

SUPREME COURT OF COLORADO

2 East 14th Ave.

Denver, CO 80203

Original Proceeding

Pursuant to Colo. Rev. Stat. § 1-40-107(2)

Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative
2015-2016 #128 (“Colorado Congressional
Redistricting Commission”)

Petitioner: Donna R. Johnson

v.

**Respondents: Kathleen Curry and Frank
McNulty**

and

**Title Board: SUZANNE STAIERT;
FREDERICK YARGER; and JASON
GELENDER**

Attorney for Petitioner:

Mark G. Grueskin, #14621

RECHT KORNFELD, P.C.

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DATE FILED: May 5, 2016 2:43 PM

▲ COURT USE ONLY ▲

Case No.

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE
SETTING BOARD CONCERNING PROPOSED INITIATIVE 2015-
2016 #128 (“COLORADO CONGRESSIONAL REDISTRICTING
COMMISSION”)**

Donna R. Johnson (“Petitioner”), registered elector of the State of Colorado, through undersigned counsel, respectfully petitions this Court pursuant to C.R.S. § 1-40-107(2), to review the actions of the Title Setting Board with respect to the title, ballot title, and submission clause set for Proposed Initiative 2015-2016 #128 (“Colorado Congressional Redistricting Commission”).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative #128

Kathleen Curry and Frank McNulty (hereafter “Proponents”) proposed Initiative 2015-2016 #128 (the “Proposed Initiative” or “#128”). Review and comment hearings were held before representatives of the Offices of Legislative Council and Legislative Legal Services. Thereafter, the Proponents submitted final versions of the Proposed Initiative to the Secretary of State for purposes of submission to the Title Board, of which the Secretary or his designee is a member.

A Title Board hearing was held on April 20, 2016 to establish the single subject of the Proposed Initiative and set its title. On April 27, 2016, Petitioner filed a Motion for Rehearing, alleging that Initiative #128 contained multiple subjects, in violation of the constitutional single subject rule in Article V, sec 1(5.5) of the Colorado Constitution and statute. The rehearing was held on April 28, 2016, at which time the Title Board denied the Motion for Rehearing.

B. Jurisdiction

Petitioner is entitled to a review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board. *See* C.R.S. § 1-40-107(1). Additionally, Petitioner timely filed this Petition for Review within five days from the date of the hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) the draft, amended, and final versions of the initiative filed by the Proponents; (2) the original ballot title set for this measure; (3) the Motion for Rehearing filed by the Petitioner; and (4) the rulings on the Motion for Rehearing as reflected by the title and ballot title and submission clause set by the Board. Petitioner believes that the Title Board erred in denying certain aspects of the Motion for Rehearing. Consequently, this matter is properly before this Court.

GROUND FOR APPEAL

In violation of Colo. Const., art. V, sec. 1(5.5), the title set by the Title Board was set notwithstanding the fact that the Proposed Initiative contains the following multiple subjects to be addressed in Petitioner's brief:

1. Transfer of power regarding, and substantive alteration in the process used to effect, congressional redistricting;

2. Changes to the constitutional objective and role of the Supreme Court
Nominating Commission;
3. Limits on political involvement for any person who is a “registered lobbyist.”

PRAYER FOR RELIEF

Petitioner respectfully requests that, after consideration of the parties’ briefs, this Court determine that the Proposed Initiative violates the single subject requirement and thus the Title Board lacked jurisdiction to set such title for the Proposed Initiative, rendering the ballot title void.

Respectfully submitted this 5th day of May, 2016.

