

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 #95**

---

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 #95 ("Requirements for Initiated Constitutional Amendments").

**I. The Title Board set a title for Initiative 2015-16 #95 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 requiring that any petition for a citizen-initiated constitutional amendment be signed by at least two percent of the registered electors who reside in each state senate district and increasing the percentage of votes needed to pass any proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast if the amendment adds words or numbers to the constitution?*

**II. The Title Board erred in setting a title for this measure on March 2.**

**A. The initiative violates the single subject requirement.**

1. This initiative violates the single subject requirement by combining a substantive change to a fundamental right (imposing limitations on the exercise of the right of initiative) with procedural changes to the process of circulating initiative petitions.
2. 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.
3. 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

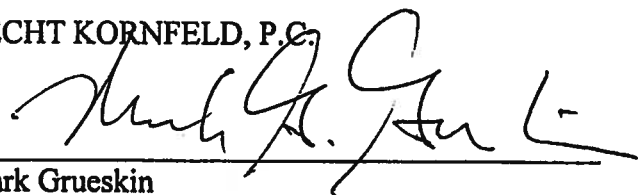
**B. The titles are misleading, confusing, and prejudicial.**

1. "Making it more difficult to amend the Colorado constitution" is a prohibited catch phrase and is misleading and inaccurate for 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 fails to describe that signature requirements per senate district will vary, even within the same election cycle, depending on the date the petition form has been approved for circulation.
4. The title fails to describe that signature requirements per senate district will vary whenever district lines are redrawn, due to reapportionment or court order, even within the same election cycle, depending on the date the petition form has been approved for circulation.
5. 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 9<sup>th</sup> day of March, 2016.

RECHT KORNFELD, P.C.



Mark Grueskin  
1600 Stout Street, Suite 1000  
Denver, CO 80202  
Phone: 303-573-1900  
Email: [mark@rklawpc.com](mailto:mark@rklawpc.com)

Objector's Address:

2848 Eliot Street  
Denver CO 80211

**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2015-2016 #95 was sent this day, March 9, 2016 via first class U.S. mail, postage pre-paid to the proponents' counsel at:

Dee Wisor, Esq.  
Butler Snow LLP  
1801 California Street  
Suite 5100  
Denver, CO 80202

*Erin Holweg*