

RECEIVED

MAR 23 2016

S. WARD  
11:00 A.M.

Colorado Secretary of State

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

---

Donna R. Johnson, Objector

vs.

Kathleen Curry and Frank McNulty, Proponents.

---

**MOTION FOR REHEARING ON INITIATIVE 2015-2016 #107**

---

Donna R. Johnson, a registered elector of the State of Colorado, through legal counsel, Recht Kornfeld P.C., objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-16 #107 ("Colorado Redistricting Commission").

**A. The Title Board set a title for Initiative 2015-16 #107 on March 16, 2016.**

At the hearing held in connection with this proposed initiative, the Board designated and fixed the following ballot title and submission clause:

*Shall there be an amendment to the Colorado constitution concerning redistricting in Colorado, and, in connection therewith, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of members with equal representation from each major political party and those not affiliated with any major party; prohibiting commission members from being lobbyists or incumbent members or candidates for either the state legislature or congress; adopting existing criteria for congressional districts and adding competitiveness to the criteria for state legislative and congressional districts; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings?*

**B. Initiative #107 contains multiple subjects, contrary to Colo. Const., art. V, sec. 1(5.5).**

1. Revising the duties and procedures used by the Reapportionment Commission for drawing state legislative districts, restructuring and renaming the Commission, and changing the legal standards for setting boundaries of state legislative districts, as well as requiring only legislative staff to draw and in certain circumstances only legislative staff to preliminarily approve such plans so they may be submitted to the Supreme Court.

2. Creating a new process for drawing congressional districts by withdrawing from the General Assembly its authority, assigned by the United States Constitution, to establish the state's congressional districts and providing that the congressional districting process is completed by legislative staff, an appointed commission, and the Supreme Court.
3. Changing the eligibility of persons to be candidates for or members of the State House of Representatives and the State Senate, as well as limiting the rights of such persons, by prohibiting them from serving on a commission that sets congressional districts.
4. Changing the eligibility of persons to be candidates for or members of the U.S. House of Representatives, as well as limiting the rights of such persons, by prohibiting them from serving on a commission that sets State Senate and State House of Representatives districts.
5. Changing the eligibility of persons to be candidates for or members of the U.S. Senate, as well as limiting the rights of such persons, by prohibiting them from serving on a commission that sets State Senate and State House of Representatives districts as well as congressional districts.
6. Changing the eligibility of persons to be registered lobbyists, as well as limiting the rights of such persons, by prohibiting them from serving on the commission that sets congressional and legislative districts.
7. Limiting the state's required compliance with the federal Voting Rights Act for congressional redistricting to Section 2 of the Act.

**C. The title set for #107 is misleading and prejudicial, contrary to C.R.S. § 1-40-106.**

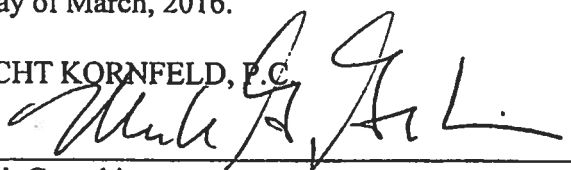
1. The title substantially and substantively overlaps with the title set for Initiative #38 and will be misleading and confusing both to potential petition signers and to voters.
2. The single subject statement omits the fact that this measure deals with reapportionment as well as redistricting.
3. The title's reference to members or candidates for "congress" as persons excluded from commission membership is misleading, because the repeated references to "congressional districts" suggests this limitation applies only to the U.S. House of Representatives.
4. The title should clearly state that every commission appointment is made by the legislative leadership in the General Assembly.
5. The title's reference that there is "equal representation" between major political parties and those not affiliated with a major political party is misleading and incorrect.

6. The title fails to state that 4 appointments are made by state legislators who are members of “the state’s two largest parties.”
7. The title fails to state that 8 legislative leadership appointees must be “members of his or her own party,” referring to political parties of each of the appointing authorities.
8. The title’s reference to “nonpartisan staff of the commission” is misleading about the actual employer of staff, given that all staff members are legislative branch employees rather than commission employees and thus work for the General Assembly including the appointing authorities for all commission positions.
9. The title’s reference to “commission’s work” is vague and without a clear meaning.
10. The title’s reference to “competitiveness” is misleading because it fails to inform voters that the commission must consider, on at least an equal footing, “minimization of disruption of prior district lines.”
11. The reference to “existing criteria for congressional districts” is misleading as the only “existing” criteria in statute related to redistricting by a court, not the primary body that is now charged with redistricting responsibility – the General Assembly – for which no specific criteria exist that could be “adopt[ed].”
12. The title omits an informative reference to criteria for state legislative district setting.
13. The title fails to state that the commission may only act on any issue, other than suggesting amendments to staff maps, with at least 8 commissioners voting in support.
14. The title fails to state that the initiative text grants to the commission the sole power to determine the process for removing commission members, appointed by other parties, for cause.

WHEREFORE, the titles set March 16, 2016 should be reversed, due to the single subject violations addressed herein, or modified to account for the legal insufficiencies highlighted in this Motion for Rehearing.

RESPECTFULLY SUBMITTED this 23th day of March, 2016.

RECHT KORNFELD, P.C.



---

Mark Grueskin  
1600 Stout Street, Suite 1000  
Denver, CO 80202  
Phone: 303-573-1900  
Email: mark@rklawpc.com

Objector's Address:

Donna R. Johnson  
9280 Yarrow Street, #4207  
Westminster CO 80021

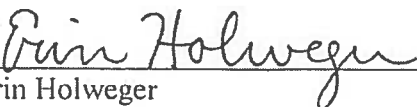
**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2015-2016 #107 was sent this day, March 23, 2016 via first class U.S. mail, postage pre-paid to the proponents and their counsel at:

Kathleen Curry  
54542 U.S. Highway 50  
Gunnison, CO

Frank McNulty  
9272 Rockport Lane  
Highlands Ranch, CO 80126

Frank McNulty, Esq.  
[frank@frankmcnulty.com](mailto:frank@frankmcnulty.com)

  
Erin Holweger