

<p>SUPREME COURT OF COLORADO 101 West Colfax Avenue, Suite 800 Denver, Colorado 80203</p>	
<p>Original Proceeding Under C.R.S. § 1-40-107(2) Appeal from the Ballot Title Board</p>	<p>▪ COURT USE ONLY ▪</p>
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2011-2012 No. 94 ("Establishment of Banks by Political Subdivisions")</p> <p>Petitioner: Barbara M. A. Walker;</p> <p>v.</p> <p>Respondents: Earl Staelin and Robert Bows;</p> <p>and</p> <p>Title Board: Suzanne Staiert, Dan Domenico, and Jason Gelandar.</p>	<p>FILED IN THE SUPREME COURT,</p> <p>MAY - 1 2012</p> <p>OF THE STATE OF COLORADO Christopher T. Ryan, Clerk</p> <p>Case No. <u>125A131</u></p>
<p>Attorneys for Petitioner Thomas M. Rogers III, #28809 Nathaniel S. Barker, #43572 ROTHGERBER JOHNSON & LYONS LLP 1200 Seventeenth Street, Suite 3000 Denver, CO 80202 Phone: 303.623.9000 Fax: 303.623.9222 Email: trogers@rothgerber.com nbarker@rothgerber.com</p>	
<p>PETITION FOR REVIEW OF FINAL ACTION OF TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2011-2012 NO. 94 ("ESTABLISHMENT OF BANKS BY POLITICAL SUBDIVISIONS")</p>	

Petitioner Barbara M. A. Walker, a registered elector of the State of Colorado, through her counsel Rothgerber Johnson & Lyons LLP and pursuant to

C.R.S. § 1-40-107(2), respectfully petitions this Court to review the actions of the Ballot Title Setting Board with respect to the setting of the title, ballot title, and submission clause for Proposed Initiative 2011-2012 No. 94 ("Establishment of Banks by Political Subdivisions"),¹ and states:

STATEMENT OF THE CASE

I. Procedural History of Proposed Initiative No. 94

On April 6, 2012, after Earl Staelin and Robert Bows ("Proponents") proposed Initiative 2011-2012 No. 94 ("Initiative"), the Office of Legislative Council and Legislative Legal Services conducted a statutorily mandated review and comment hearing. Later that same day, Proponents submitted the original, amended, and final versions of the Initiative to the Secretary of State for title setting. At an April 18, 2012 hearing, the Title Board set the Initiative's title. On April 25, 2012, Petitioner filed a Motion for Rehearing and stated, in part, that the Title Board did not have jurisdiction to set the title because the Initiative was submitted to the Secretary of State in an improper form. The rehearing, attended by only one of the Proponents, was held on April 26, 2012, at which the Title Board denied the motion except to the extent that the Board amended the title.

¹ Petitioner notes that the issues presented by both this petition and her petition regarding Proposed Initiative 2011-2012 No. 95 ("Establishment of State-Owned Bank") are the same. For this reason, the Court may wish to consider both petitions as part of the same proceedings.

II. Jurisdiction

Petitioner is entitled to Colorado Supreme Court review of the Title Board's actions in setting the Initiative's title. C.R.S. § 1-40-107(1). Petitioner filed a timely Motion for Rehearing, *see* C.R.S. § 1-40-107(1), and subsequently filed this timely Petition for Review within five days from the date of the rehearing, *see* C.R.S. § 1-40-107(2). Pursuant to C.R.S. § 1-40-107(2), attached to the instant Petition for Review are certified copies of: 1) the title and submission clause as set by the Title Board; 2) the Title Board's order denying Petitioner's Motion for Rehearing; 3) Petitioner's Motion for Rehearing; 4) Proponents' final draft of the Initiative; 5) Proponents' amended draft of the Initiative; and 6) Proponents' original draft of the Initiative. Petitioner objects to the Title Board's denial of her Motion for Rehearing. For these reasons, this matter is properly before the Colorado Supreme Court.

GROUND FOR APPEAL

As grounds for appeal, Petitioner states:

1. Colorado law imposes on all of an initiative's proponents the burden of attending all Title Board meetings at which their proposed initiative is considered. C.R.S. § 1-40-106(4)(a), (d). Proponents failed to both attend the April 26, 2012 rehearing at which the Initiative was considered, and at which the

title was—in fact—amended. Because both Proponents did not attend the rehearing, the Title Board erred in accepting jurisdiction to set the Initiative's title.

