

COLORADO TITLE SETTING BOARD

Suzanne Taheri and Steve Ward
Designated Representatives of Initiative 2023-2024 #289

MOTION FOR REHEARING ON INITIATIVE 2023-2024 #289

Suzanne Taheri and Steven Ward, registered electors of the State of Colorado and proponents of Initiative 2023-2024 #289 (“Initiative #289”) object to the Title Board’s finding that the measure does not constitute a single subject which resulted in the Board’s refusal to set title.

The Title Board considered Initiative #289 on April 17, 2024. The statutory section proposed by the Initiative is short and straightforward. It defines the term “strict liability” for purposes of the proposed new section.

The Title Board determined that imposing a strict liability standard for oil and gas operations and defining “strict liability” in a way that is more limited than its common usage constitutes two separate subjects.

The Proponents disagree with the Title Board’s action. Statutes and initiatives frequently define the terms used therein, which may differ from the common usage of the same words.¹ Such definitions do not constitute a separate subject. For example, the Colorado Supreme Court found that an “expansive” definition of a commonly used term that was necessarily and properly connected to the central purpose of the measure did not create a separate subject.²

Furthermore, although a statutory definition differs from ordinary usage “the differences between the definitions .. do not render the statute unconstitutionally vague.”³

The definition of “strict liability” in Initiative #289 is narrower than the meaning of the commonly used term, but it is necessarily and properly connected to the central purpose of the initiative as it establishes the liability for certain harm caused by oil and gas operations. Therefore, defining the term “strict liability” in a way that is more limited than its common usage does not constitute a second subject.

¹ See e.g. *Griego v. People*, 19 P.3d 1, 7 (Colo. 2001); citing *Palmer v. People*, 964 P.2d 524, 526 (Colo. 1998); *The Pro's Closet, Inc. v. City of Boulder*, 457 P.3d 763, 767 (court used statutory definition that was not in line with traditional understanding of the term).

² *Bentley v. Mason (In re Title Ballot Title & Submission Clause for 2015-2016 #63)*, 370 P.3d 628, 632; citing *Cordero v. Leahy (In re Title, Ballot Title & Submission Clause 2013-2014 #90)*, 328 P.3d 155, 161.

³ *People v. Boles*, 280 P.3d 55, 63 (Colo. App. 2011); citing *Dubois v. Abrahamson*, 214 P.3d 586, 587 (Colo. App. 2009).

Just as the Title Board held that it has jurisdiction to set a title for proposed initiative 2023-2024 #270, which also defines “strict liability” for its purposes, the Title Board has jurisdiction to set a title for this measure. The Board’s decision regarding Initiative #289 should be consistent with the Board’s single-subject decision regarding proposed initiative 2023-2024 #270.

Accordingly, the Proponents respectfully request that this Motion for Rehearing be granted and a rehearing set pursuant to C.R.S. § 1-40-107(1), because the Initiative contains a single subject and the Title Board has jurisdiction to set a title.

Respectfully submitted this 23rd day of April, 2024.

/s/ Suzanne Taheri

West Group
Attorney for Proponents