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COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

In re:

Initiative 2015-2016 #97

AMENDED MOTION FOR REHEARING

Chris Forsyth, a registered elector of the State of Colorado, objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-2016 #97 pursuant to C.R.S. § 1-40-107.

On March 2, 2016, the Board set the following ballot title and submission clause:

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.

**ADVISORY GROUNDS FOR RECONSIDERATION**

A. The Colorado Constitution reserves the right of the initiative to the people of the State of Colorado. Colo. Const. Art. V., Sec. 1., Para. (2). The Colorado citizen proponents must initially meet with the legislative research and drafting offices of the general assembly. Colo. Const. Art. V., Sec. 1., Para. (5). The proponents of this measure have not revealed themselves and have not met with the legislative research and drafting offices of the general assembly. We do not know that the proponents of this measure are Colorado citizens. We do know that Greg Brophy and Dan Gibbs are the designated representative of the proponents. And we also know that Greg Brophy is getting paid for his work. He has admitted to the Independent Ethics Commission that he is being paid to perform his work. Therefore, Brophy is merely the agent of someone else. The Colorado Constitution requires that the principal - the actual proponent - meet with the legislative research and drafting offices of the general assembly. Brophy is not the principal or proponent because he has admitted that he is getting paid for his services. The proponents of this measure did not meet with the legislative research and drafting offices of the general assembly. The designated representatives, Brophy and Gibbs, met with the legislative research and drafting offices of the general assembly. There is no jurisdiction for the Title Board to set title in this matter because there are no Colorado citizen proponents of this initiative. If this initiative is to be pursued, the actual proponents must re-file this initiative, reveal themselves, and meet with the legislative research and drafting offices of the general assembly. To allow this initiative to proceed further constitutes fraud.

B. Pursuant to C.R.S. § 1-40-104, the designated representatives are to file their mailing addresses. The designated representatives failed to provide the zip codes for their addresses and therefore failed to provide the mailing address. A zip code is an essential part of the mailing address. The Title Board does not have jurisdiction to set a title. *See Hayes v. Ottke*, 293 P.3d 551 (Colo. 2013).

C. We don't know whether the title is reflective of the intent of proponents because we don't know who the proponents are. Contrary to the statutory requirements for a ballot title that is not confusing, not misleading, and reflective of the intent of the initiative, C.R.S. § 1-40-106, 107, the Board has erred by setting a title that is unfair and does not reveal that the measure:

- (1) Creates a system where one senate district can hold the rest of Colorado hostage and keep the constitution from being amended by refusing to sign a petition to put an initiative on the ballot even though all other senate districts have provided sufficient signatures;
- (2) Regards the petition process to get on the ballot. This provision does not make it more difficult to amend the constitution; it creates an additional requirement for a citizen initiative to get on the ballot.
- (3) Fails to inform voters that the requirements of the initiative are in addition to the current requirement for signatures equaling 5% of the votes for Secretary of State in the last election.

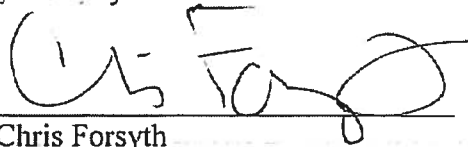
To say the initiative makes it "more difficult to amend the constitution" is inaccurate and is an impermissible catch phrase. The measure increases the technical requirement to get on the ballot.

This proposed initiative is the height of hypocrisy. Without revealing a Colorado citizen proponent for the measure, it proposes to use the current petition process to make it more difficult for subsequent petitioners to get on the ballot. In doing so, it creates a system where one senate district can hold the entire State of Colorado hostage. And it creates a system where the average citizen has no chance of getting on the ballot. Only big money special interests can deal with the requirement this initiative creates, such as the big money special interest that is paying designated representative Greg Brophy. This measure takes the process reserved for the common citizen of Colorado, mocks that process, and proposes to destroy that process. The voter needs to be more informed regarding the intent of this initiative. People don't understand that the right of the initiative is reserved to them -- the citizen. They don't understand that this initiative is to ensure that they cannot use the right of the initiative and that only big money special interests can use the initiative. That's already the problem in Colorado and this initiative would simply make that situation exponentially worse.

A more remedial title explaining the right of the initiative is necessary to accurately reflect the intent of this initiative. But most importantly, a title should be denied to this initiative because we don't know what Colorado citizen, if there is any, is

the proponent of this measure. After all, what Colorado citizen would take such a strong stance not only against himself, but his fellow citizens?

Respectfully submitted this 9th day of March, 2016, by:



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#### CERTIFICATE OF SERVICE

I hereby affirm that a true and correct copy of this Motion for Rehearing was sent this day, March 9, 2016, via first-class, postage-prepaid, United States mail to the designated representatives at:

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