



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

July 22, 2004

VIA HAND DELIVERY

The Honorable Ben Ysursa
Idaho Secretary of State
Statehouse

Re: Certificate of Review
Proposed Initiative To Repeal The Right To Work Law (Idaho Code §§ 44-2001 - 44-2012)

Dear Mr. Secretary:

An initiative petition was filed with your office on July 9, 2004. Pursuant to Idaho Code § 34-1809, this office has reviewed the petition and 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." The petitioners are free to "accept or reject them in whole or in part." The opinions expressed in this review are only those which may affect the legality of the initiative. This office offers no opinion with regard to the policy issues raised by this proposed initiative.

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

Petitioner has submitted a proposed initiative seeking to repeal Idaho Code §§ 44-2001 – 44-2012, commonly known as Idaho's "Right to Work" law. As a series of legislative enactments, these code sections are subject to repeal by the initiative power reserved to the people by the Idaho Constitution. Idaho Const. art. III, § 1.

Article III, § 1 of the Idaho Constitution vests the legislative power of the state in the Senate and House of Representatives, and in the people through the initiative process. Laws passed by initiative are on equal footing with legislation enacted by the legislature, and the two must comply with the same constitutional requirements. Westerberg v. Andrus, 114 Idaho 401, 757 P.2d 664 (1984). As both the proposed initiative and the law it seeks to repeal are interpreted to be on "equal footing," this proposed initiative does not appear to raise any significant legal issues.

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 David D. Whaley by deposit in the U.S. Mail of a copy of this certificate of review.

Sincerely,



LAWRENCE G. WASDEN
Attorney General

Analysis by:

Brian P. Kane
Deputy Attorney General

LGW/bpk/mdw