/s/ Mark Grueskin

Mark G. Grueskin, #14621
RECHT KORNFELD, P.C.
1600 Stout Street, Suite 1000
Denver, CO 80202
Phone: 303-573-1900
Facsimile: 303-446-9400
Email: mark@rklawpc.com

ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I, Erin Holweger, hereby affirm that a true and accurate copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2015-2016 #128 (“COLORADO CONGRESSIONAL REDISTRICTING COMMISSION”)** was sent this day, May 5, 2016, via ICCES to counsel for the Title Board:

LeeAnn Morrill
Matthew Grove
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203

And via ICCES to counsel for the Proponents:

Kelley B. Duke
Benjamin J. Larson
Ireland Stapleton Pryor & Pascoe, PC
717 Seventeenth Street, Suite 2800
Denver, CO 80202

/s Erin Holweger

DATE FILED: May 5, 2016 2:43 PM

STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **WAYNE W. WILLIAMS**, 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, and the rulings thereon of the Title Board for Proposed Initiative "2015-2016 #128 'Colorado Congressional Redistricting Commission'".....

..... **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 2nd day of May, 2016.

Wayne W. Williams

SECRETARY OF STATE



RECEIVED

APR 08 2016

S. WARD
1:05 P.M.

Be it Enacted by the People of the State of Colorado:

Colorado Secretary of State

SECTION 1. In the constitution of the state of Colorado, add section 43.5 to article V as follows:

Congressional and Legislative Appointments

SECTION 43.5. POLITICAL GERRYMANDERING PROHIBITED.

THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT FAIR REPRESENTATION REQUIRES THAT THE PRACTICE OF POLITICAL GERRYMANDERING, WHEREBY CONGRESSIONAL DISTRICTS ARE PURPOSEFULLY DRAWN TO FAVOR ONE POLITICAL PARTY OR INCUMBENT POLITICIAN OVER ANOTHER, OR TO ACCOMPLISH POLITICAL GOALS, MUST END. THE PUBLIC'S INTEREST IN PROHIBITING POLITICAL GERRYMANDERING AND IN CREATING FAIR AND COMPETITIVE PLANS FOR CONGRESSIONAL DISTRICTS IS BEST ACCOMPLISHED BY A NEW AND INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS THAT IS FREE FROM POLITICAL INFLUENCE AND RELIES ON NONPARTISAN LEGISLATIVE STAFF TO DIVIDE THE STATE INTO THESE DISTRICTS WITHOUT REGARD TO POLITICAL PRESSURES OR POLITICAL CONSIDERATIONS.

SECTION 2. In the constitution of the state of Colorado, amend section 44 of article V as follows:

Section 44. INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION.

~~Representatives in congress. The general assembly shall divide the state into as many congressional districts as there are representatives in congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment shall be made by congress, the general assembly shall divide the state into congressional districts accordingly.~~

(1) AFTER EACH FEDERAL CENSUS OF THE UNITED STATES, THE INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION SHALL MEET, IN OPEN MEETINGS AND SUBJECT TO OPEN MEETINGS AND PUBLIC DISCLOSURE LAWS, TO ADOPT COMPETITIVE PLANS FOR CONGRESSIONAL DISTRICTS. THE COMMISSION MUST HOLD MEETINGS THROUGHOUT THE STATE AND CONDUCT ALL OF ITS ACTIVITIES IN PLACES WHERE MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND. THE COMMISSION OR ITS STAFF SHALL NOT DRAW OR ADOPT ANY PLAN FOR THE PURPOSE OF FAVORING A POLITICAL PARTY, INCUMBENT MEMBER OF THE GENERAL ASSEMBLY, MEMBER OF CONGRESS OR OTHER PERSON.

(2) THE COMMISSION SHALL CONSIST OF TWELVE MEMBERS WHO HAVE THE FOLLOWING QUALIFICATIONS:

(a) FOUR MEMBERS WHO ARE UNAFFILIATED, NOT HAVING BEEN REGISTERED WITH ANY POLITICAL PARTY FOR A PERIOD OF AT LEAST TWO CALENDAR YEARS PRIOR TO THE MEMBER'S APPOINTMENT, OR ARE REGISTERED WITH A MINOR POLITICAL PARTY, HAVING BEEN REGISTERED WITH THAT PARTY FOR A PERIOD OF AT LEAST TWO CALENDAR YEARS PRIOR TO THE MEMBER'S APPOINTMENT.

(b) FOUR MEMBERS REGISTERED WITH ONE OF THE STATE'S TWO LARGEST POLITICAL PARTIES.

