

RECEIVED

FEB 12 2020

S. WARD
4:48 P.M.

Colorado Secretary of State

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR
INITIATIVE 2019-2020 #181

MOTION FOR REHEARING

On my own behalf, as a registered elector of the State of Colorado, the undersigned hereby submits this Motion for Rehearing for Initiative 2019- 2020 #181 - Voter Approval of Tax Measures, pursuant to Section 1-40-107, C.R.S., and as grounds therefore states as follows:

I. INITIATIVE #181 ATTEMPTS TO SURREPTITIOUSLY REPEAL AND REPLACE SIGNIFICANT PORTIONS OF THE COLORADO CONSTITUTION.

The Colorado Constitution currently contains Article X, Section 20, commonly known as the “Taxpayer’s Bill of Rights” or TABOR. This contains a requirement that all districts, including the state itself, “must have voter approval in advance” for among other items “any new tax, [or] tax rate increase.” Colo. Const. Art X, Sec. 20 (4)(a). The matching language in the proposed measure restricts itself to “taxpayers whose income is in the lowest ninety percent of income.” The Colorado Constitution currently contains no such limitation. The effect of inserting such a conflicting restriction in our constitution would be subject to the interpretation that it nullifies at least some of the rights contained in TABOR for the those who do not fall within “the lowest ninety percent of income.”

II. THE TITLE SET IS MISLEADING AND UNNECESSARILY CONFUSING DUE TO THE USE OF A DOUBLE NEGATIVE

The Title set for Initiative #181 begins with the language “An amendment to the Colorado constitution requiring prior voter approval” However, the Initiative is not requiring prior voter approval, but is, in fact, disposing of currently required prior voter approval due to the fact that the “unless” clause is the new feature. The title set should not mimic the structure of the measure by containing a double negative, but should make clear to voters what the actual change in the law is by positive language.

III. THE TITLE BOARD LACKS JURISDICTION BECAUSE MISLEADING LANGUAGE IN THE PROPOSED MEASURE RESULT IN A CONFUSING MEASURE.

The Title Board should deny jurisdiction to consider this measure because it fails to meet drafting requirements of simplicity and clarity and will confuse voters. See C.R.S. § 1-40-105(3) (“To the extent possible, drafts shall be worded with simplicity and clarity and so that the effect of the measure will not be misleading or likely to cause confusion among voters.”). The Initiative would dispose of the requirement of prior voter approval when the projected tax revenue “from all new tax measures is five percent or less of the fiscal year spending in the last complete fiscal year” and the projected tax revenue “from all tax measures in the last five fiscal measures is ten percent or less of the fiscal year spending in the last complete fiscal year.”

The second proviso seems to mean that voter approval would be required unless we were in the extremely unlikely position that all tax revenue (as it does not refer to all new tax measures) would be less than ten percent of the state’s spending in the last fiscal year. The definitions segment attempts to address this confusing possibility by stating that “projected revenue in a fiscal year from all tax measures in the last five fiscal years” does not mean what it states but instead is restricted to “the revenue the state projects that all tax measures to take effect in that fiscal year and took effect in the preceding four fiscal years.” This attempt to define words to have meanings other than their own clear meanings is confusing and renders the initiative misleading.

III. THE TITLE FAILS TO CONVEY TO VOTERS THE EFFECTS OF THE MEASURE

Voters need to be aware that this Constitutional amendment conflicts with and, by implication, would replace and repeal significant taxpayer protections that currently exist in Colorado law.

CONCLUSION

Accordingly, the Objector respectfully requests that this Motion for Rehearing be granted and a rehearing set pursuant to Section 1-40-107(1), C.R.S.

Respectfully submitted this 12th day of February, 2020.

/s/Rebecca R. Sopkin

Rebecca R. Sopkin
Attorney at Law, #20998
720 Kipling St. #12
Lakewood, CO 80215
303/946-2299
grsop@msn.com