

LEGAL SERVICES

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MEMORANDUM

March 17, 2017

SUBJECT: Advisory Votes (Amendments E.38 and E.39 to HB 115;
Work Order Nos. 30-LS0125\E.38 & E.39)

TO: Representative Tammie Wilson
Attn: Barbara Barnes

FROM: Emily Nauman 
Legislative Counsel

The above-mentioned amendments were sent this morning. Amendments E.38 and E.39 require the lieutenant governor place an advisory question before the qualified voters of the state. You asked whether the advisory question could conflict with a referendum on the same law. The advisory question will have no effect on referendum.¹ In fact, as drafted, the advisory vote would have no effect at all, other than informing the legislature and the governor of the will of the voters. If a referendum passes before the advisory vote is held it would void the section of a bill calling for an advisory vote. If a referendum was held and failed, it would have no effect on the advisory question or the underlying law.

If I may be of further assistance, please advise.

ELN:boo
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¹ If the effective date of part of the bill is contingent on the advisory votes, as is the case with your previous amendments E.22 and E.23, the answer is more complicated. In that instance, as I discussed in my previous memo, I believe the most likely outcome would be that the Court would invalidate the contingent advisory vote. If the Court did not invalidate the contingent advisory vote, the outcome of the referendum and the contingent advisory vote would likely depend on the timing of the two votes. If you would like further analysis on this topic, please let me know.