

February 6, 2024

Please accept the following as my public comment in considering Proposed Initiative 2023-2024 #117 ("Initiative #117")

I object to Final Initiative 2023-2024 #117: Colorado Equal Election Access Amendment on the following grounds.

1. The title is deceptive. This is an overhaul of the election system. It should be called Ranked Choice Voting, Elimination of the Political Parties in Primary Elections and Filling Vacancies. Three separate initiatives, none of which "Colorado Equal Election Access" is an appropriate title.
2. #117 has more than one subject.
3. #117 does not meet the standards of Colo. Const. art. V, §1(5.5), and is thus unconstitutional.
 - a. Colo. Const. art. V, §1(5.5), no measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title
4. #117 does not meet the standards of CRS § 1-40-106.5, and is thus unlawful.
 - a. 1-40-106.5. Single-subject requirements for initiated measures and referred constitutional amendments - legislative declaration.
 - (1) The general assembly hereby finds, determines, and declares that:
 - (a) Section 1 (5.5) of article V and section 2 (3) of article XIX of the state constitution require that every constitutional amendment or law proposed by initiative and every constitutional amendment proposed by the general assembly be limited to a single subject, which shall be clearly expressed in its title;
5. Initiative #117 should not have passed through the initial Title Boards hearing. I am grateful to those who filed a motion for rehearing to bring this matter before the board for review. Please take this time to actually apply the law and not pass the initiative onward until it meets the constitutional and statutory standards or we will be right back here again as many times as it takes to form a constitutional single subject initiative.
6. Section 1 has deceptive language.
 - a. "It is in the interest of the people of the state of Colorado" is deceptive language. A marketing ploy to convince those who have not studied Ranked Choice Voting to believe that they are choosing something that is in their interest, when in fact it is not, or at least they should be given the opportunity to decide if they believe it is in their "best interest."
 - b. "Modernize our election system" is misleading as Ranked Choice Voting is a complete overhaul of the election system. Forcing people to vote for candidates they do not wish to vote for, even if they are only voting for them as their number second or third choice.
 - c. "(b) Vote for any candidate they prefer, regardless of political affiliation;" is deceptive language as voters in Colorado currently have open primaries which provides the opportunity to vote for any candidate they prefer. To be direct and honest, this should read "abolish political parties' participation in the primary."
 - d. "(e) Vote in elections to fill vacancies in the state legislature." This is a single subject that should be on a constitutional single ballot initiative all of its own.

"(2) promotes meaningful voter participation" This is deceptive language. 85% of municipalities who have enacted Ranked Choice Voting across the nation have moved to return to the tried-and-true historical election methods in place for the past 248 years.

7. Section 2 is a violation of the rights of political parties and includes deceptive language.
 - a. "EVERY CANDIDATE FOR A COVERED OFFICE, REGARDLESS OF THAT CANDIDATE'S POLITICAL AFFILIATION, MUST PETITION ONTO THE BALLOT FOR THE ALL-CANDIDATE PRIMARY ELECTION BY COLLECTING SIGNATURES FROM REGISTERED ELECTORS." The forced Petition Only language forces a political party to change their bylaws on how they put forth candidates to be elected thus violating their rights.
 - b. "(4) THE SECRETARY OF STATE SHALL PROMULGATE RULES, INCLUDING RULES ADDRESSING PETITION ACCESSIBILITY AND TECHNOLOGICAL ASSISTANCE, CONSISTENT WITH THIS SECTION." This is deceptive language. For such a sweeping overhaul of the election system simply stating that the Secretary of State shall promulgate new rules to enact this massive change falls short. Title one of the Colorado Revised Statute includes hundreds of detailed sections on how elections are run and candidates are chosen, yet this deceptive language makes it sound like the Secretary of State will read the directions before playing a game of Monopoly.
8. Section 3 Deceptive Language
 - a. "(2) NOTHING IN THIS SECTION SHALL PREVENT POLITICAL PARTIES, ORGANIZATIONS, OR OTHER GROUPS FROM NOMINATING OR ENDORSING A CANDIDATE OR CANDIDATES OF THEIR CHOICE FOR COVERED OFFICES NOR SHALL IT PREVENT A CANDIDATE FROM ACCEPTING OR REJECTING ANY NUMBER OF SUCH NOMINATIONS OR ENDORSEMENTS." This is deceptive and unintelligible. Section 2 just mandated that every candidate must petition onto the ballot, yet this language misleads voters to think that nothing has changed and political parties will still be able to nominate candidates for the ballot. If this is supposed to mean that the political parties will only be able to say publicly "we like this guy", then say it more plainly. The Use of words such as "Nominating" and "Endorsing" have a historical and societal understanding to mean that a political party nominates a candidate and they are on the ballot, no petitioning on necessary. To use these same words with a new definition is unfair, misleading and deceptive.
 - b. "(3) SHALL BE PLACED ON THE BALLOT IN AN ORDER ESTABLISHED BY LOT WITH THEIR POLITICAL PARTY AFFILIATION" Once again this is deceptive. Section 3 subsection 2 just established that parties can nominate and endorse candidates and yet this forces the order the names are to be placed on the ballot as drawn by lot. Currently when candidates are nominated at the party assemblies the candidates with the most delegates is considered a Top Line Candidate and gets their name at the top of the ticket because they have already passed through a process in which they have gained a majority of the party's support.
 - c. "(c) IN THE EVENT IT CANNOT BE DETERMINED WHICH FOUR CANDIDATES RECEIVED THE GREATEST NUMBER OF VOTES DUE TO A TIE FOR THE FINAL ADVANCING POSITION, THE TIED CANDIDATE OR CANDIDATES WHO WILL PROCEED TO THE GENERAL ELECTION WILL BE DETERMINED BY LOT." What does this even mean? Is this suggesting that if this new "modernized" form of election will not be able to produce candidates for the general election that are clear winners of the primary? And then we are going to leave it all up to chance? What a ridiculous proposal. Why not just throw all the names in the hat to being with and pull out the names? Or write them on ping pong balls and use the