(c) FOUR MEMBERS REGISTERED WITH ANY POLITICAL PARTY, OR WHO ARE UNAFFILIATED, SO LONG AS NO POLITICAL PARTY HAS A MAJORITY OF MEMBERS ON THE COMMISSION.

(3) NO MEMBER OF THE COMMISSION MAY BE A REGISTERED LOBBYIST, INCUMBENT MEMBER OF THE GENERAL ASSEMBLY OR CONGRESS, OR A CURRENT CANDIDATE FOR ONE OF THESE OFFICES. ALL COMMISSION MEMBERS MUST BE QUALIFIED ELECTORS OF THE STATE OF COLORADO.

(4) AT LEAST ONE MEMBER OF THE COMMISSION SHALL BE APPOINTED FROM EACH CONGRESSIONAL DISTRICT, SO LONG AS COLORADO IS NOT APPORTIONED MORE THAN TWELVE CONGRESSIONAL DISTRICTS. NO MORE THAN THREE MEMBERS MAY COME FROM ANY SINGLE CONGRESSIONAL DISTRICT. AT LEAST ONE OTHER MEMBER SHALL RESIDE WEST OF THE CONTINENTAL DIVIDE AND AT LEAST ONE MEMBER SHALL RESIDE SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY AND EAST OF THE CONTINENTAL DIVIDE.

(5) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND APPROVAL OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSION MEMBERS.

(6) EXCEPT AS TO MATTERS OTHERWISE PROVIDED FOR IN THIS SECTION AND SECTION 47.5, THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS ADMINISTRATION AND OPERATION INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(a) MAINTENANCE OF A RECORD OF THE COMMISSION'S ACTIVITIES AND PROCEEDINGS, INCLUDING A RECORD OF WRITTEN AND ORAL TESTIMONY RECEIVED, AND OF THE COMMISSION'S DIRECTION TO NONPARTISAN STAFF ON PROPOSED CHANGES TO ANY PLAN AND THE COMMISSION'S RATIONALE FOR SUCH CHANGES;

(b) THE PROCESS FOR REMOVAL OF MEMBERS FOR VIOLATING PUBLIC DISCLOSURE OR OPEN MEETINGS PROVISIONS OF THIS ARTICLE OR CONDUCTING PROHIBITED COMMUNICATIONS UNDER THIS ARTICLE;

(c) THE PROCESS FOR RECOMMENDING CHANGES TO PLANS SUBMITTED TO THE COMMISSION BY NONPARTISAN STAFF;

(d) PROVIDING FOR ANY VACANCY CREATED BY THE DEATH, RESIGNATION OR REMOVAL OF A MEMBER, OR OTHERWISE, WHICH MUST BE FILLED BY THE RESPECTIVE APPOINTING AUTHORITY. MEMBERS OF THE COMMISSION SHALL HOLD OFFICE UNTIL A REDISTRICTING PLAN IS IMPLEMENTED, OR OTHERWISE REMOVED;

(e) THE ADOPTION OF A STATEWIDE MEETING AND HEARING SCHEDULE; AND,

(f) THE PROCESS BY WHICH EACH COMMISSIONER SHALL REPORT COMMUNICATIONS MADE OUTSIDE OF A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION RELATED TO THE MAPPING OF CONGRESSIONAL DISTRICTS.

(7) (a) THE COMMISSION IS SUBJECT TO COLORADO STATUTORY PROVISIONS CONCERNING OPEN MEETINGS, OPEN RECORDS AND DISCLOSURE BY PUBLIC OFFICIALS, GENERALLY REFERRED TO AS COLORADO SUNSHINE LAWS, AS AMENDED FROM TIME TO TIME BY THE GENERAL ASSEMBLY, AND THE COMMISSIONERS ARE CONSIDERED PUBLIC OFFICIALS FOR THESE PURPOSES FOR THE PURPOSE OF THIS COMMISSION, PROPER NOTICE FOR A MEETING OR HEARING, INCLUDING TIME, PLACE, AND AGENDA, MUST BE POSTED AT LEAST THREE DAYS PRIOR TO THE MEETING ON A WEB SITE DEDICATED FOR THE COMMISSION AND FOR THE PURPOSE OF REDISTRICTING.

