September 21, 2023

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative (A.G. File No. 23-0014, Amendment #1) related to restrictions on certain oil drilling permits.

Background

Oil Reserves and Extraction Concentrated in Certain Areas of the State. Oil companies in California extracted about 125 million barrels of crude oil in 2022. This oil is mostly extracted from oil reserves located in Kern County (about 70 percent), followed by Los Angeles (about 7 percent), and Fresno, Monterey, and Ventura Counties (about 4 percent each).

State and Local Governments Receive Some Revenues Related to Oil Extraction. Some revenues associated with oil reserves and extraction flow to local governments and the state, such as through taxes on properties and corporate profits. In addition, the state owns the rights to oil reserves on state-owned lands including California's tidelands. Uniquely, the City of Long Beach in Los Angeles County also has rights to certain oil reserves. While only a small portion of oil extraction comes from publicly owned reserves, the state and city both directly receive a portion of the annual revenue generated from extracting these reserves.

Oil Extraction Levels in California Are Declining. Over time, as oil is extracted, wells become less productive due to various factors such as losing pressure. As a result, maintaining or expanding extraction levels requires finding new reserves or finding ways to extract more oil from existing reserves by drilling new wells, modifying existing wells, or adopting new extraction processes. Over the last several decades, oil extraction has been declining at a rate of about 2 percent to 3 percent per year, although the amount of oil extracted can vary considerably

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between years. California's current level of oil extraction represents a 66 percent decline from when it peaked in 1985. These declining trends—which are expected to continue in the coming decades—result from a variety of factors including the age of California's oil fields.

State Oversight of Oil Extraction. The state's California Geologic Energy Management (CalGEM) Division within the Department of Conservation is responsible for overseeing the drilling and operation of active wells in addition to the plugging and abandonment of oil wells when they cease operations. Well operators must get a permit from CalGEM in order to drill a new well or to modify, repair, or plug an existing well. Under certain circumstances, CalGEM can order that operators plug wells or can undertake the plugging and remediating of wells directly. Other state agencies also have certain regulatory and oversight responsibilities over oil extraction in the state. The state collects an assessment fee on oil operations to cover its various oversight costs.

Recent Legislation Restricts Some Oil Extraction Activities. In 2022, the Legislature passed and the Governor signed into law Chapter 365 of 2022 (SB 1137, Gonzalez), which restricts CalGEM from issuing certain oil well permits within designated health protection zones. SB 1137 defines health protection zones as areas within 3,200 feet of buildings or facilities used for certain purposes such as housing, education, health care, or businesses that are open to the public. Under SB 1137, CalGEM cannot approve permits for new wells to be drilled within health protection zones. While the law allows existing wells in these zones to continue operating, they would be ineligible to receive permits for modifications or repairs unless necessary to comply with court orders or to prevent or respond to a threat to public health, safety, or the environment. Because wells often need modifications or repairs to remain functional, the law effectively would phase out operations at many of these existing wells within a few years. The law allows CalGEM to continue issuing permits for activities related to plugging wells. Senate Bill 1137 also requires the state to carry out various activities including developing new rules and processes for conducting reviews and inspections related to oil permitting in health protection zones.

In addition to SB 1137, the City of Los Angeles recently adopted a similar ordinance that bans all new oil drilling within the city and prohibits operators from modifying or repairing all existing wells except to prevent or respond to a threat to public health, safety, or the environment.

Referendum on Recent Legislation Pending Before Voters. Under the State Constitution, a new state law can be placed before voters as a referendum to determine whether the law can go into effect. A referendum on SB 1137 has qualified for the November 2024 ballot. When a referendum on a state law qualifies for the ballot, the law does not go into effect until voters decide whether to approve or reject it. If the referendum passes, SB 1137 will go into effect. If it does not pass, SB 1137 will be repealed.

Proposal

Sets Similar Restrictions as SB 1137. This measure is quite similar to SB 1137 and includes the same restrictions on oil drilling permits and the same definition of health protection zones. However, the measure deviates from SB 1137 in a few ways. First, it delays implementation deadlines included in SB 1137 until after November 2024. Second, the measure includes language noting that any other measures dealing with oil setbacks (such as the referendum on SB 1137) would be in conflict with this measure if they are on the same ballot. In such circumstances the language states that if this measure receives more votes, it would go into effect and any conflicting measures would not. Third, the measure restricts the Legislature from making future amendments to the provisions of the measure except to further the measure's intent.

Fiscal Effects

Because its provisions are nearly equivalent to SB 1137, whether this measure would have any fiscal effects depends on if voters choose to uphold or reject that law in the November 2024 election.

No Fiscal Effects if Voters Uphold SB 1137. Because the measure is quite similar to SB 1137, it generally would not have any additional fiscal impacts if voters uphold the law through the referendum on the November 2024 ballot.

Fiscal Effects if Voters Reject SB 1137. If voters reject SB 1137 on the November 2024 ballot but pass this measure, it could result in the following fiscal effects:

- ***Decreased State Revenues.*** We estimate that within a few years of implementation, the measure would reduce state revenues by tens of millions of dollars annually resulting from a decrease in oil extraction. This decline would primarily stem from reduced corporate and royalty-related income tax revenues, along with somewhat lesser impacts from decreased sales and use tax revenues.

- ***Decreased Local Revenues.*** We estimate that within a few years of implementation, the measure would reduce local revenues by a statewide total of tens of millions of dollars annually. Most of these reductions would be from lower property tax revenues being generated on parcels with mineral rights located inside of health protection zones. Other local revenue sources that also could decline as a result of reduced oil extraction include royalty agreements that some local governments have with oil businesses (such as the City of Long Beach), sales taxes, and certain other local taxes and fees for oil extraction activities. Areas of the state that currently have the highest levels of oil extraction activity—such as Kern County—would experience the largest local revenue impacts.

- ***Increased State Costs.*** The measure would increase state costs in the low tens of millions of dollars annually for various state departments to conduct the new oversight and regulatory activities required by the measure.

- ***Other Potential Fiscal Effects.*** The measure could result in other state and local fiscal effects. For example, the measure could result in increased state costs related to (1) plugging and remediating abandoned oil wells, (2) legal fees from potential lawsuits regarding mineral rights, and (3) potential outcomes of such lawsuits. In addition, the measure could eliminate some jobs related to oil extraction, which could in turn have effects on state and local economies and revenues. On the other hand, to the degree the measure lessens pollution and the associated harmful health impacts for nearby residents within health protection zones, over time this could result in some lower state costs for providing health care services through programs such as Medi-Cal, the state's Medicaid program. The likelihood and magnitude of these potential fiscal effects are unknown and highly uncertain.

Summary of Fiscal Effects. We estimate that this measure would have the following fiscal effects, depending on whether voters uphold or reject the referendum on restricting certain state oil drilling permits in the November 2024 election:

- If voters uphold the restrictions on certain oil drilling permits subject to referendum, this measure generally would not have any additional fiscal effects.
- If voters reject the restrictions on certain oil drilling subject to referendum, this measure likely would (1) decrease state revenues by tens of millions of dollars annually, (2) decrease revenues for local governments by tens of millions of dollars annually, and (3) increase state costs in the low tens of millions of dollars annually.

Sincerely,

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for Gabriel Petek
Legislative Analyst

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for Joe Stephenshaw
Director of Finance