lottery machine. The language in this section is unintelligible, or if in fact I have understood it, then is preposterous.

9. Section 4. There are more than one subject included in this section.
 - a. "Section 15...EACH GENERAL ELECTION FOR COVERED OFFICE SHALL BE CONDUCTED BY INSTANT RUNOFF VOTING WHEREBY EVERY VOTER MAY RANK THE ADVANCING CANDIDATES IN ORDER OF PREFERENCE. VACANCY ELECTIONS FOR REPRESENTATIVE TO THE UNITED STATES HOUSE OF REPRESENTATIVES ALSO SHALL BE CONDUCTED USING INSTANT RUNOFF VOTING." This includes Instant Runoff and filling vacancies, two completely different subjects and should not be in the same initiative.
 - b. What is an Instant Run-off Election? Language is unclear.
 - c. "(4) IF A CANDIDATE FOR A COVERED OFFICE RECEIVES A MAJORITY OF THE TOP-RANKED VOTES, THAT CANDIDATE WINS THE GENERAL ELECTION FOR THAT COVERED OFFICE." What "Top Ranked votes" mean? Does each mark on the get counted? Does my number 1 rank have more weight than my number 4 rank in terms of counting the overall votes for a candidate? Do the 1st, 2nd, 3rd and 4th choices carry a different weight in the overall tallying of votes? This language is unclear and confusing.
 - d. Two new terms have been introduced In section 4 "Instant Run Off" and "Top-Ranked Votes", neither of which are understandable and seem to be being used interchangeably.
 - e. "(5) (a) THE SECRETARY OF STATE SHALL PROMULGATE RULES, INCLUDING RULES FOR" and "(b) THE SECRETARY OF STATE SHALL PROVIDE GUIDANCE AND ADVICE TO THE DESIGNATED ELECTION OFFICIALS ON THE CONDUCT OF ELECTIONS USING INSTANT RUNOFF VOTING." This is deceptive language. Same argument as I made in my point 7(b). This is an attempt to make a very complicated overhaul of the system understandable and cram it all in to one Initiative by brushing off the "details" to the Secretary promulgating rules. The rules that will need to go into effect to administer these changes are vast and go beyond the intent of the legislation for the Secretary to promulgate rules.
10. Section 5. Is a separate Subject.
 - a. I whole heartedly object to this being included in an initiative with Ranked Choice voting and elimination of the Parties in the Primary election. How did this pass by the Title Board in the first place?
 - b. "(2) VACANCIES IN THE GENERAL ASSEMBLY SHALL BE FILLED BY AN ELECTION CONDUCTED THROUGH A PROCESS WHEREBY THE CANDIDATE RECEIVING A MAJORITY OF VOTES IS ELECTED." The language is ambiguous. What type of election is going to be held? Who is to bare the cost of these random elections throughout the year? Is it going to be an "Instant Run Off" and "Top-Ranked Votes" election or a traditional election?
 - c. "(3) THE SECRETARY OF STATE SHALL PROMULGATE RULES CONSISTENT WITH THIS SECTION FOR VACANCY ELECTIONS IN WHICH THE CANDIDATE RECEIVING A MAJORITY OF VOTES IS ELECTED." And again, the catch all "Let the Secretary create the rules because we are too lazy to think of it ourselves" line is thrown in. This is unacceptable in a Constitutional Amendment and overhaul of our election system. It is deceptive, ambiguous, misleading and quite frankly wrong.
11. Section 6. I have no objection to the language in this section.

Thank you for considering my comments and objections. I trust that this initiative will be halted and separated into three separate initiatives to follow the Colorado Constitution of which each member on the Title Board has sworn an oath to uphold.

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