(b) A COMMISSIONER WHO ENGAGES IN COMMUNICATIONS, IF THE COMMUNICATIONS ARE MADE OUTSIDE OF A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION AND ARE RELATED TO THE MAPPING OF CONGRESSIONAL DISTRICTS, SHALL DISCLOSE, AT EACH MEETING, THE NAMES OF THE INDIVIDUALS WITH WHOM THE COMMISSIONER COMMUNICATED AND THE PURPOSE AND SUBJECT OF THE COMMUNICATION.

(c) COMMISSIONERS MAY COMMUNICATE WITH ONE ANOTHER ABOUT THE MAPPING OF CONGRESSIONAL DISTRICTS, PROVIDED THAT COMMUNICATION BETWEEN MORE THAN THREE COMMISSIONERS AT ONE TIME MUST BE PROPERLY NOTICED PURSUANT TO THIS SUBSECTION (7). EXCEPT FOR TECHNICAL AND OPERATIONAL MATTERS, AND PREPARING AMENDMENTS DEVELOPED BY A COMMISSIONER FOR THE COMMISSION'S CONSIDERATION, COMMISSIONERS MAY NOT COMMUNICATE WITH STAFF ON THE MAPPING OF CONGRESSIONAL DISTRICTS UNLESS THE COMMUNICATION IS DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION.

(d) STAFF ARE NOT PERMITTED TO HAVE EX PARTE COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN. COMMUNICATIONS TO AND FROM STAFF RELATED TO ADMINISTRATIVE, TECHNICAL AND OPERATIONAL MATTERS ON THE MAPPING OF CONGRESSIONAL DISTRICTS, AND GENERAL DISCUSSIONS ABOUT THE REDISTRICTING PROCESS, ARE NOT PROHIBITED. WORK PRODUCT AND COMMUNICATIONS BETWEEN STAFF SHALL BE SUBJECT TO DISCLOSURE UNDER COLORADO OPEN RECORDS LAWS ONCE A PLAN TO WHICH THE WORK PRODUCT OR COMMUNICATION PERTAINS IS PRESENTED TO THE COMMISSION DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION. AT THE DIRECTION OF THE COMMISSION, STAFF MAY CONSULT WITH EXPERTS RETAINED BY THE COMMISSION.

(e) ANY COMMISSIONER WHO PARTICIPATES IN A COMMUNICATION PROHIBITED IN SUBSECTION (7) WILL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS ACCORDING TO COMMISSION RULES.

(f) ANYONE WHO CONTRACTS OR RECEIVES COMPENSATION FOR ADVOCATING TO THE COMMISSION, ONE OR MORE COMMISSIONERS, OR THE STAFF CONCERNING THE ADOPTION OF ANY PLAN, AMENDMENT TO A PLAN, PLAN APPROACH, OR MANNER OF COMPLIANCE WITH ANY OF THE

PLAN CRITERIA SET FORTH IN THIS SECTION AND SECTIONS 44.5 AND 47.5 OF THIS ARTICLE ARE LOBBYISTS WHO MUST REGISTER WITH THE SECRETARY OF STATE AS LOBBYISTS AND ADHERE TO LOBBYIST DISCLOSURE REQUIREMENTS IN STATUTE AND BY RULE SET BY THE SECRETARY OF STATE.

(g) STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPTS BY ANYONE TO EXERT UNDUE INFLUENCE OVER THE DRAFTING OF PLANS.

