

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE  
FOR INITIATIVE 2015-2016 #98

**MOTION FOR REHEARING**

On behalf of Kelly Brough and Joe Blake, registered electors of the State of Colorado and designated representatives of Proposed Ballot Initiative 2015-2016 #98 ("the Proponents"), the undersigned counsel hereby submits this Motion for Rehearing on Initiative #98, and as grounds therefore states as follows:

**I. THE TITLE AS DRAFTED IS MISLEADING AND DOES NOT FAIRLY AND CORRECTLY EXPRESS THE TRUE MEANING OF THE MEASURE.**

The Title Board adopted the following title at its March 2, 2016 hearing:

*A change to the Colorado Revised Statutes concerning the process of selecting candidates representing major political parties on a general election ballot, and, in connection therewith, allowing an unaffiliated elector to vote in the primary election of a major political party without declaring an affiliation with that political party and permitting a political party in specific circumstances to select all of its candidates by assembly or convention instead of by primary election.*

As drafted, the title will lead to voter confusion because it includes a description of the statutory change in the measure allowing a political party, under only very specific and limited circumstances, to opt-out of a primary election. There is significant risk that inclusion of this provision in the title will create the perception among voters that the measure presents the political parties with a simply either/or choice: parties can choose to either elect candidates through a primary election that includes unaffiliated voters, or they can choose them through a convention or assembly. More properly described, however, the measure changes Colorado to a semi-open primary voting system whereby unaffiliated voters are allowed to participate in primary elections *as matter of right*. Admittedly, the measure does give major political parties the opportunity to opt-out of this default system, but they may do so only if a significant portion of a party's state central committee (which number in the hundreds of people) votes by a super-majority of 75% to do so - an unlikely event (as has been proven in other jurisdictions with similar systems).

Accordingly, removing this language from the title will create a more accurate and fair description of the measure's true import, it will help voters understand what the measure's practical effect is on the current primary voting system in Colorado, and ultimately it will give voters the opportunity to make a properly informed decision on whether to vote for or against the measure.


**II. ADDITIONAL AMENDMENTS TO THE TITLE WILL PROVIDE CLARITY AND HELP AVOID VOTER CONFUSION.**

While perhaps not a constitutional or jurisdictional issue, the Proponents respectfully request additional changes to the title in order to promote clarity and voter understanding. More specifically, the Proponents ask that the title not include a separate single subject clause nor the traditional "in connection therewith" clause, and that it refer to "electors" as the more commonly used "voters". As amended, the Proponents suggest the following language (to include the elimination of the opt-out provision discussed above):

*A change to the Colorado Revised Statutes concerning the process of selecting candidates representing major political parties on a general election ballot, and, in connection therewith, allowing an unaffiliated voters elector to vote in the primary election of a major political party without declaring an affiliation with that political party and permitting a political party in specific circumstances to select all of its candidates by assembly or convention instead of by primary election.*

Accordingly, the Proponents respectfully request that this matter be set for rehearing pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 9th day of March, 2016.



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