

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Scott Wasserman, Movant

vs.

Colin Larson and John Brackney, Designated Representatives of Proponents.

**MOTION FOR REHEARING ON INITIATIVE 2021-2022 #149
("Concerning Property Valuation")**

Scott Wasserman, a registered elector in the State of Colorado, through his undersigned counsel, respectfully submits the following Motion for Rehearing regarding Proposed Initiative 2021-2022 #149 ("Concerning Property Valuation").

Proposed Initiative 2021-2022 #149 would amend both the Colorado Constitution – by a substantial revision of the basic constitutional criteria upon which real and personal property valuations for assessment must be based – and a variety of statutory provisions implementing the assessment and collection of property taxes in Colorado. The proposed amendments are detailed, complex, controversial, and quite significant in terms of their implementation and the magnitude of their consequences.

The initiative concludes, however, with the following language:

39-1-126. EXPIRATION. ON DECEMBER 31, 2032, THE PROVISIONS IN THE COLORADO REVISED STATUTES AND THE CONSTITUTION OF THE STATE OF COLORADO AFFECTED BY THIS INITIATIVE WILL RETURN TO AS THEY WERE BEFORE THE INITIATIVE WAS ORIGINALLY PASSED ON NOVEMBER 8, 2022, EXCEPT AS TO ANY CHANGES THAT WERE MADE TO THOSE PROVISIONS SUBSEQUENT TO THE PASSAGE OF THIS INITIATIVE.

Tracking this language, the title set by the Title Board interprets this new key statutory section as simply "requiring the provisions of this measure to expire on December 31, 2032."

As an initial matter, the title does not accurately reflect the language of the proposed initiative. New proposed C.R.S. 39-1-126 states that "the provisions in the Colorado Revised Statutes and the Constitution of the State of Colorado *affected by this initiative*" – emphasis added – will "return to as they were" (except for intervening changes).

As – or more – importantly, neither the title nor the measure itself provide any indication of the intended or practical scope of the phrase "*affected by this initiative.*" The one indisputable

point is that the scope of potentially “affected” provisions is far broader than the specific new provisions or amendatory language set forth in the body of the initiative itself. This is especially concerning in the context of a broad constitutional amendment addressing the general bases for valuations for assessment of all categories of real and personal property for taxation purposes. This is not simply a “sunset” or prospective “repeal” of the initiative itself – it is an undefinable reversion of everything “affected by” the initiative.

As important as latent single subject problems, the basic concern is that the voters are being asked to vote – now – for or against a measure that (1) incorporates significant constitutional and statutory changes to the laws governing property tax valuation in Colorado, (2) reverts everything “affected by” these new provisions to a *status quo ante* ten years later, while (3) excepting from that sweeping reversion “any changes that were made to those provisions [*i.e.*, those “affected” provisions] subsequent to the passage of this initiative.”

There is simply no way the Title Board can set a title for this initiative that fairly and clearly advises the voters what the effect of a “yes/for” or “no/against” vote would be. The initiative is extremely complex in itself. The scope of the ten-year-downstream reversion of all constitutional and statutory provisions “affected by this initiative” is unknowable (and certainly undefinable in a title), and the exception from the reversion for presently non-existent potential prospective “changes” to these undefined and unidentified potentially “affected” provisions is completely incomprehensible.

“Before a clear title can be written, the Board must reach a definitive conclusion as to whether the initiatives encompass multiple subjects.” *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #25*, 974 P.2d 458, 468 (Colo. 1999). “While the Board must give deference to a proponent's expression of his or her initiative's intent . . . it may not do so at the expense of its other equally important duties. The Board must simultaneously consider the potential public confusion that might result from misleading titles and exercise its authority in order to protect against such confusion.” *Id.* at 469.

Respectfully submitted April 27, 2022.

 s/
Edward T. Ramey
Tierney Lawrence LLC
225 East 16th Avenue, Suite 350
Denver, CO 80203
Phone: 303-949-7676
Email: eramey@tierneylawrence.com

Counsel for Scott Wasserman

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of this **MOTION FOR REHEARING ON INITIATIVE 2021-2022 #149** was delivered on April 27, 2022 to Proponents via their legal counsel:

Sarah M. Mercer
David M. Meschke
Brownstein Hyatt Farber Schreck, LLP
smercer@bhfs.com
dmeschke@bhfs.com

*/s/ Edward Ramey*_____