

Initiative 2023-24 #279  
Eliminate Title Board

Received by Legislative Council Staff  
3/22/24 at 1:22 pm

*Be it enacted by the People of the state of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 1-40-105, **repeal and reenact with amendments** (2) and (4) as follows:

**1-40-105. Filing procedure - review and comment meeting - amendments - filing with Legislature.**

(a) THE PROPONENTS OF AN INITIATIVE SHALL SUBMIT THE INITIATIVE AND A DRAFT BALLOT TITLE TO THE LEGISLATIVE RESEARCH AND DRAFTING OFFICES OF THE GENERAL ASSEMBLY. BALLOT TITLES MUST BE DRAFTED IN PLAIN LANGUAGE AT NO MORE THAN AN EIGHTH GRADE READING LEVEL. THE TITLE SHALL BE SET TO CONSIDER THE PUBLIC CONFUSION THAT MIGHT BE CAUSED BY MISLEADING TITLES AND SHALL, WHENEVER PRACTICABLE, AVOID TITLES FOR WHICH THE GENERAL UNDERSTANDING OF THE EFFECT OF A “YES/FOR” OR “NO/AGAINST” VOTE WILL BE UNCLEAR. THE TITLE FOR THE PROPOSED LAW OR CONSTITUTIONAL AMENDMENT SHALL CORRECTLY AND FAIRLY EXPRESS THE TRUE INTENT AND MEANING THEREOF.

(b) AFTER THE REVIEW AND COMMENT MEETING BUT BEFORE FINAL SUBMISSION THE PROPONENTS MAY AMEND THE PETITION OR DRAFT TITLE IN RESPONSE TO SOME OR ALL OF THE COMMENTS OF THE DIRECTORS OF THE LEGISLATIVE COUNCIL AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES.

(c) PROPONENTS MAY THEN SUBMIT THE FINAL INITIATIVE AND DRAFT TITLE TO THE LEGISLATIVE RESEARCH AND DRAFTING OFFICES OF THE GENERAL ASSEMBLY. WITHIN ONE WEEK OF SUBMISSION THE OFFICE SHALL ISSUE A WRITTEN FINDING INCLUDING:

(I) A DETERMINATION IF THE PROPOSED MEASURE CONSTITUTES A SINGLE SUBJECT, WHICH SHALL BE THE SAME STANDARD AS APPLIED TO THE LEGISLATURE; AND

(II) IF THE PROPOSED MEASURE CONSTITUTES A SINGLE SUBJECT, REVISE AND FIX THE TITLE AS NECESSARY TO COMPLY WITH THE PROVISIONS OF THIS SECTION AND ARTICLE V OF THE COLORADO CONSTITUTION.

(III) THE REVIEW AND COMMENT MEETING SHALL BE HELD NO LATER THAN THE THIRD WEDNESDAY IN MAY IN THE YEAR IN WHICH THE MEASURE IS TO BE VOTED ON.

(d) ANY REGISTERED COLORADO ELECTOR OR PROPONENT OF AN INITIATIVE WHO DISAGREES WITH THE DECISION OF THE LEGISLATIVE RESEARCH AND DRAFTING OFFICES OF THE GENERAL ASSEMBLY REGARDING SINGLE SUBJECT OR BALLOT TITLE MAY APPEAL TO THE SUPREME COURT WITHIN 7 DAYS OF THE DETERMINATION. THE SUPREME COURT SHALL ISSUE A DECISION WITHIN 21 DAYS.

**SECTION 2.** In Colorado Revised Statutes, 1-40-105.5, **amend** (1.5)(a), (1.5)(d), and (2)(a) as follows:

**1-40-105.5. Initial fiscal impact statement - definition.**

(1.5)(a) For every initiated measure ~~properly~~ submitted AND DETERMINED TO BE A SINGLE SUBJECT ~~to the title board~~, the director shall prepare a fiscal summary that consists of the following information:

(d) The director shall provide the designated representatives of the proponents and the secretary of state with the fiscal summary no later ONE WEEK AFTER THE MEASURE IS DETERMINED TO BE A SINGLE SUBJECT. ~~than the time of the title board meeting at which the proposed initiated measure is to be considered. The title board shall not conduct a hearing on the fiscal summary at this title~~

~~board meeting, and the~~ THE director's fiscal summary is final, unless modified in accordance with section 1-40-107.

