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MAY 28 2008

CO. APP. M.

COLORADO TITLE SETTING BOARD

ELECTIONS
SECRETARY OF STATE

In re Title and Ballot Title and Submission Clause for Initiative 2007-2008 #113

MOTION FOR REHEARING

On behalf of Howard Stanley Dempsey, Jr. a registered elector of the State of Colorado, the undersigned hereby moves for a rehearing of the title, ballot title, and submission clause for Initiative 2007-2008 #113 "Severance Tax", set by the Title Board on May 21, 2008. As grounds, Dempsey states as follows:

The proposed initiative violates Colorado's single subject requirement contained in C.R.S. § 1-40-106.5 because it contains the following separate subjects:

1. An increase in the severance tax on oil and gas production in Colorado.
2. Spending mandates that are not dependent upon or necessarily connected with the severance tax increase, or one another, including but not limited to:
 - a. The severance tax trust fund;
 - b. The local government severance tax fund;
 - c. College Scholarships;
 - d. Native wildlife habitat preservation;
 - e. Renewable energy and energy efficiency enhancements;
 - f. Transportation projects;
 - g. Community drinking and water and wastewater treatment.

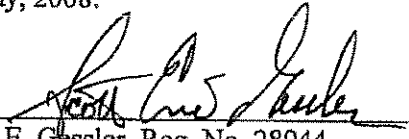
The title set by the Board is misleading, inaccurate, and incomplete for the following reasons:

1. The title is misleading because it substantially understates the size of the tax increase in the first year that the initiative goes into effect.
2. The title fails to identify the percentage of the tax revenues devoted to each new

spending mandate, thereby omitting critical information necessary to allow voters to make an informed choice.

3. The title is incomplete, because it does not accurately state that the ad valorem property tax credit is being removed.
4. The title uses the word "enhancements" as part of the spending mandate for renewable energy, which is an improper catch phrase that works to the proposal's favor without contributing to voter understanding.
5. The title is incomplete and misleading because it states that scholarships are for state colleges and universities, when in fact the definition of "higher education" excludes certain colleges, but includes occupational educational programs.
6. The title is incomplete, because it fails to inform voters that it imposes a new, five percent tax on gross income under \$300,000 when production wells meet a certain threshold, and the initiative further fails to inform voters that the new five percent tax is greater than the previous tax eliminated by the initiative.
7. The title is incomplete and misleading, because it fails to inform voters that an exemption from revenue collection and spending limits also applies to certain other revenue that may be collected and spent by the state or any district.
8. The title is incomplete and misleading, because it fails to inform voters that the measure reduces the exemption for small well producers by fifty percent.

Respectfully submitted this 28th day of May, 2008.

By: 
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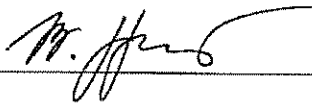
Attorney for Howard Stanley Dempsey, Jr.

Address of Petitioner:
3110 Alkire St.
Golden, Colorado 80401

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of May, 2008, a true and correct copy of the foregoing **MOTION FOR REHEARING** was placed in the United States mail, postage prepaid, to the following:

Ed Ramey, Esq.
Isaacson Rosenbaum P.C.
633 17th Street
Suite 2200
Denver, Colorado 80202



Cesiah Gomez

From: Barbora Hurd [bhurd@hackstaffgessler.com]
Sent: Wednesday, May 28, 2008 4:49 PM
To: Cesiah Gomez
Cc: 'Scott Gessler'; general@hackstaffgessler.com
Subject: Motions for Rehearing (#113, #123, #124)
Attachments: Motions for Rehearing 113, 123, 124.pdf

Dear Cesi,

Attached please find motions for rehearing regarding ballot initiative # 113, #123 and #124. The originals will be couriered to your office tomorrow morning. Please do not hesitate to call if you have any questions or need additional information.

Sincerely,

Barbora Hurd
Paralegal to Scott E. Gessler, Esq.

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