2. Colorado law requires that all initiatives must be submitted to the Secretary of State in a specific style, Colo. Const. art. V § 1(8), and that any initiative submitted to the Secretary of State must not include anything other than the text of the Initiative that will be enacted into law, C.R.S. § 1-40-105(4). By including nine extraneous recitals (none of which, as all parties agree, are to be enacted into law) above the constitutionally mandated enactment clause, Proponents failed to comply with constitutional and statutory procedural filing requirements. For this reason, the Title Board erred in accepting jurisdiction to set the Initiative's title.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court determine that:

1. Proponents failed to comply with statutorily mandated attendance at the April 26, 2012 Motion for Rehearing on the Initiative;
2. Proponents failed to comply with constitutionally and statutorily mandated requirements for submitting an initiative to the Secretary of State; and

3. Based on these failures, the Title Board does not have jurisdiction to set the Initiative's title until such time as Proponents cure these jurisdictional defects.

DATED: May 1, 2012



Thomas M. Rogers III
Nathaniel S. Barker
ROTHGERBER JOHNSON &
LYONS LLP
1200 Seventeenth Street, Suite 3000
Denver, CO 80202
Phone: 303.623.9000
Fax: 303.623.9222
Email: trogers@rothgerber.com
nbarker@rothgerber.com
Attorney for Plaintiffs

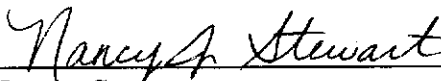
CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2012, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2011-2012 NO. 94 ("ESTABLISHMENT OF BANKS BY POLITICAL SUBDIVISIONS")** was served via U.S. mail to the following:

Earl Staelin
1873 S. Bellaire St., Suite 1401
Denver, CO 80202
Phone: 303.512.1123
Fax: 303.512.1129
Email: estaelin@osglaw.com
Proponent

Robert Bows
6077 Magnolia Drive
Nederland, CO 80466
Phone: 303.413.9977
Proponent

Maurice G. Knaizer, Esq.
Office of the Colorado Attorney General
1525 Sherman Street, 7th Floor
Denver, CO 80203
Attorney for the Title Board



Nancy Stewart



STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **SCOTT GESSLER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #94 'Establishment of Banks Owned by Political Subdivisions'".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 30th day of April, 2012.

A handwritten signature in cursive script, reading "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE

Ballot Title Setting Board

Proposed Initiative 2011-2012 #94¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado Constitution concerning authorization for political subdivisions of the state to establish and operate banks, and, in connection therewith, allowing political subdivisions to establish and operate banks with the same power and authority of other banks; allowing political subdivisions to deposit all of their revenues, funds, and other assets into such banks and to self-insure deposits with all of their assets; specifying requirements for the governance of such banks, including capitalization requirements; and authorizing the general assembly to provide regulatory guidelines for the oversight of these public banks by the state banking board and the commissioner of financial services.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado Constitution concerning authorization for political subdivisions of the state to establish and operate banks, and, in connection therewith, allowing political subdivisions to establish and operate banks with the same power and authority of other banks; allowing political subdivisions to deposit all of their revenues, funds, and other assets into such banks and to self-insure deposits with all of their assets; specifying requirements for the governance of such banks, including capitalization requirements; and authorizing the general assembly to provide regulatory guidelines for the oversight of these public banks by the state banking board and the commissioner of financial services?

*Hearing April 18, 2012:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 7:07 p.m.*

*Rehearing April 26, 2012:
Motion for rehearing denied except to the extent that the Board made changes to the title.
Hearing adjourned 6:08 p.m.*

¹ Unofficially captioned “**Establishment of Banks Owned by Political Subdivisions**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

By Steven Ward at 4:10 pm, Apr 25, 2012

BEFORE THE COLORADO STATE TITLE SETTING BOARD

In re Ballot Title and Submission Clause for 2011-2012 Initiative No. 94 ("Establishment of Banks by Political Subdivisions")

BARBARA M. A. WALKER, Objectors.

MOTION FOR REHEARING

Pursuant to C.R.S. § 1-40-107, Objector, Barbara M. A. Walker, a registered elector of the State of Colorado, by and through her legal counsel, Rothgerber Johnson & Lyons, LLP, hereby submits this Motion for Rehearing of the Title Board's April 18, 2012 decision to set the title of 2011-2012 Initiative No. 94 ("Initiative"), and states:

- I. The Title Board does not have jurisdiction to set the Initiative's title because proponents made substantive changes to the Initiative after the Legislative Council Review and Comment Hearing.**

After the Legislative Council Review and Comment Hearing, Proponents made substantive changes to the Initiative that are not responsive to comments made at that hearing. Proponents failed to submit those changes for a second review and comment hearing, thus depriving the Title Board of jurisdiction to set the Initiative's title. *See* C.R.S. § 1-40-105(2).

- II. The Title Board does not have jurisdiction to set the Initiative's title because it was submitted in an improper form.**

Even though Legislative Council informed proponents of the proper form of the initiative to be submitted to the Secretary of State, proponents improperly included extraneous argument above the constitutionally mandated enactment clause. *See* Colo. Const. art. V § 1(8). Proponents also failed to comply with procedural filing requirements. *See* C.R.S. § 1-40-105(4). These failures deprive the Title Board of jurisdiction to set the Initiative's title.

WHEREFORE, Objector respectfully requests that the Title Board set Initiative 94 for rehearing pursuant to C.R.S. 1-40-107(1).

DATED: April 25, 2012.



Thomas M. Rogers III
ROTHGERBER JOHNSON & LYONS, LLP
1200 Seventeenth St., Suite 3000
Denver, CO 80202
Phone: (303) 623-9000
Fax: (303) 623-9222
Email: trogers@rothgerber.com

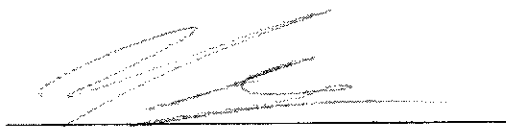
Address of objector:
Barbara M. A. Walker
1277 S. Vine St.
Denver, CO 80210

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2012, a true and correct copy of this **MOTION FOR REHEARING** was served on proponents via email and U.S. Mail as follows:

Earl Staelin (via email)
1873 S. Bellaire St., Suite 1401
Denver, CO 80222
Phone: 303.512.1123
Fax: 303.512.1129
Email: estaelin@osglaw.com

Robert Bows (via U.S. Mail)
6077 Magnolia Drive
Nederland, CO 80466
Phone: 303.413.9977
Proponents



Nathaniel S. Barker

RECEIVED

APR 06 2012

S. WARD
2:54 P.M.**ELECTIONS/LICENSING
SECRETARY OF STATE**

Proposed Constitutional Amendment for the State of Colorado
To Authorize the Establishment of Banks Owned by Political Subdivisions of the State
To Be Numbered as Article X, Section 22

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management and distribution of the fees and taxes collected from the operation of the government of North Dakota; and

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to make funds available for state, city, and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members; and

WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer more than three hundred twenty-five million dollars (\$325,000,000) from bank profits over the past ten years; and

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why in 2011 the People of North Dakota saw almost five hundred million dollars (\$500,000,000) returned to them in income and property tax cuts and will enjoy a thirty percent (30%) decrease in tax liability when combining 2009-2011 tax cuts; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why North Dakota has the lowest foreclosure rate, the lowest credit card default rate, and the lowest unemployment rate (3.3%) of any State in the nation; and

WHEREAS, banks in the state of Colorado are failing at a rate five times greater than banks in other parts of the United States; and

WHEREAS, small businesses in the state of Colorado have experienced great difficulties in obtaining necessary capital as a result of the recession that began in 2008 and which result from the monetary policies of the national banking system under the control of the Federal Reserve System; and

WHEREAS, most or all of the above advantages of a State-Owned Bank can also be realized by a city, county, or other political subdivision of the state of Colorado by establishing its own bank modeled on the State Bank of North Dakota;

, Be it Enacted by the People of the state of Colorado:

In the constitution of the state of Colorado, add section 22 to article X as follows:

(1) **Authorization of Political Subdivisions to Establish Banks.** Any county, municipality, or political subdivision of the state may engage in banking or establish a bank, and may lend money at interest or at no interest to promote development and enterprise in the state and to promote any purpose authorized by the laws governing such political subdivision. Any such bank shall have the same powers and authority of other banks chartered by the State of Colorado, as well as the power and authority to deposit public revenues and funds in its own bank, except as expanded or limited by the General Assembly. The revenue, income, and assets of such a bank shall not be limited, nor shall expenditures and management of its revenue, income, and assets be restricted except upon sound financial and public policy considerations. All provisions of this section are self-executing and severable and supersede any conflicting state constitutional, state statutory, state chartered, or other state or local provisions.

(2) **Governance of Banks.**

(a) **Governance of Banks Established by Statutory Municipalities:** In the event a statutory municipality of the state establishes a bank, its board of directors shall consist of the mayor, the municipal attorney, and the chief financial officer of the municipality. The capitalization of such bank may include all revenues, funds, and other assets of the municipality that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

(b) **Governance of Banks Established by Statutory Counties:** In the event a statutory county of the state establishes a bank, its board of directors shall consist of a county commissioner designated by the county commission, the district attorney, and the chief financial officer of the county. The capitalization of such bank may include all revenues, funds, and other assets of the county that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

(c) **Governance of Banks Established by Home Rule Municipalities:** In the event a home rule municipality establishes a bank, its board of directors shall consist of at least three elected officials, to consist of the chief executive officer of said municipality (the mayor or equivalent) and two others to be determined by the enabling legislation.

(d) **Governance of Banks Established by Home Rule Counties:** In the event a home rule county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(e) **Governance of Banks Established by Political Subdivisions other than Cities and/or Counties:** In the event a political subdivision that is not a municipality or county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(f) **Governance of Banks Established by Political Subdivisions that are both a City and a County:** In the event a political subdivision that is both a city and a county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(3) **Capitalization of Banks Established by Any Political Subdivision:** Banks established

by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county may be capitalized by the same means available to, and subject to the same minimums prescribed for banks that are privately owned, owned by publicly held corporations, or chartered by this state or the United States. Such means may include bonds, tax revenues, funds, and other assets of the political subdivision that may be so designated for this purpose. Political subdivisions not meeting minimum capitalization requirements may deposit their revenues and funds in banks established by other political subdivisions of the state of Colorado and/or a bank established by the state of Colorado.

(4) **Insured Deposits of Banks Established by Any Political Subdivision:** Banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county may forego FDIC insurance and self-insure their deposits, the debts and obligations of such banks being backed by the full faith and credit of the political subdivision.

(5) **Regulatory Oversight:** The General Assembly may provide guidelines enforced by the Colorado Banking Board and the Colorado Commissioner of Financial Services for the oversight of banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county, including auditing requirements.

RECEIVED

S. WARD

APR 06 2012

2:54 P.M.

**ELECTIONS/LICENSING
SECRETARY OF STATE**

Proposed Constitutional Amendment for the State of Colorado
To Authorize the Establishment of Banks Owned by Political Subdivisions of the State
To Be Numbered as Article X, Section 223

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management, and distribution of the fees and taxes collected from the operation of the government of North Dakota; and

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to ~~administer bank charters and audits~~; make funds available for state, city, and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members; and

~~WHEREAS, the Bank of North Dakota is prohibited from competing in the private sector with privately-owned banks also operating in North Dakota under state or federal charter; and~~

Formatted: Font: (Default) Times New Roman

WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer more than three hundred twenty-five million dollars (\$325,000,000) million from bank profits over the past ten years; and

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why in 2011 the People of North Dakota saw almost five hundred \$500 million dollars (\$500,000,000) returned to them in income and property tax cuts and will enjoy a thirty percent (30%) decrease in tax liability when combining 2009-2011 tax cuts; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why North Dakota has the lowest foreclosure rate, the lowest credit card default rate, and the lowest unemployment rate (3.3%) of any State in the nation; and

WHEREAS, banks in the state of Colorado are failing at a rate five times greater than banks in other parts of the United States; and

WHEREAS, ~~Small~~ small businesses in the state of Colorado have experienced great difficulties in obtaining necessary capital as a result of the recession that began in 2008 and which result from the monetary policies of the national banking system under the control of the Federal Reserve System; and

WHEREAS, ~~Most~~ most or all of the above advantages of a State-Owned Bank can also be realized by a City, County, or other political subdivision of the state of Colorado by establishing its own bank modeled on the State Bank of North Dakota;

NOW THEREFORE, be it enacted by the People of the State of Colorado: as Article X, Section 22 of the Colorado Constitution:

In the constitution of the state of Colorado, add section 22 to article X as follows:

(1) Authorization of Political Subdivisions to Establish Banks. Any county, municipality, or political subdivision of the state may engage in banking or establish a bank, and may lend money at interest or at no interest to promote development and enterprise in the state, and to promote any purpose authorized by the laws governing such political subdivision. Any such bank shall have the same powers and authority of other banks chartered by the State of Colorado, as well as the power and authority to deposit public revenues and funds in its own bank, except as expanded or limited by the legally General Assembly, established purposes of the government of the political subdivision. The revenue, income, and assets of such a bank shall not be limited, nor shall expenditures and management of its revenue, income, and assets be restricted except upon sound financial and public policy considerations. All provisions of this section are self-executing and severable and supersede any conflicting state constitutional, state statutory, state chartered, or other state or local provisions.