(2)(a) For every initiated measure for which the secretary of state has approved a petition section in accordance with section 1-40-113 (1)(a), the director shall prepare an initial fiscal impact statement, taking into consideration any fiscal impact estimate submitted by the designated representatives of the proponents or other interested person that is submitted in accordance with subsection (2)(b) of this section, the office of state planning and budgeting, and the department of local affairs. The director shall provide the designated representatives of the proponents and the secretary of state with a copy of the fiscal impact statement no later than fourteen days after the petition section was approved. The director shall also post the fiscal impact statement on the legislative council staff website on the same day that it is provided to the designated representatives of the proponents. The fiscal impact statement is not subject to review ~~by the title board or~~ the Colorado supreme court under this article 40.

(b) A BALLOT TITLE FOR A MEASURE THAT EITHER INCREASES OR DECREASES THE INDIVIDUAL INCOME TAX RATE MUST, IF APPLICABLE, INCLUDE THE TABLE CREATED FOR THE FISCAL SUMMARY PURSUANT TO SECTION 1-40-105.5 (1.5)(A)(V).

**SECTION 3.** In Colorado Revised Statutes, **repeal** 1-40-106 as follows:

**1-40-106. Title board - meetings - ballot title - initiative and referendum - definitions.**

~~(1) For ballot issues, beginning with the first submission of a draft after an election, the secretary of state shall convene a title board consisting of the secretary of state, the attorney general, and the director of the office of legislative legal services or their designees. The title board, by majority vote, shall proceed to designate and fix a proper fair title for each proposed law or constitutional amendment, together with a submission clause, at public meetings to be held at the hour determined by the title board on the first and third Wednesdays of each month in which a draft or a motion for reconsideration has been submitted to the secretary of state. To be considered at such meeting, a draft shall be submitted to the secretary of state no later than 3 p.m. on the twelfth day before the meeting at which the draft is to be considered by the title board, and the designated representatives of the proponents must comply with the requirements of subsection (4) of this section. The first meeting of the title board shall be held no sooner than the first Wednesday in December after an election, and the last meeting shall be held no later than the third Wednesday in April in the year in which the measure is to be voted on.~~

~~(2) (Deleted by amendment, L. 95, p. 431, § 4, effective May 8, 1995.)~~

~~(3)~~

~~(a) (Deleted by amendment, L. 2000, p. 1620, § 1, effective August 2, 2000.)~~

~~(b) In setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a "yes/for" or "no/against" vote will be unclear. The title for the proposed law or constitutional amendment, which shall correctly and fairly express the true intent and meaning thereof, together with the ballot title and submission clause, shall be completed, except as otherwise required by section 1-40-107, within two weeks after the first meeting of the title board. Immediately upon completion, the secretary of state shall deliver the same with the original to the designated representatives of the proponents, keeping the copy with~~

a record of the action taken thereon. Ballot titles shall be brief, shall not conflict with those selected for any petition previously filed for the same election, and, shall be in the form of a question which may be answered “yes/for” (to vote in favor of the proposed law or constitutional amendment) or “no/against” (to vote against the proposed law or constitutional amendment) and which shall unambiguously state the principle of the provision sought to be added, amended, or repealed.

(e) In order to avoid confusion between a proposition and an amendment, as such terms are used in section 1-5-407 (5)(b), the title board shall describe a proposition in a ballot title as a “change to the Colorado Revised Statutes” and an amendment as an “amendment to the Colorado constitution”.

(d) A ballot title for a statewide referred measure must be in the same form as a ballot title for an initiative as required by paragraph (e) of this subsection (3).

(e) For measures that reduce state tax revenue through a tax change, the ballot title must begin “Shall there be a reduction to the (description of tax) by (the percentage by which the tax is reduced in the first full fiscal year that the measure reduces revenue) thereby reducing state revenue, which will reduce funding for state expenditures that include but are not limited to (the three largest areas of program expenditure) by an estimated (projected dollar figure of revenue reduction to the state in the first full fiscal year that the measure reduces revenue) in tax revenue...?”. If the ballot measure specifies the public services or programs that are to be reduced by the tax change, those public services or programs must be stated in the ballot title. If the public services or programs identified in the measure are insufficient to account for the full dollar value of the tax change in the first full fiscal year that the measure reduces revenue, then the three largest areas of program expenditure must be stated in the bill title along with the public services or programs identified in the measure. The estimates reflected in the ballot title shall not be interpreted as restrictions of the state’s budgeting process.

(f) For measures that reduce local district property tax revenue through a tax change, the ballot title must begin “Shall funding available for counties, school districts, water districts, fire districts, and other districts funded, at least in part, by property taxes be impacted by a reduction of (projected dollar figure of property tax revenue reduction to all districts in the first full fiscal year that the measure reduces revenue) in property tax revenue...?”. The title board shall exclude any districts whose property tax revenue would not be reduced by the measure from the measure’s ballot title. The estimates reflected in the ballot title shall not be interpreted as restrictions of a local district’s budgeting process.

