

STATE OF COLORADO

Colorado General Assembly

Kirk Mlinek, Director
Legislative Council Staff

Colorado Legislative Council
029 State Capitol Building
Denver, Colorado 80203-1784
Telephone (303) 866-3521
Facsimile (303) 866-3855
TDD (303) 866-3472
E-Mail: lcs.ga@state.co.us



Charles W. Pike, Director
Office of Legislative Legal Services

Office Of Legislative Legal Services
091 State Capitol Building
Denver, Colorado 80203-1782
Telephone (303) 866-2045
Facsimile (303) 866-4157
E-Mail: olls.ga@state.co.us

MEMORANDUM

April 2, 2007

TO: Matthew Garrington and Timothy Brown

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2007-2008 #10, concerning oil and gas conservation commission membership

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.

Purpose

The major purpose of the proposed amendment appears to be:

1. To specify that, effective July 1, 2009, no member appointed to the oil and gas conservation commission may be employed by or have a significant financial interest in the oil and gas industry.

Comments and Questions

The form and substance of the proposed initiative raise the following comments and questions:

Technical questions:

1. Ballot titles are set by the title board once proposed amendments are submitted to the secretary of state's office. Do the proponents intend the ballot title of the proposed amendment to be part of the statute? If not, would the proponents consider deleting the ballot title?
2. To conform to standard drafting practices, would the proponents consider:
 - a. Creating a section 1 for the proposed amendment and changing the amending clause as follows:

SECTION 1. 34-60-104 (2) (a), Colorado Revised Statutes, is amended, and the said 34-60-104 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

- b. Adding the current headnote for section 34-60-104, C.R.S, before the statutory language of that section in the proposed amendment? For example:

34-60-104. Oil and gas conservation commission - report - publication. Effective July 1, ~~1994~~ 2009, the commission shall consist of seven members . . .

- c. Deleting the following language before the new paragraph (c): "Subsection (2)(c) is added and shall read:"?
 - d. In paragraph (c):
 - i. Putting the new statutory language in SMALL CAPS?
 - ii. Deleting the words "Colorado Oil and Gas Conservation" before the word "Commission", since the oil and gas conservation commission is defined and shortened to the word "commission" in section 34-60-103 (2), C.R.S., for the article?
 - iii. Changing "Commission" to "commission"?

Substantive questions:

1. Section 1 (5.5) of article V of the state constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed amendment?
2. Are the commissioners holding office on July 1, 2009, subject to the new prohibition in the proposed amendment?
 - a. If so, what would the consequences be of having a significant financial interest in or being employed by the oil and gas industry?
 - b. Would the proponents consider making the proposal explicit in these regards?
3. What is a "significant financial interest" in the oil and gas industry?
4. What would happen to a commissioner who, after being appointed on or after July 1, 2009:
 - a. Acquires a significant financial interest in the oil and gas industry?
 - b. Becomes employed by the oil and gas industry?
5. Given that all of the other membership qualifications for the commission are contained in section 34-60-104 (2) (a), would the proponents consider placing the new prohibition in section 34-60-104 (2) (a) rather than in a new paragraph (c)? If so, the amending clause would read:

SECTION 1. 34-60-104 (2) (a), Colorado Revised Statutes,
is amended to read: