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S. WARD
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Initiative 2015-2016 #64

Colorado Secretary of State

Be it Enacted by the People of the State of Colorado:

SECTION 1. Add Article XXX to the constitution of the state of Colorado as follows:

ARTICLE XXX

Local Government Control of Oil and Gas Development

Section 1. Purposes and findings. THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE:

(a) THAT OIL AND GAS DEVELOPMENT, INCLUDING BUT NOT LIMITED TO THE USE OF HYDRAULIC FRACTURING, HAS DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT;

(b) THAT THESE DETRIMENTAL IMPACTS ARE EXPERIENCED MOST DIRECTLY IN LOCAL COMMUNITIES;

(c) THAT THE STATE OF COLORADO HAS A COMPELLING INTEREST TO PREVENT AND MITIGATE DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT, AND SHALL ENCOURAGE, FACILITATE, AND DEFEND EFFORTS BY LOCAL GOVERNMENTS TO PREVENT AND MITIGATE THESE DETRIMENTAL IMPACTS;

(d) THAT LOCAL GOVERNMENTS HAVE BROAD AUTHORITY TO PLAN FOR AND REGULATE LAND USE WITHIN THEIR JURISDICTIONS, INCLUDING THE AUTHORITY TO REGULATE LAND USE TO LIMIT ANY DETRIMENTAL IMPACT ON THEIR COMMUNITY OR SURROUNDING AREAS;

(e) THAT IMPLIED OR EXPRESSED THREATS OF LEGAL ACTION TO INVOKE STATE PREEMPTION RESTRICT THE ABILITY OF LOCAL GOVERNMENTS TO PREVENT AND MITIGATE THE DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT IN LOCAL COMMUNITIES, AND TO PROTECT THE NATURAL, ESSENTIAL AND INALIENABLE RIGHTS ESTABLISHED IN THIS CONSTITUTION; AND

(f) THAT TO PRESERVE THE PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT, THE PEOPLE DESIRE TO EXPRESSLY GRANT TO LOCAL GOVERNMENTS THE AUTHORITY TO PREVENT OR MITIGATE DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT, WITHOUT RISK OF STATE PREEMPTION, EVEN IF SUCH ACTS IMPOSE RESTRICTIONS ON OIL AND GAS DEVELOPMENT.

Section 2. Definitions. (a) FOR PURPOSES OF THIS ARTICLE, "LOCAL GOVERNMENT" MEANS ANY STATUTORY OR HOME RULE COUNTY, CITY AND COUNTY, CITY, OR TOWN, LOCATED IN THE STATE OF COLORADO, NOTWITHSTANDING ANY PROVISION OF ARTICLE XX OR SECTION 16 OF ARTICLE XIV OF THE COLORADO CONSTITUTION.

(b) FOR PURPOSES OF THIS ARTICLE, "OIL AND GAS DEVELOPMENT" MEANS EXPLORATION FOR, AND DRILLING, PRODUCTION, PROCESSING AND STORAGE OF OIL, GAS, OTHER GASEOUS AND LIQUID HYDROCARBONS, AND CARBON DIOXIDE, AS WELL AS THE TREATMENT AND DISPOSAL OF WASTE ASSOCIATED WITH SUCH EXPLORATION, DRILLING, STORAGE, PRODUCTION AND PROCESSING. "OIL AND GAS DEVELOPMENT" INCLUDES THE USE OF HYDRAULIC FRACTURING AND ASSOCIATED COMPONENTS.

Section 3. Grant of authority. (a) THE PEOPLE OF THE STATE OF COLORADO HEREBY VEST IN LOCAL GOVERNMENTS THE POWER AND AUTHORITY TO ADOPT LAWS, REGULATIONS,

ORDINANCES OR CHARTER PROVISIONS CONCERNING OIL AND GAS DEVELOPMENT WITHIN THEIR GEOGRAPHIC BORDERS; THIS POWER, AND AUTHORITY INCLUDES THE ABILITY TO ENACT PROHIBITIONS, MORATORIA, OR LIMITS ON OIL AND GAS DEVELOPMENT. SUCH LOCAL LAWS, REGULATIONS, ORDINANCES, OR CHARTER PROVISIONS MAY BE MORE RESTRICTIVE OF OIL AND GAS DEVELOPMENT THAN LAWS ENACTED BY THE GENERAL ASSEMBLY OR REGULATIONS ADOPTED BY EXECUTIVE AGENCIES OF THE STATE, BUT SHALL NOT BE LESS PROTECTIVE OF A COMMUNITY'S HEALTH, SAFETY, GENERAL WELFARE, AND ENVIRONMENT THAN LAWS ENACTED BY THE GENERAL ASSEMBLY OR REGULATIONS ADOPTED BY EXECUTIVE AGENCIES OF THE STATE.

(b) IN MATTERS OF LOCAL, STATEWIDE, OR MIXED LOCAL AND STATE CONCERN, LOCAL LAWS, REGULATIONS, ORDINANCES OR CHARTER PROVISIONS THAT ARE ENACTED TO PREVENT OR MITIGATE LOCAL IMPACTS FROM OIL AND GAS DEVELOPMENT ARE NOT SUBJECT TO PREEMPTION BY THE STATE OR AN AGENCY OF THE STATE, EVEN IF SUCH LOCAL LAWS, REGULATIONS, ORDINANCES OR CHARTER PROVISIONS CONFLICT WITH A STATE STATUTE, ARE MORE RESTRICTIVE ON OIL AND GAS DEVELOPMENT THAN A STATE STATUTE, AND WOULD MATERIALLY IMPEDE A STATE INTEREST IN REGULATING OIL AND GAS DEVELOPMENT.

Section 4. Self-executing, severability, conflicting provisions. ALL PROVISIONS OF THIS ARTICLE ARE SELF-EXECUTING, ARE SEVERABLE, AND SUPERSEDE CONFLICTING STATE AND LOCAL LAWS AND REGULATIONS. LAWS AND REGULATIONS MAY BE ENACTED TO FACILITATE THE OPERATION OF THIS ARTICLE, BUT IN NO WAY LIMITING OR RESTRICTING THE PROVISIONS OF THIS ARTICLE OR THE POWERS AND RIGHTS HEREIN GRANTED.