

From: [Linda Templin](#)
To: [Statewide Initiatives](#)
Subject: [EXTERNAL] Initiatives: Concerning the conduct of elections
Date: Wednesday, April 3, 2024 2:55:17 PM

Date: April 3, 2024

To: Title Board Members: Theresa Conley, Christie Chase, Jennifer Sullivan
Office of the Colorado Secretary of State

From: Linda Templin, Patrick Dillon, and Caryn Ann Harlos, Colorado
Registered Electors

Re: Initiatives 188, 210, 212, 219, 223, and 231
Application of single-subject and title language

1. At-issue: A fair, sufficient, and clear title for the subjects of the all-candidate primaries and the Ranked Choice Voting (RCV) do not fit within the same proper and fair title. RCV in the general election requires a title that contains RCV and nothing else.

Colorado voters who RCV say that the ballots are easy, but the majority of Colorado voters have only used pick-one or pick-two voting. Many voters are not familiar with RCV. In other states the tallies can be different, it is important to clearly explain what the voting and tally methods means in Colorado.

Adding to the cognitive overload of a presidential year, a well-known "Sour Grapes" candidate from Alaska is actively publicizing misinformation about RCV along with conspiracy theories. This is unfortunate because the channel for that information includes the very people who would benefit the most. It is of utmost importance to make clear what RCV means in Colorado so that voters may make an informed decision.

Request: That the title language be limited to a description of Ranked Choice Voting. The intent of which is detailed in Rule 26. Ranked Voting Method. Appropriate text could be

"Ranked Choice Voting

Shall the State of Colorado Adopt Ranked Choice Voting of certain covered state and federal offices. Ranked choice voting ballots allow voters to vote once for the office by ranking as many or as few candidates as they like in order of preference. The tally finds the consensus of a majority by

counting all of the first choice votes. If a candidate has surpassed the majority win threshold, then they are declared the winner. If and only if no candidate has earned the support of a majority, then there is an instant runoff using the same ballots. The candidate with the fewest first-choices is eliminated. Those ballots and only those ballots are added to the vote total for the voters' second choice. The process continues until a winner has earned enough support to pass the win threshold." (... and then the description of the covered offices)

Suggestion to the proponents: In 2023, an RCV race was run on the same county equipment as every other election. There was an audit to ensure accuracy. It may be helpful to underscore that RCV uses the same equipment and tally audit that all county-level elections do.

Why this change is appropriate: Prior ruling relied upon precedent from the Alaska and Nevada State Supreme Courts. The requirement of the single-subject rules in those states is less stringent than the one protecting Colorado voters.

Comparison of state standards.

Alaska's rule is the most cursory. The standards to be met are only that a measure be:

- Confined to one subject
- The subject is in the title

Nevada's single subject standard is that there can only be

- One subject
- And also matters necessarily connected if the parts are functionally germane in a way that provides sufficient notice of the general subject and the interests likely to be affected.

Colorado's single-subject rule is that there can only be

- No more than one
- The subject is clearly expressed in the title

- If the subject is so complex that it cannot be clearly expressed in the title, it fails to be a single-subject

Colorado's single-subject rule together with the code directing directing the title board

CRS 1-40-106

Subsection (1) "proper fair title" "together with a submission clause"

Subsection (3) In setting a title, the title board shall consider the public confusion that **might** be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a "yes/for" or "no/against" vote will be unclear.

The title for the proposed law or constitutional amendment, which shall correctly and fairly express the true intent and meaning thereof

Has yielded the precedent that:

The summary, single subject and title requirements serve to prevent voter confusion and promote informed decisions by narrowing the initiative to a single matter and providing **information on that single subject.**

Campbell v. Buckley, 203 F.3d 738 (10th Cir. 2000).

The requirements serve to prevent a provision that would not otherwise pass from becoming law by "piggybacking" it on a more popular proposal or concealing it in a long and complex initiative. Campbell v. Buckley, 203 F.3d 738 (10th Cir. 2000).

The titles and summary of a proposed initiative **need not spell out every detail** of a proposed initiative in order to convey its meaning accurately and fairly.

Matter of Ballot Title 1997-98 No. 74, 962 P.2d 927 (Colo. 1998).

No requirement that the board **state** the effect an initiative will have on other constitutional and statutory provisions or describe every feature of a proposed measure in the titles.

In re Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the Town of Burlington, 830 P.2d 1023 (Colo. 1992);

In re Proposed Initiated Constitutional Amendment Concerning

Limited Gaming in Manitou Springs, 826 P.2d 1241 (Colo. 1992);
Matter of [Election Reform Amendment](#), 852 P.2d 28 (Colo. 1993);
Matter of [Title, Ballot Title S. Clause](#), 875 P.2d 207 (Colo. 1994);
In re Petition on Campaign and Political Finance, 877 P.2d 311 (Colo. 1994).

2. At-issue: At least one of the initiatives in this group of filings contains a tally method different from what is described in the state's Rule 26: Ranked Voting Method. RCV advocates around the state have been educating voters about the very narrow interpretation of RCV found within that rule. The intent of the rule is to be fair to all concerned.

The purpose of the proposed variations from the tally rules is not clear. As such, changes to the tally should not be permitted to bear the moniker "Ranked Choice Voting" as it would be a substantive bait-and-switch.

Ranked Choice Voting for Colorado
[1536 Wynkoop Street, #908](#)
[Denver, CO 80202](#)
303-454-3335
www.RCVforColorado.org