

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

IN THE MATTER OF PROPOSED INITIATIVE 2023-2024 #96

MOTION FOR REHEARING ON PROPOSED INITIATIVE 2023-2024 #96

Scott Wasserman and Ed Ramey, Designated Representatives of the Proponents for Proposed Initiative 2023-2024 #96, respectfully submit this Motion for Rehearing pursuant to C.R.S. §1-40-107(1) concerning the title and ballot title and submission clause set by the Ballot Title Setting Board for this initiative at its meeting on December 6, 2023:

1. The title set by the Board commences with the phrase “State taxes shall be increased biennially by an amendment to the Colorado constitution and a change to the Colorado Revised Statutes . . .” Colloquy between the members of the Board and the designated representatives of the proponents clarified that the Board believed itself constrained to use – and commence the title with – this language by article X, section 20(3)(c) of the Colorado Constitution (the “Taxpayer’s Bill of Rights” or “TABOR”). This was notwithstanding the fact that the tax at issue – a conditional statewide “supplemental luxury residential real property tax” – would be:

- (a) wholly conditional upon an at-this point-purely-hypothetical future imposition of a completely separate statewide limitation upon local district property tax revenue;
- (b) completely indeterminate at this point and not subject to estimation even as to the upper limits of either rate or amount; *cf.*, *Bickel v. City of Boulder*, 885 P.2d 215, 235-237 (Colo. 1994); and
- (c) tailored to ensure a net-zero impact on taxes – no net increase or decrease.

2. Incorporation of the inapplicable “taxes shall be increased” language at the forefront of the title renders the title materially misleading to the voters and obscures – in fact substantially misrepresents – the meaning and effect of a “yes” or “no” vote in contravention of the requirements of C.R.S. §1-40-106(3)(b).

3. Even were incorporation of the “taxes shall be increased” language appropriate in the title, the title set by the Board wholly omits the requisite additional information and specified language required by C.R.S. §1-40-106(3)(g).

4. Referring to the proposed voter approval allowing any revenue from the conditional new tax to be excluded from spending limits otherwise applicable per article X,

section 20(7) of the Colorado Constitution as “exempting the new tax revenue from the Taxpayer Bill of Rights revenue cap” incorporates an impermissible catch phrase.

Respectfully submitted December 13, 2023.

_____/s_____
Scott Wasserman

_____/s_____
Ed Ramey

Designated Representatives of the Proponents