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COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

In re:

Initiative 2015-2016 #94

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 #94 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 increasing the percentage of votes needed to pass a proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast for any proposed amendment that 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).

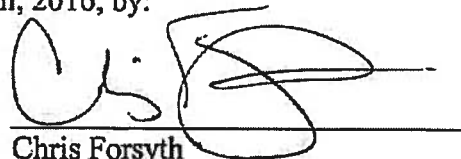
C. We don't know whether the title is reflective of the intent of proponents because we don't know who the proponents are. Contrary to the statutory requirements for a ballot title that is not confusing, not misleading, and reflective of the intent of the initiative, C.R.S. § 1-40-106, 107, the Board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

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%.

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.

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



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## 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

A handwritten signature in black ink, appearing to be "MS", is written over a horizontal line.