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BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

Timothy Markham, Objector,

vs.

Greg Brophy and Dan Gibbs, Proponents.

MOTION FOR REHEARING ON INITIATIVE 2015-2016 #93

Timothy Markham, a registered elector of Colorado, through legal counsel, Recht Kornfeld P.C., objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-16 #93 ("Threshold for Voter Approval of Initiated Constitutional Amendments").

I. The Title Board set a title for Initiative 2015-16 #93 on March 2, 2016.

At the hearing held in connection with this proposed initiative, the Board designated and fixed the following ballot title and submission clause:

Shall there be 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, unless the proposed constitutional amendment only removes language from the constitution?

II. The Title Board's title setting for this measure was error.

A. The initiative violates the single subject requirement.

1. This initiative violates the single subject requirement by restricting the voters' fundamental right of initiative and changing the ability of the people to authorize constitutional amendments placed on the ballot by the General Assembly.
2. This measure applies both to constitutional amendments adopted through exercise of the right of initiative and through measures referred to the voters by the General Assembly, thus limiting the powers of both the voters and the legislature to engage in distinct processes to propose a constitutional amendment

B. The titles are misleading, confusing, and prejudicial.

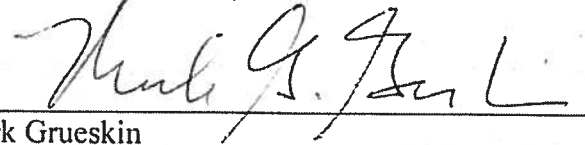
1. "Making it more difficult to amend the Colorado constitution" is a prohibited catch phrase and is misleading to voters.

2. If the title is to describe the goal of “making it more difficult to amend the Colorado constitution,” that goal should at least accurately state that initiative’s actual purpose which is “making it more difficult to exercise the fundamental right of initiative for the purpose of amending the Colorado constitution.”
3. The title is misleading because it states this initiative does not apply where “the proposed constitutional amendment only removes language from the constitution” and does not indicate that it could apply to “any provision” or provisions of the Constitution.
4. The title fails to state that the new provisions apply both to constitutional amendments adopted through exercise of the right of initiative and through measures referred to the voters by the General Assembly, thus limiting the powers of the voters and the legislature to engage in distinct processes to propose a constitutional amendment.

WHEREFORE, the titles set on March 2, 2016 should be stricken altogether or modified to account for the concerns raised in this Motion for Rehearing.

RESPECTFULLY SUBMITTED this 9th day of March, 2016.

RECHT.KORNFELD, P.C.



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CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2015-2016 #93 was sent this day, March 9, 2016 via first class U.S. mail, postage pre-paid to the proponents’ counsel at:

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