(2) Governance of Banks.

(a) Governance of Banks Established by Statutory Municipalities: In the event a statutory municipality of the state establishes a bank, its board of directors shall consist of the Mayor, the Municipal Attorney, and the chief financial officer of the municipality, Municipal Auditor. The capitalization of such bank may include all revenues, funds, and other assets of the municipality that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

(b) Governance of Banks Established by Statutory Counties: In the event a statutory county of the state establishes a bank, its board of directors shall consist of a the Chief County Commissioner designated by the county commission, the District Attorney, and the chief financial officer of the county County Auditor. The capitalization of such bank may include all revenues, funds, and other assets of the county that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

(c) Governance of Banks Established by Home Rule Municipalities: In the event a home rule municipality establishes a bank, its board of directors shall consist of at least three elected officials, to consist of the chief executive officer of said municipality (the mayor or equivalent) and two others to be determined by the enabling legislation.

(d) Governance of Banks Established by Home Rule Counties: In the event a home rule county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(e) Governance of Banks Established by Political Subdivisions other than Cities and/or Counties: In the event a political subdivision that is not a municipality or county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

(f) Governance of Banks Established by Political Subdivisions that are both a City and a County: In the event a political subdivision that is both a city and a county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling

Formatted: Font: Bold

Formatted: List Paragraph, Indent: Left: 0", First line: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted

Formatted: List Paragraph

Formatted: Font: (Default) Times New Roman, Bold

Formatted: List Paragraph, Indent: Left: 0", First line: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: (Default) Times New Roman, Bold

Formatted: List Paragraph, Indent: Left: 0", First line: 0.5", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted

Formatted: List Paragraph, Indent: Left: 0", First line: 0.5", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted

Formatted: Font: (Default) Times New Roman, Bold

Formatted: List Paragraph, Indent: Left: 0", First line: 0.5", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, Bold

Formatted: List Paragraph, Indent: Left: 0", First line: 0.5", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, Bold, Condensed by 0.05 pt

Formatted

Formatted

Formatted: Font: (Default) Times New Roman, Bold, Condensed by 0.05 pt

Formatted

Formatted

legislation.

(3) Capitalization of Banks Established by Any Political Subdivisions: Banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities and/or counties, and political subdivisions that are both a city and a county may be capitalized by the same means available to, and subject to the same minimums prescribed for banks that are privately owned, owned by publicly held corporations, or chartered by this state or the United States. Such means may include bonds, tax revenues, funds, and other assets of the political subdivision that may be so designated for this purpose. Political subdivisions not meeting minimum capitalization requirements may deposit their revenues and funds in banks established by other political subdivisions of the State of Colorado and/or a bank established by the State of Colorado.

(4) Insured Deposits of Banks Established by Any Political Subdivision: Banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county may forego FDIC insurance and self-insure their deposits, the debts and obligations of such banks being backed by the full faith and credit of the political subdivision.

(5) Regulatory Oversight: The General Assembly may provide guidelines enforced by the Colorado Banking Board and the Colorado Commissioner of Financial Services for the oversight of banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities or counties, and political subdivisions that are both a city and a county, including auditing requirements.

- Formatted: Font: (Default) Times New Roman, Bold
- Formatted: Font: (Default) Times New Roman, Bold
- Formatted: Font: (Default) Times New Roman, Bold
- Formatted: Font: (Default) Times New Roman, Bold
- Formatted: List Paragraph, Indent: Left: 0", First line: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"
- Formatted: Font: (Default) Times New Roman, Bold
- Formatted: Font: (Default) Times New Roman
- Formatted: Font: (Default) Times New Roman
- Formatted: Font: (Default) Times New Roman
- Formatted: Font: (Default) Times New Roman
- Formatted: Font: (Default) Times New Roman
- Formatted: List Paragraph
- Formatted: List Paragraph, Indent: Left: 0", First line: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"
- Formatted: Font: (Default) Times New Roman
- Formatted: Font: (Default) Times New Roman

RECEIVED

S.W.A.K.D

2011-2012 #94 - Original

APR 06 2012

2:54 P.M.

