

March 22, 2000

The Honorable Pete T. Cenarrusa
Secretary of State

HAND DELIVERED

Re: Certificate of Review
Proposed Initiative Related to Annexation
of Adjacent Unincorporated Property

Dear Mr. Cenarrusa:

An initiative petition was filed with your office on March 15, 2000, which would repeal Idaho Code § 50-222 and replace it with two new code sections. Pursuant to Idaho Code § 34-1809, this office has reviewed the proposed initiative and has prepared the following advisory comments. It must be stressed that, given the strict statutory timeframe in which this office must respond and the complexity of the legal issues raised in this proposed initiative, our review can only isolate areas of concern and cannot provide in-depth analysis of each issue that may present problems. Further, under the review statute, the Attorney General's recommendations are "advisory only," and the petitioners are free to "accept or reject them in whole or in part."

BALLOT TITLES

Following the filing of the proposed initiative, our office will prepare short and long ballot titles. The ballot titles should impartially and succinctly state the purpose of the measure without being argumentative and without creating prejudice for or against the measure. While our office prepares the titles, if petitioners would like to propose language with these standards in mind, we would recommend that they do so and their proposed language will be considered.

MATTERS OF SUBSTANTIVE IMPORT

The initiative would make a number of changes to the manner in which annexation of adjacent unincorporated property is accomplished under Idaho law. New section 50-221A would require municipalities to hold hearings and conduct an election within an area proposed for annexation before actually annexing the area. Under new section 50-221A(6), a municipality may only proceed with a proposed annexation after a majority of the qualified electors in the area proposed for annexation have voted in favor of the annexation. The cost of the election would be borne by the municipality proposing the annexation.

Upon review, it is the opinion of this office that there is no constitutional or statutory impediment to the petitioners' proposed changes to the current procedure for annexing adjacent unincorporated property.

Sincerely,

ALAN G. LANCE
Attorney General

Analysis by:

MATTHEW J. MCKEOWN
Deputy Attorney General