(g) For measures that increase tax revenue for any district through a tax change and specify the public services to be funded by the increased revenue, after the language required by section 20 (3)(c) of article X of the state constitution, the ballot title shall state “in order to increase or improve levels of public services, including, but not limited to (the public service specified in the measure)...”. For measures that increase tax revenue for any district through a tax change and do not specify the public services to be funded by the increased revenue, after the language required by section 20 (3)(c) of article X of the state constitution, the ballot title shall state “in order to increase or improve levels of public services...”. The estimates reflected in the ballot title shall not be interpreted as restrictions of a district’s budgeting process.

(h) In determining whether a ballot title qualifies as brief for purposes of section 1-40-102 (10) and subsection (3)(b) of this section, the language required by subsection (3)(c), (3)(f), (3)(g), or (3)(j) of this section may not be considered.

(i) As used in this subsection (3), unless the context otherwise requires:

(I) "Areas of program expenditure" means categories of spending by issue area. For state expenditures, "the three largest areas of program expenditure" refers to the three program types listed as receiving the largest general fund operating appropriations in the joint budget committee's annual appropriations report for the most recent fiscal year.

(II) "Tax change" means any initiated ballot issue or initiated ballot question that has a primary purpose of lowering or increasing tax revenues collected by a district, including a reduction or increase of tax rates, mill levies, assessment ratios, or other measures, including matters pertaining to tax classification, definitions, credits, exemptions, monetary thresholds, qualifications for taxation, or any combination thereof, that reduce or increase a district's tax collections. "Tax change" does not mean an initiated ballot issue or initiated ballot question that results in a decrease or increase in revenue to a district in which such decrease or increase is incidental to the primary purpose of the initiated ballot issue or initiated ballot question.

(j) A ballot title for a measure that either increases or decreases the individual income tax rate must, if applicable, include the table created for the fiscal summary pursuant to section 1-40-105.5 (1.5)(a)(V).

(3.5) For every proposed constitutional amendment, the title board shall determine whether the proposed constitutional amendment only repeals in whole or in part a provision of the state constitution for purposes of section 1 (4)(b) of article V of the state constitution. The secretary of state shall keep a record of the determination made by the title board.

(4)

(a) Each designated representative of the proponents shall appear at any title board meeting at which the designated representative's ballot issue is considered.

(b) Each designated representative of the proponents shall certify by a notarized affidavit that the designated representative is familiar with the provisions of this article, including but not limited to the prohibition on circulators' use of false addresses in completing circulator affidavits and the summary prepared by the secretary of state pursuant to paragraph (c) of this subsection (4). The affidavit shall include a physical address at which process may be served on the designated representative. The designated representative shall sign and file the affidavit with the secretary of state at the first title board meeting at which the designated representative's ballot issue is considered.

(c) The secretary of state shall prepare a summary of the designated representatives of the proponents' responsibilities that are set forth in this article.

(d) The title board shall not set a title for a ballot issue if either designated representative of the proponents fails to appear at a title board meeting or file the affidavit as required by paragraphs (a) and (b) of this subsection (4). The title board may consider the ballot issue at its next meeting, but the requirements of this subsection (4) shall continue to apply.

(e) The secretary of state shall provide a notary public for the designated representatives at the title board meeting.

**SECTION 4.** In Colorado Revised Statutes, **repeal** 1-40-107 as follows:

**1-40-107. Rehearing - appeal - fees - signing.**

~~(1)(a)(I) Any person presenting an initiative petition or any registered elector who is not satisfied with a decision of the title board with respect to whether a petition contains more than a single subject pursuant to section 1-40-106.5, or who is not satisfied with the titles and submission clause provided by the title board and who claims that they are unfair or that they do not fairly express the true meaning and intent of the proposed state law or constitutional amendment may file a motion for a rehearing with the secretary of state within seven days after the decision is made or the titles and submission clause are set.~~

~~(II) The designated representatives of the proponents or any registered elector who is not satisfied with the fiscal summary prepared by the director of research of the legislative council of the general assembly in accordance with section 1-40-105.5 may file a motion for a rehearing with the secretary of state within seven days after the titles and submission clause for the initiative petition are set on the grounds that:~~

~~(A) (Deleted by amendment, L. 2020.)~~

~~(B) The fiscal summary is misleading or prejudicial; or~~

~~(C) The fiscal summary does not comply with the requirements set forth in section 1-40-105.5 (1.5).~~

