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COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

In re:

Initiative 2015-2016 #95

AMENDED MOTION FOR REHEARING

Chris Forsyth, a registered elector of the State of Colorado, objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-2016 #95 pursuant to C.R.S. § 1-40-107.

On March 2, 2016, the Board set the following ballot title and submission clause:

An amendment to the Colorado constitution making it more difficult to amend the Colorado constitution by requiring that any petition for a citizen-initiated constitutional amendment be signed by at least two percent of the registered electors who reside in each state senate district and increasing the percentage of votes needed to pass any proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast if the amendment adds words or numbers to the constitution.

ADVISORY GROUNDS FOR RECONSIDERATION

A. The Colorado Constitution reserves the right of the initiative to the people of the State of Colorado. Colo. Const. Art. V., Sec. 1., Para. (2). The Colorado citizen proponents must initially meet with the legislative research and drafting offices of the general assembly. Colo. Const. Art. V., Sec. 1., Para. (5). The proponents of this measure have not revealed themselves and have not met with the legislative research and drafting offices of the general assembly. We do not know that the proponents of this measure are Colorado citizens. We do know that Greg Brophy and Dan Gibbs are the designated representative of the proponents. And we also know that Greg Brophy is getting paid for his work. He has admitted to the Independent Ethics Commission that he is being paid to perform his work. Therefore, Brophy is merely the agent of someone else. The Colorado Constitution requires that the principal - the actual proponent - meet with the legislative research and drafting offices of the general assembly. Brophy is not the principal or proponent because he has admitted that he is getting paid for his services. The proponents of this measure did not meet with the legislative research and drafting offices of the general assembly. The designated representatives, Brophy and Gibbs, met with the legislative research and drafting offices of the general assembly. There is no jurisdiction for the Title Board to set title in this matter because there are no Colorado citizen proponents of this initiative. If this initiative is to be pursued, the actual

proponents must re-file this initiative, reveal themselves, and meet with the legislative research and drafting offices of the general assembly. To allow this initiative to proceed further constitutes fraud.

B. Pursuant to C.R.S. § 1-40-104, the designated representatives are to file their mailing addresses. The designated representatives failed to provide the zip codes for their addresses and therefore failed to provide the mailing address. A zip code is an essential part of the mailing address. The Title Board does not have jurisdiction to set a title. *See Hayes v. Ottke*, 293 P.3d 551 (Colo. 2013).

C. Contrary to the requirement for a single subject in a ballot initiative, Colo. Const. Art. V., Sec. 1(5.5), #95 regards multiple, separate issues. The petition process to get an initiative on the ballot and the percentage of votes required to pass an amendment to the constitution are two distinctly different subjects. It is confusing to voters to put these two separate subjects into one initiative.

D. We don't know whether the title is reflective of the intent of proponents because we don't know who the proponents are. Contrary to the statutory requirements for a ballot title that is not confusing, not misleading, and reflective of the intent of the initiative, C.R.S. § 1-40-106, 107, the Board has erred by setting a title that is unfair and does not reveal that the measure:

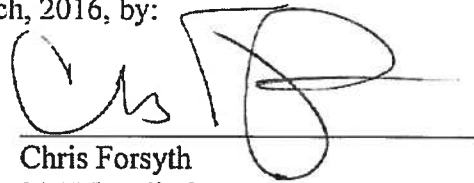
- (1) Increases the consensus of voters required from a longstanding majority to 55% or, in other words, allows 46% of voters to deny an amendment desired by 54% of voters;
- (2) Does not allow a majority vote to change a provision currently in the constitution that was adopted by a majority vote;
- (3) .Excepts repeals. You technically have to amend the constitution to remove any language. This whole measure is dubiously deceptive in that it allows amendments of a certain kind at 50% vote as opposed to other amendments that require 55%. The initiative is creating two categories of amendments and that is not clarified in the title;
- (4) Creates a system where one senate district can hold the rest of Colorado hostage and keep the constitution from being amended by refusing to sign a petition to put an initiative on the ballot even though all other senate districts have provided sufficient signatures;
- (5) Regards two completely separate processes: 1) the petition process to get on the ballot and 2) once a measure is on the ballot, the number of votes required to pass the amendment;

To say the initiative makes it "more difficult to amend the constitution" is inaccurate and is an impermissible catch phrase. The measure increases the consensus of voters from a longstanding majority (50%) to 55%. And the measure arguably makes it more difficult to get on the ballot, which is a separate and distinct question from amending the constitution.

The question the drafting raises is if one repeals enough language in the constitution, and then replaces that language with fewer words than were originally there, does the measure add words? There would be fewer words in the constitution than were previously there.

The title for this measure is a particular challenge for a Title Board that is most familiar with the ballot process. The Title Board members can discern what the measure does because they are very skilled in this area. Voters, however, are not skilled in the petition and ballot process for initiatives. This measure and title is incredibly confusing to the average voter because it regards percentages for petitions and percentages of votes necessary to pass. To set a title for a measure such as this, the Board needs to consider that people need to be educated that to get on the ballot, a petition must be filed with a certain number of signatures. In other words, the title needs to be more remedial. To have the petition process and the votes necessary to pass in an election in the same measure is too confusing for the average voter.

Respectfully submitted this 9th day of March, 2016, by:



Chris Forsyth
3155 Ingalls St.
Wheat Ridge, CO 80214
Phone: 303-238-8864
Email: forsythlaw@hotmail.com

CERTIFICATE OF SERVICE

I hereby affirm that a true and correct copy of this Motion for Rehearing was sent this day, March 9, 2016, via first-class, postage-prepaid, United States mail to the designated representatives at:

Greg Brophy
8061 South Williams Circle
Centennial, CO

Dan Gibbs
PO Box 5635
Breckenridge, CO