ELECTIONS/LICENSING
SECRETARY OF STATE

Proposed Constitutional Amendment for the State of Colorado
To Authorize the Establishment of Banks Owned by Political Subdivisions of the State
To Be Numbered as Article X, Section 23

WHEREAS, since 1919 the People of North Dakota have owned and benefited from the successful operation of the Bank of North Dakota, the specific purpose of which has been to provide an in-state repository for the holding, management and distribution of the fees and taxes collected from the operation of the government of North Dakota; and,

WHEREAS, the Bank of North Dakota is limited in its scope and purpose to: administer bank charters and audits, make funds available for state, city and county government operations, to benefit the People and communities of North Dakota, and to provide correspondent banking services for chartered members,

WHEREAS, the Bank of North Dakota is prohibited from competing in the private sector with privately-owned banks also operating in North Dakota under state or federal charter; and,

WHEREAS, the People of North Dakota have significantly benefited from the Bank of North Dakota which has paid the state treasurer more than \$325 million from bank profits over the past ten years; and,

WHEREAS, the Bank of North Dakota is attributed with being the cause for the North Dakota economy topping the list of state economies year after year, and with being the only State that has had a continuous budget surplus since before the financial crisis of 2008; and while the rest of America has been enduring a recession, the state of North Dakota has enjoyed the largest budget surplus in its history; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why in 2011 the People of North Dakota saw almost \$500 million returned to them in income and property tax cuts and will enjoy a 30% decrease in tax liability when combining 2009-2011 tax cuts; and

WHEREAS, the Bank of North Dakota is attributed with being the cause why North Dakota has the lowest foreclosure rate, the lowest credit card default rate, and the lowest unemployment rate (3.3%) of any State in the nation; and,

WHEREAS, banks in the state of Colorado are failing at a rate five times greater than banks in other parts of the United States; and,

WHEREAS, Small businesses in the state of Colorado have experienced great difficulties in obtaining necessary capital as a result of the recession that began in 2008 and which result from the monetary policies of the national banking system under the control of the Federal Reserve System; and

WHEREAS, Most or all of the above advantages of a State-Owned Bank can also be realized by a City, County, or other political subdivision of the state of Colorado by establishing its own bank modeled on the State Bank of North Dakota;

NOW THEREFORE, be it enacted as Article X, Section 23 of the Colorado Constitution:

Any county, municipality, or political subdivision of the state may engage in banking or establish a bank, and may lend money at interest to promote development and enterprise in the state, to promote any purpose authorized by the laws governing such political subdivision. Any such bank shall have the same powers and authority of other banks chartered by the State of Colorado, except as limited by the legally established purposes of the government of the political subdivision. The revenue, income, and assets of such a bank shall not be limited, nor shall expenditures and management of its revenue, income, and assets be restricted except upon sound financial and public policy considerations. All provisions of this section are self-executing and severable and supersede any conflicting state constitutional, state statutory, charter, or other state or local provisions.

Governance of Banks Established by Statutory Municipalities: In the event a statutory municipality of the state establishes a bank, its board of directors shall consist of the Mayor, the Municipal Attorney, and the Municipal Auditor. The capitalization of such bank may include all revenues, funds, and other assets of the municipality that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

Governance of Banks Established by Statutory Counties: In the event a statutory county of the state establishes a bank, its board of directors shall consist of the Chief County Commissioner, the District Attorney, and the County Auditor. The capitalization of such bank may include all revenues, funds, and other assets of the county that would normally be deposited or held in a financial institution or designated as collateral by a financial institution.

Governance of Banks Established by Home Rule Municipalities: In the event a home rule municipality establishes a bank, its board of directors shall consist of at least three elected officials, to consist of the chief executive officer of said municipality (the mayor or equivalent) and two others to be determined by the enabling legislation.

Governance of Banks Established by Home Rule Counties: In the event a home rule county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

Governance of Banks Established by Political Subdivisions other than Cities and/or Counties: In the event a political subdivision that is not a municipality or county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

Governance of Banks Established by Political Subdivisions that are both a City and a County: In the event a political subdivision that is both a city and a county establishes a bank, its board of directors shall consist of at least three elected officials, to be determined by the enabling legislation.

Capitalization of Banks Established by any political subdivisions: Banks established by statutory municipalities, statutory counties, home rule municipalities, home rule counties, political subdivisions of the state other than cities and/or counties, and political subdivisions that are both a city and a county may be capitalized by the same means available to banks that are privately owned, owned by publicly held corporations, chartered by this state or the United States. Such means may include bonds, tax revenues, funds, and other assets of the political subdivision so designated for this purpose.