

Initiative Petition -- Solar Choice

Number: PETITION

Date: November 25, 2015

The Honorable Jorge Labarga
Chief Justice, and Justices of
The Supreme Court of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

Dear Chief Justice Labarga and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, it is my responsibility as Attorney General to petition this Honorable Court for a written opinion as to the validity of an initiative petition circulated pursuant to Article XI, section 3, Florida Constitution.

On October 27, 2015, this office received a letter from the Secretary of State (a copy of which is attached) advising that the initiative petition entitled "Rights of Electricity Consumers Regarding Solar Energy Choice" had met the registration, submission, and signature criteria set forth in section 15.21, Florida Statutes.

The full text of the proposed amendment, which adds a new section 29 to Article X of the Florida Constitution, states:

"Section 29 – Rights of electricity consumers regarding solar energy choice. –

(a) ESTABLISHMENT OF CONSTITUTIONAL RIGHT. Electricity consumers have the right to own or lease solar equipment installed on their property to generate electricity for their own use.

(b) RETENTION OF STATE AND LOCAL GOVERNMENTAL ABILITIES. State and local governments shall retain their abilities to protect consumer rights and public health, safety and welfare, and to ensure that consumers who do not choose to install solar are not required to subsidize the costs of backup power and electric grid access to those who do.

(c) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:

(1) 'consumer' means any end user of electricity regardless of the source of that electricity.

(2) 'solar equipment,' 'solar electrical generating equipment' and 'solar' are used interchangeably and mean photovoltaic panels and any other device or system that converts sunlight into electricity.

(3) 'backup power' means electricity from an electric utility, made available to solar electricity consumers for their use when their solar electricity generation is insufficient or unavailable, such as at night, during periods of low solar electricity generation or when their solar equipment otherwise is not functioning.

(4) 'lease,' when used in the context of a consumer paying the owner of solar electrical generating equipment for the right to use such equipment, means an agreement under which the consumer pays the equipment owner/lessor a stream of periodic payments for the use of such

equipment, which payments do not vary in amount based on the amount of electricity produced by the equipment and used by the consumer/lessee.

(5) 'electric grid' means the interconnected electrical network, consisting of power plants and other generating facilities, transformers, transmission lines, distribution lines and related facilities, that makes electricity available to consumers throughout Florida.

(6) 'electric utility' means any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state.

(d) EFFECTIVE DATE. This section shall be effective immediately upon voter approval of this amendment."

The ballot title for the proposed amendment is: "Rights of Electricity Consumers Regarding Solar Energy Choice." The ballot summary for the proposed amendment states:

"This amendment establishes a right under Florida's constitution for consumers to own or lease solar equipment installed on their property to generate electricity for their own use. State and local governments shall retain their abilities to protect consumer rights and public health, safety and welfare, and to ensure that consumers who do not choose to install solar are not required to subsidize the costs of backup power and electric grid access to those who do."

Pursuant to Rule 9.510(b), Florida Rules of Appellate Procedure, this petition provides the following information:

1. The name and address of the sponsor of the initiative petition: Mr. Jim Kallinger, Chairperson, Consumers for Smart Solar, 2640-A Mitcham Drive, Tallahassee, Florida 32308-0000.
2. The name and address of the sponsor's attorney, if the sponsor is represented: Unknown.
3. A statement as to whether the sponsor has obtained the requisite number of signatures to have the initiative placed on the ballot: As of October 19, 2015, the sponsor has not obtained the requisite number of signatures to have the proposed amendment placed on the ballot. A total of 683,149 valid signatures are required for placement on the 2016 general election ballot.
4. The current status of the signature collection process: As of October 19, 2015, the Supervisors of Elections have certified a total of 68,792 valid petition signatures to the Division of Elections for this initiative petition. This number represents more than 10% of the total number of valid signatures needed from electors statewide and in at least one-fourth of the congressional districts in order to have the initiative placed on the 2016 general election ballot.
5. The date of the election during which the sponsor is planning to submit the proposed amendment: The initiative does not specify the date of the election at which the proposed amendment is to be submitted to the electors. The earliest date this proposed amendment can be placed on the ballot is November 8, 2016, provided the sponsor successfully obtains the requisite number of valid signatures by February 1, 2016.
6. The last possible date that the ballot for the target election can be printed in order to be ready for the election: Unknown.

7. A statement identifying the date by which the Financial Impact Statement will be filed, if the Financial Impact Statement is not filed concurrently with the request: The coordinator of the Financial Impact Estimating Conference has advised the Attorney General that the Financial Impact Statement required by section 100.371(5)(a), Florida Statutes, will be filed by December 10, 2015.

8. The names and complete mailing addresses of all of the parties who are to be served: The names and complete mailing addresses of all of the parties who are to be served are unknown at this time. Section 16.061(2), Florida Statutes, requires that a copy of the petition be provided to the Secretary of State and to the principal officer of the sponsor:

Mr. Ken Detzner Mr. Jim Kallinger, Chairperson
Secretary of State Consumers for Smart Solar
Florida Department of State 2640-A Mitcham Drive
R.A. Gray Building, Room Tallahassee, Florida 32308-0000
500 South Bronough Street
Tallahassee, Florida 32399-0250

While not required by law, this office provides copies of the petition to:

The Honorable Rick Scott The Honorable Andy Gardiner
Governor, State of Florida President, Florida Senate
The Capitol Senate Office Building, Room 312
400 South Monroe Street 404 South Monroe Street
Tallahassee, Florida 32399-0001 Tallahassee, Florida 32399-1100

The Honorable Steve Crisafulli
Speaker, Florida House of Representatives
Room 420, The Capitol
402 South Monroe Street
Tallahassee, Florida 32399-1300

In accordance with the provisions of Article IV, section 10, Florida Constitution, I respectfully request this Honorable Court's opinion as to whether the proposed amendment complies with the single-subject requirement of Article XI, section 3, Florida Constitution, and whether the ballot title and summary of the proposed constitutional amendment comply with section 101.161(1), Florida Statutes, setting forth substantive and technical requirements for the ballot title and summary.

Respectfully submitted,

Pamela Jo Bondi
Attorney General