

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION  
CLAUSE FOR PROPOSED INITIATIVES 2023-2024 #307-313

**MOTION FOR REHEARING ON PROPOSED INITIATIVES 2023-2024  
#307-313**

I, Linda Good, a registered elector of the State of Colorado, submit to the Title Board this Motion for Rehearing on Proposed Initiatives 2023-2024 #307-313 "Concerning the Conduct of Elections" ("Initiatives #307-313") and as grounds therefore state as follows:

I. THE TITLE SET BY TITLE BOARD

On April 18, 2024, the Title Board set the similar ballot titles and submission clauses for Initiatives #307-313:

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes creating new election processes for U.S. Senate, U.S. House of Representatives, Colorado state legislature, and certain state offices, and, in connection therewith, creating a new all-candidate primary election for these offices, reducing the number of signatures required to petition onto the all-candidate primary ballot, allowing voters to vote for any one candidate per office, regardless of political party affiliation, and specifying that the four candidates who receive the most votes advance to the general election; and in the general election, allowing voters to rank candidates for these offices and adopting a ranked voting process for how the votes are tallied and a winner is determined.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes creating new election processes for U.S. Senate, U.S. House of Representatives, Colorado state legislature, and certain state offices, and, in connection

therewith, creating a new all-candidate primary election for these offices, reducing the number of signatures required to petition onto the all-candidate primary ballot, allowing voters to vote for any one candidate per office, regardless of political party affiliation, and specifying that the four candidates who receive the most votes advance to the general election; and in the general election, allowing voters to rank candidates for these offices and adopting a ranked voting process for how the votes are tallied and a winner is determined?

## II. GROUNDS FOR REHEARING

The Initiatives Impermissibly Contains Several Separate and Distinct Subjects in Violation of the Single Subject Requirement.

Pursuant to 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 . . . . If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the polls.”

See also 1-40-106.5, C.R.S. "When a proposed initiative comprises multiple subjects, the [Title] Board lacks jurisdiction to set its title.”

Initiatives #307-313 have distinct separate subjects;

1. These initiatives change the conduct of the General election from a plurality of votes which has been the mechanism of conducting elections in the United States of America for 248 years and in the state of Colorado for 148 years, to Ranked Voting Method or Instant Runoff Voting where the duly elected is determined by the

majority of votes after several rounds of voting. The severity of this change to the conduct of elections in Colorado far exceeds any threshold to trigger an issue to be its own subject.

Simply declaring a broad topic such as “instant runoff voting in elections” does not save the matter. For example, the Colorado Supreme Court rejected a subject of “recall of government officers” as far too broad.<sup>1</sup> That provision created “a new constitutional right to recall non-elected officers, in addition to elected officers.”<sup>2</sup> Under the same reasoning, the broad subject of “instant runoff in elections” does not rescue the measure from its serious single-subject violation.

2. Secondly, these initiatives change the conduct of the Primary election to an All Candidate Primary which will eliminate the separate Partisan Primary elections and create a new election where all candidates are on one ballot for Federal and state elections but leave the partisan party primaries in tact for County elections.

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<sup>1</sup> *Hayes v. Spalding (In re Title, Ballot Title, & Submission Clause for 2013-2014 #76)*, 2014 CO 52, ¶ 10.

<sup>2</sup> *Id.* at ¶ 9.

3. Along with this radical change to an All Candidate Primary election comes an altogether separate subject which limits the number of candidates on the General ballot to four. This is not only a separate change to the conduct of elections, but is contrary to the Proponents' stated goal in Section 1 subsection (2) "provides voters more choices, generates more competitive candidates for elective office, promotes more meaningful voter participation". Though mentioned in the title, this extreme change in the initiative is deceptive and will cause confusion and surprise the voters.
4. All initiatives reduce the number of signatures required for petitioning onto the ballot. This is a Ballot Access issue and should be considered a separate issue.
5. Initiative #312 adds another subject by including the US Presidential election which has a separate purpose and outcome which is different from the "covered offices". Colorado does not select the presidential winner, but instead sends electors who vote for the U.S. President in combination with members of the Electoral college. This negates the proponents' stated purpose of "more choice to elect candidates who better reflect the will of a majority of the voters" as Colorado voters only account for less than 2% of the presidential electors. (10 out of 538

electors). In short, the two elections are different, and they constitute two different subjects.

