

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Mark Chilson,
Objector,

v.

Jason Bertolacci and Owen Alexander Clough,
Designated Representatives of Initiative 2023-2024 #313

**MOTION FOR REHEARING ON
PROPOSED INITIATIVE 2023-2024 #313**

Mark Chilson, a Colorado registered elector, seeks a rehearing on Proposed Initiative 2023-2024 #313. As part of this motion Chilson withdraws his previously-filed motion on April 24, 2024. This motion for rehearing is timely, because it is filed seven days after the Title Board set a title and submission clause, on April 18, 2024.

The motion or rehearing is brought on two grounds: (1) that the Title Board had no jurisdiction to set a title, because the resubmitted measure contained more than one subject, and (2) that the title and submission clause is incomplete and misleading.

A. The measure violates single-subject requirements.

In attempting to re-write Colorado election law, the measure contains multiple purposes:

1. It creates a new class of covered offices to which the measure applies
2. It creates a new all-candidate primary ballot, which includes every party and every unaffiliated candidate.

3. It allows all candidates to petition on to the primary election ballot.
4. It reduces the number of signatures required to petition onto the primary ballot.
5. It creates a new definition of “primary election” for covered office, in which a primary election voters do not choose political party nominees, but rather narrow the number of candidates who can advance to the primary election.
6. It creates an instant runoff voting system for the primary election.
7. In some instances, it mandates that the top two finishers to advance to the general election, while in other instances it mandates that the top four finishers advance.

This matter contains several, incongruous subjects. First and foremost, it reworks the primary election. It changes the very nature of the primary, from selecting party nominees to instead narrowing the number of general election candidates to two or four. It allows non-party candidates on the primary ballot, and it limits general election candidates to the top four finishers in the primary.

These various provisions are not necessarily or properly connected. The measure creates an entirely new system for nominating candidates for the primary election. It not only changes who can be on the primary ballot, but it also changes how candidates get there. The measure now allows unaffiliated and minority party candidates to petition on the ballot, and it changes the numbers of signatures required, while allowing any voter to sign petitions for unaffiliated or minority party candidates. This is a fundamentally different subject than the manner in which Coloradans choose the primary winners who advance to the general election.

Third, the measure contains separate subjects by creating new voting systems for one class of candidates – covered candidates – yet establishing or retaining separate nomination, primary, and general election voting systems for an entirely separate class of candidates.

The measure does not create one, but rather creates multiple, fundamental, radical changes to Colorado’s election systems. And it combines different voting systems and different nominating systems within the same measures. But these different, multiple systems are not necessarily or properly connected, thus creating surprise among voters and forcing them into a take-it-or-leave-it logrolling vote that combines different, incongruous measures.

For these reasons, the measure violates Colorado’s single subject requirement.

B. The title and submission clause are incomplete and misleading.

In addition, the ballot title and submission clause are misleading and incomplete:

First, the title does not define the scope of the measure – rather than fully informing voters of the offices covered, it refers instead on “certain elected state, district, and county offices.” Because the measure radically changes voting systems for the offices it encompasses, it is misleading to fail to inform Colorado voters of exactly what offices are covered by the new measure.

Second, the title and submission clause do not explain how unaffiliated and minority party voters can obtain signatures from any person, including those who do not share a candidate’s unaffiliated status or minority party membership.

Third, the title does not explain that the new primary election voting system is an instant runoff voting system, whereby if no person wins a majority of votes, then voters' secondary and tertiary candidate preferences determine the outcome of the election, based on the elimination of votes for candidates in each round of instant runoff tabulation. Bluntly put, the Instant Runoff Voting system is a radically new process for Colorado, and the title makes no effort to inform voters how this new system works.

Fourth, the measure allows the top-two finishers to advance in some elections, but in others (in which more than one position is to be filled in the election) the measure mandates that the top four finishers advance. By failing to explain this difference, and instead stating that in all instances the top-two finishers advance, the title and submission clause misleads voters.

Respectfully submitted this 25th day of April 2024,

GESSLER BLUE LLC

s/ Scott E. Gessler

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CERTIFICATE OF SERVICE

On April 25, 2024, a copy of the foregoing was filed with the Colorado Secretary of State's Office and served on all parties to this matter via email on the following:

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