

COLORADO BALLOT TITLE SETTING BOARD

MOTION FOR REHEARING ON PROPOSED INITIATIVE 2025-2026 #90

Joshua Mantell, a registered elector of the State of Colorado, respectfully submits this Motion for Rehearing on Proposed Initiative 2025-2026 #90:

I. Single Subject:

Proposed Initiative 2025-2026 #90 addresses two distinct and separate subjects that are not necessarily or properly connected.

First, the Proposed Initiative requires that “fees” – as newly defined in the measure – that are imposed or increased with projected or actual “revenue” of \$100,000,000 total in the first five fiscal years must be approved at a *statewide* election (irrespective of whether the fee is entirely local in adoption and application).

Second, the Proposed Initiative creates a new – and significantly expanded – definition for the term “new tax” as it currently appears in COLO. CONST. art. X, §20(4)(a) for determination of when “voter approval in advance” – either state or local depending upon the nature of the taxing district in this case – must be obtained.

“Taxes” and “fees” are completely distinct sources of public funding – a distinction that has largely been developed and defined in the courts. And the issues posed by this proposed initiative are equally distinct. On the one hand, this measure asks the voters to require *statewide* voter approval for both state *and locally* adopted fees above a specified “revenue” threshold. That involves very different considerations – and is a very different subject – from developing or clarifying a new definition for the term “new tax” as it is applied for purposes of determining the necessity of a district-specific election.

II. Accuracy and Clarity of the Title:

The ballot title adopted by the Title Board also mischaracterizes the new or re-definition of the term “new tax” as a *clarification* of the term as it currently appears in COLO. CONST. art. X, §20(4)(a). It is far more than a clarification, as it would convert matters such as an increase in an assessment rate resulting purely from the reclassification of a property – for which voter approval is *not* currently required under TABOR – as something that *would* now for the first time require voter approval. That is a wholly new substantive expansion of the TABOR voter-approval requirement.

Additionally, the title characterizes taxes as within the concept of “governmental charges” – a term not generally associated with taxes (which are usually viewed as funding the broader purposes of government) – as distinct from a payment required for provision of a specific service or benefit.

_____/s/_____
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