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in the other memorandum may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum. Only new comments and questions specifically addressed to the provisions of proposed initiative 2011-2012 #87 are included in this memorandum.

Purposes

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To add a legislative declaration declaring that to effectuate local control of local development, counties should be allowed to impose local subdivision regulations on land divided into parcels of less than 640 acres.
2. To specify that the definition of "subdivision" and "subdivided land" does not apply to any division of land that creates parcels of land comprising 640 acres or more and that is not intended for use by multiple owners.

Substantive Comments and Questions

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

1. What is your intent in changing current law to specify that the terms "subdivision" and "subdivided land" shall not apply to any division of land that creates parcels of land each of which comprises 640 or more acres of land and none of which is intended for use by multiple owners?
2. Is it correct to state that, if the proposed initiative were to become law, land divided into parcels of 640 or more acres would be exempt from subdivision regulations, as contrasted with the 35-acre requirement under existing law? Please explain how increasing the size of a parcel subject to subdivision regulations from 35 acres to 640 acres will effectuate county control of local development?
3. Is there a significance to the number six hundred forty as the dividing line separating those parcels subject to, and not subject to, subdivision regulations?
4. Do you foresee any practical difficulties in connection with the application of the new "six hundred forty or more acres" requirement? If so, what difficulties do you anticipate?
5. Do you have any idea how many remaining parcels in the state would be subject to the modified exemption of 640 acres? Depending upon the number, is there any continuing purpose in maintaining an acreage requirement at any level?
6. Given the rural nature of all or most subdivisions containing larger parcels, i.e., between 35 and 640 acres, if the proposed initiative were to become law, would existing statutory provisions and rules affecting water supply, streets, and other public facilities need to be modified?