

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR PROPOSED INITIATIVE
2023-2024 #212

MOTION FOR REHEARING ON PROPOSED INITIATIVE 2023-2024 #212

I, Linda Good, a registered elector of the State of Colorado, submits to the Title Board this Motion for Rehearing on Proposed Initiative 2023-2024 #212 "Concerning the Conduct of Elections" ("Initiative #212") and as grounds therefore state as follows:

I. THE TITLE SET BY TITLE BOARD AT March 20, 2024 HEARING

On March 20, 2024, the Title Board set the following ballot title and submission clause for Initiative #212:

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes allowing voters to rank candidates for U.S. President, federal offices, and certain state offices in general elections, and, in connection therewith, specifying that the candidate with the highest number of votes at the end of the voting tally is elected; and making the new process conditional on another law going into effect that creates an all-candidate primary election for these offices other than U.S. President, where the three or more candidates, regardless of political party affiliation, who receive the most votes advance to the general election.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes allowing voters to rank candidates for U.S. President, federal offices, and certain state offices in general elections, and, in connection therewith, specifying that the candidate with the highest number of votes at the end of the voting tally is elected; and making the new process conditional on another law going into effect that creates an all-candidate primary election for these offices other than U.S. President, where the three or more candidates, regardless of political party affiliation, who receive the most votes advance to the general election?

II. GROUNDS FOR REHEARING

The Initiative Impermissibly Contains Several Separate and Distinct Subjects in Violation of the Single Subject Requirement.

Pursuant to Colo. Const. art. V, §1(5.5),

“no measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the polls.”

See also 1-40-106.5, C.R.S. "When a proposed initiative comprises multiple subjects, the [Title] Board lacks jurisdiction to set its title."

Initiative #212 has four distinct subjects;

1. This initiative changes the conduct of the election from a plurality of votes, as is currently prescribed in the Colorado Constitution Article IV § 3 "The joint candidates having the highest number of votes cast for governor and lieutenant governor, and the person having the highest number of votes for any other office, shall be declared duly elected," which has been the mechanism of conducting elections in the United States of America for 248 years and in the state of Colorado for 148 years, to Ranked Voting Method where the duly elected is determined by the majority of votes after several rounds of voting. This is a subject unto itself.
2. Secondly, this initiative changes the conduct of election for the President and Vice President of the United States which is a National Federal election. We saw recently in the Anderson v Griswold case that SCOTUS applied the 9th and 10th amendment in their decision because how a state conducts their election effects the Nation. This deviation from the conduct of election from the national standard is in violation of the Constitution, but is clearly a second subject from how state offices are elected.
3. The language used in the Declaration is incongruent with body of the Initiative. The Declaration states "where candidates are elected with a majority of votes." However, the language within the proposed statute changes and in the titles set states "the candidate with the highest number of votes at the end of the voting tally is elected."
4. Further this initiative introduces a new system to determine a tie by lot in Proposed 1-4-207(9) and proposed section CRS 1-4-301.5(8) which eliminates the mandated recount as prescribed in CRS 1-10.5-102 making it a separate subject.

III. CONCLUSION

Based on the foregoing, Objector requests a rehearing of the Title Board for Initiative 2023-2024 #212 because the initiative contains multiple subjects. As a result, the Title Board lacks jurisdiction to set a title and should reject the measure in its entirety.