6. Initiative #313 brings even more changes by including the County elected offices into the All Candidate Primary, and limiting the number of candidates on the General Ballot to two!
7. Initiative #313 has an altogether separate, new and made up version of ranked voting method they decided to call it “Instant Runoff Voting” to make things easy.”<sup>3</sup> Instant runoff is in the Primary but not the General because they are only allowing 2 candidates on the General. 6:53
8. Initiative #313 completely eliminates the Partisan Primary election. Again, this is a substantial change and should be a triggering event to a separate subject.
9. The language used in the Declaration is incongruent with body of the Initiative. The Declaration states “where candidates are elected with a majority of votes.” However, the language within the proposed statute changes and in the titles set states “the candidate with the highest number of votes at the end of the voting tally is elected.”
10. Counsel for the Proponents David Meschke stated “This is not the Proponents’ preferred policy, this is an alternative, obviously a lot can

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<sup>3</sup> [https://csos.granicus.com/player/clip/451?view\\_id=1&redirect=true](https://csos.granicus.com/player/clip/451?view_id=1&redirect=true)

happen between now and November, this just presents a different way of achieving, in this case **many of the Proponent's goals**, not all of them.”<sup>4</sup>

Which is an Acknowledgement that the initiative is multiple subject and achieving “many of the Proponents’ goals.”

11. The multiple variations on Instant Runoff Voting being used by the proponents is confusing and deceptive as they do not conform to the standard form of Instant Runoff Voting nationwide. Not many voters understand the tabulation of Instant Runoff Voting, but with the Proponents making up their own version and using the same name, even the few who do understand Instant Runoff Voting will be deceived into thinking they are getting a different conduct of election.

Counsel for the Proponents’ David Meschke made several statements which made it clear that they had made up this version of Instant Runoff Voting. “But I don't believe the type of ranked voting method that we're adding in this measure has a particular set name at this point in time, so we had to kind of fit it in something and since it's a runoff voting is very similar.”

Mr. Meschke also stated, “We are now using that term instant runoff voting for a different purpose in this in this measure, because it's

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<sup>4</sup> [https://csos.granicus.com/player/clip/451?view\\_id=1&redirect=true](https://csos.granicus.com/player/clip/451?view_id=1&redirect=true) @6:50

“winnowing the field” of candidates to two as opposed to selecting one. So that's why we use the language “winnowing the field” of candidates and Ms. Landry is correct, it's a bottoms up, instead run up voting method.” And separately, “depends on what you consider IRV I think these definitions are somewhat fluid.”

Madame Chair asked those in the room, “Do you feel like the definition of instant runoff voting to expand or to “winnow a field of candidates” as set forth is new? Or does some instant runoff voting include something other than a single winner?”

Linda Templin answered definitively, “Instant runoff voting is only a single winner.”

12. In the discussion on #314 counsel for the Proponents David Meschke referred back to Initiative #313 stating, “I said we're moving away from instant runoff voting. So now we're moving not only as a general, but this one doesn't even touch it in the primary election. Right. So the single subject is giving every registered voter the right to vote and any for any eligible candidate and taxpayer funded elections. And I think when we talked about 313 I tried to shorthand with the features....” This statement from the Proponents makes it clear that the change to Ranked Voting method, or Instant Runoff Voting is not necessarily tied to the

proponents' goal of an All Candidate Primary where any eligible elector can vote for any eligible candidate regardless of party affiliation.

Changing the voting method, or implementation mechanism, of the election is a separate subject not necessarily tied to the subject of an All Candidate Primary.

### III. CONCLUSION

Based on the foregoing, Objector requests a rehearing of the Title Board for Initiatives 2023-2024 #307-313 because the initiatives contain multiple subjects, and the titles set are incomplete and unclear with deceptive language. As a result, the Title Board lacks jurisdiction to set a title and should reject the measures in their entirety.

Respectfully submitted this 24<sup>th</sup> day of April, 2024.

/S/ Linda Good  
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