

February 21, 2002

The Honorable Pete T. Cenarrusa
Secretary of State

HAND DELIVERED

Re: Certificate of Review
Initiative to Amend Idaho Code § 36-102

Dear Mr. Cenarrusa:

An initiative petition was filed with your office on January 31, 2002. Pursuant to Idaho Code § 34-1809, this office has reviewed the petition and has prepared the following advisory comments. It must be stressed that, given the strict statutory time frame in which this office must respond and the complexity of the legal issues raised in this petition, this office's 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 TITLE

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

Entitled "Initiative to Amend Title 36-102 That Governs the Idaho Fish And Game Commission," petitioners apparently seek to amend Idaho Code § 36-102. The amendments to Idaho Code § 36-102 are outlined as follows:

1. Reduce the number of members of the Idaho Fish and Game Commission from seven (7) members to five (5);
2. Eliminate the service of members to be at the pleasure of the Governor;
3. Eliminate the restriction on party (political) affiliation;

4. Create a Citizen Wildlife Advisory Council (CWAC), from which Commission members would be nominated;
5. Reduce the number of regions from seven (7) to five (5);
6. Amend the geographical boundaries of the regions in order to accomplish the above-referenced reduction;
7. Increase the length of the term from four (4) to six (6) years;
8. Provide for staggered terms.

The Idaho Fish and Game Commission is created pursuant to statute. Idaho Code § 36-101. Offices of legislative creation can be modified, controlled, or abolished by the legislature. *See Smylie v. Williams*, 81 Idaho 335, 341 P.2d 451 (1959). The initiative is recognized by the Idaho Constitution as a legislative power; therefore, these changes may be made through an initiative. Idaho Constitution article 3, § 1; *Smylie*. As a result, this measure does not appear to present any legal issues at this time.

CONCLUSION

I HEREBY CERTIFY that the enclosed measure has been reviewed for form, style and matters of substantive import and that the recommendations set forth above have been communicated to petitioner Kermit W. Andrus by deposit in the U.S. Mail of a copy of this certificate of review.

Sincerely,

ALAN G. LANCE
Attorney General

Analysis by:

BRIAN P. KANE
Deputy Attorney General