~~(III) The designated representatives of the proponents or any registered elector who is not satisfied with the determination by the title board made pursuant to section 1-40-106 (3.5) with respect to whether a petition that proposes a constitutional amendment only repeals in whole or in part a provision of the state constitution may file a motion for a rehearing with the secretary of state within seven days after the titles and submission clause for the initiative petition are set on the grounds that the determination is incorrect.~~

~~(b) A motion for rehearing must be typewritten and set forth with particularity the grounds for rehearing. If the motion claims that the petition contains more than a single subject, then the motion must, at a minimum, include a short and plain statement of the reasons for the claim. If the motion claims that the title and submission clause set by the title board are unfair or that they do not fairly express the true meaning and intent of the proposed state law or constitutional amendment, then the motion must identify the specific wording that is challenged. If the motion claims that the fiscal summary is misleading or prejudicial or does not comply with the statutory requirements, the motion must specifically identify the specific wording that is challenged or the requirement at issue. The title board may modify the fiscal summary based on information presented at the rehearing. If the motion claims that the determination of whether the petition that proposes a constitutional amendment only repeals in whole or in part a constitutional provision is incorrect, the motion must include a short and plain statement of the reasons for the claim.~~

~~(c) The motion for rehearing shall be heard at the next regularly scheduled meeting of the title board; except that, if the title board is unable to complete action on all matters scheduled for that day, consideration of any motion for rehearing may be continued to the next available day, and except that, if the titles and submission clause protested were set at the last meeting in April, the motion shall be heard within forty-eight hours after the expiration of the seven-day period for the filing of such motions. The decision of the title board on any motion for rehearing shall be final, except as provided in subsection (2) of this section, and no further motion for rehearing may be filed or considered by the title board.~~

~~(2) If any person presenting or the designated representatives of the proponents of an initiative petition for which a motion for a rehearing is filed, any registered elector who filed a motion for a rehearing pursuant to subsection (1) of this section, or any other registered elector who appeared before the title board in support of or in opposition to a motion for rehearing is not satisfied with the ruling of the title board upon the motion, then the secretary of state shall furnish such person, upon request, a certified copy of the petition with the titles and submission clause of the proposed law or constitutional amendment, the fiscal summary, or the determination whether the petition repeals in whole or in part a constitutional provision, together with a certified copy of the motion for rehearing and of the ruling thereon. If filed with the clerk of the supreme court within seven days thereafter, the matter shall be disposed of promptly, consistent with the rights of the parties, either affirming the action of the title board or reversing it, in which latter case the court shall remand it with instructions, pointing out where the title board is in error.~~

~~(3) The secretary of state shall be allowed a fee which shall be determined and collected pursuant to section 24-21-104 (3), C.R.S., for certifying a record of any proceedings before the title board. The clerk of the supreme court shall receive one-half the ordinary docket fee for docketing any such cause, all of which shall be paid by the parties desiring a review of such proceedings.~~

~~(4) No petition for any initiative measure shall be circulated nor any signature thereto have any force or effect which has been signed before the titles and submission clause have been fixed and determined as provided in section 1-40-106 and this section, or before the fiscal summary has been fixed and determined as provided in section 1-40-105.5 and this section.~~

~~(5) In the event a motion for rehearing is filed in accordance with this section, the period for filing a petition in accordance with section 1-40-108 shall not begin until a final decision concerning the motion is rendered by the title board or the Colorado supreme court; except that under no circumstances shall the period for filing a petition be extended beyond three months and three weeks prior to the election at which the petition is to be voted upon.~~

~~(5.5) If the title board modifies the fiscal summary pursuant to this section, the secretary of state shall provide the director of research of the legislative council of the general assembly with a copy of the amended fiscal summary, and the director shall post the new version of the fiscal summary on the legislative council website.~~

~~(6) (Deleted by amendment, L. 2000, p. 1622, § 5, effective August 2, 2000.)~~

~~(7) (Deleted by amendment, L. 95, p. 432, § 5, effective May 8, 1995.)~~

**SECTION 5.** In Colorado Revised Statutes, **amend** 1-40-108 as follows:

**1-40-108. Petition - time of filing.**

(1) No petition for any ballot issue is of any effect unless filed with the secretary of state within six months from the date that the titles and submission clause have been fixed and determined pursuant to the provisions of sections 1-40-106 and 1-40-107 and unless filed with the secretary of state no later than three months before the election at which it is to be voted upon. A petition for a ballot issue for the election to be held in November of odd-numbered years must be filed with the secretary of state no later than three months before such odd-year election. All filings under this section must be made by the close of business on the day of filing.