

## **Impartial Analysis of Measure G-18**

This measure proposes the adoption of an ordinance through the initiative process. If 51% of qualified voters vote to approve the measure, an ordinance will be adopted amending the San Luis Obispo County General Plan, including the Local Coastal Program, and Title 22 and Title 23 of the San Luis Obispo County Code, to prohibit well stimulation treatments and any new petroleum extraction on all land within the unincorporated area of the county. The intended purpose of the measure is to protect county land, water, and quality of life.

Some impacts of the measure are uncertain because it is not known to what extent the banned or limited well stimulation activities are either utilized or necessary to the recovery of oil or gas in the county. The measure bans any new petroleum extraction but permits as a “nonconforming use” any petroleum extraction existing on the effective date of the measure (10 days after the vote approving the measure is declared by the board of supervisors [Elec. Code, § 9122]; hereafter “the effective date”). Such extraction may not be enlarged, increased, or otherwise expanded or intensified after the effective date. The measure prohibits all well stimulation treatments, even those currently existing on the measure’s effective date. Well stimulation treatments include fracking and acidizing (acid well stimulation), which can be used, where effective, to enhance recovery of petroleum.

The legality of the measure is uncertain. To the extent the measure regulates drilling operations underground, it may be preempted by state or federal law. San Luis Obispo County retains land use regulation on the surface, but the validity of local land use regulations that impact how wells are operated below ground is not clear. In addition, the measure's regulatory restrictions on certain oil extraction without compensation may result in claims of an unconstitutional "taking" of mineral rights. In order to avoid an unconstitutional taking and county liability, the measure provides authority for the county to grant a limited exemption to the regulations imposed by the measure based on substantial evidence of facts constituting a taking. The procedures for evaluating evidence of a taking and determining the extent of any exemption are not prescribed by the measure. The necessity of utilizing such procedures prior to bringing suit against the county is unknown. Any exemption determination would be subject to judicial review.

The measure requires the county to defend the measure. If the measure is approved, litigation is anticipated. Litigation would likely include claims of preemption and an unlawful taking of private property rights. County resources would be necessary to defend against such claims, and to process taking exemption claims and vested rights claims made by holders of mineral rights.

The measure has been placed on the ballot by the requisite number of voters who signed the initiative petition for the measure. A "yes" vote on the measure is a vote in favor of the measure. A "no" vote is a vote against its adoption.



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