(8) (a) THE GOVERNOR SHALL CONVENE THE COMMISSION NO LATER THAN MAY 15 OF THE YEAR FOLLOWING THAT IN WHICH THE FEDERAL CENSUS IS TAKEN, APPOINTING A TEMPORARY CHAIRPERSON FROM THE COMMISSION'S MEMBERS, WHO ARE APPOINTED IN THE FOLLOWING MANNER:

(I) NO LATER THAN MARCH 17 OF THAT SAME YEAR, THE SPEAKER OF THE COLORADO HOUSE OF REPRESENTATIVES AND THE MINORITY LEADER OF THE SAME SHALL EACH APPOINT TWO MEMBERS IN ACCORDANCE WITH SUBSECTION (2) (b) OF THIS SECTION.

(II) NO LATER THAN MARCH 24 OF THAT SAME YEAR, THE PRESIDENT OF THE COLORADO SENATE AND THE MINORITY LEADER OF THE SAME SHALL EACH APPOINT TWO MEMBERS IN ACCORDANCE WITH SUBSECTION (2) (c) OF THIS SECTION.

(III) (A) THE COLORADO SUPREME COURT NOMINATING COMMISSION, OR ITS SUCCESSOR, SHALL ESTABLISH AND ANNOUNCE A PROCESS FOR THE APPOINTMENT OF MEMBERS IDENTIFIED IN SUBSECTION (2) (a) OF THIS SECTION. THE PROCESS SHALL INCLUDE AN INVITATION TO APPLY FOR THOSE COLORADANS WHO MEET THE IDENTIFIED CRITERIA AND A TIMELINE FOR RECEIVING AND REVIEWING THESE APPLICATIONS.

(B) ON OR BEFORE APRIL 2 OF THAT SAME YEAR, THE SUPREME COURT NOMINATING COMMISSION SHALL FORWARD A LIST OF TEN RECOMMENDED APPLICANTS TO THE EIGHT APPOINTED MEMBERS OF THE COMMISSION. THE RECOMMENDED LIST SHALL, TO THE EXTENT PRACTICAL, REPRESENT COLORADO'S RACIAL, ETHNIC, AND GEOGRAPHIC DIVERSITY. NO LATER THAN APRIL 25 OF THAT SAME YEAR, THE COMMISSIONERS SHALL UNANIMOUSLY APPOINT FOUR MEMBERS FROM THE LIST OF RECOMMENDED APPLICANTS SO THAT THE COMMISSION CONSISTS OF TWELVE MEMBERS.

(C) IF THE COMMISSIONERS FAIL IN THEIR RESPONSIBILITY TO MAKE ANY OF THESE APPOINTMENTS, THE DIRECTOR OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH STAFF, ON APRIL 26 OF THAT SAME YEAR OR THE NEXT BUSINESS DAY THAT FOLLOWS AND IN A PUBLIC SETTING, SHALL RANDOMLY SELECT AS MANY NAMES AS NECESSARY UP TO FOUR NAMES FROM THE LIST OF TEN NAMES RECOMMENDED BY THE SUPREME COURT NOMINATING COMMISSION TO SERVE ON THE COMMISSION SO THAT THE COMMISSION CONSISTS OF TWELVE MEMBERS. IF ANY OF THE GEOGRAPHIC REQUIREMENTS HAVE NOT YET BEEN MET, THE DIRECTOR WILL DISCARD THE MOST RECENT NAME DRAWN AND CONTINUE TO DRAW NAMES AT RANDOM UNTIL A NAME IS DRAWN

THAT FULFILLS A REMAINING GEOGRAPHIC REQUIREMENT. THE NAME OF THE PERSON WHO FULFILLS THE NEEDED GEOGRAPHIC REQUIREMENT WILL THEN SERVE ON THE COMMISSION.

(9) IN DRAFTING COMPETITIVE PLANS, THE COMMISSION MEMBERS MUST RELY ON NONPARTISAN STAFF IDENTIFIED FOR SUCH PURPOSE BY THE DIRECTORS OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH AND LEGAL SERVICES, REFERRED TO IN SECTIONS 43.5 THROUGH 47.5 OF THIS ARTICLE V AS STAFF OR NONPARTISAN STAFF. IN DRAFTING COMPETITIVE PLANS, THE COMMISSION AND ITS STAFF MAY CONSIDER GENERAL ELECTION PERFORMANCE DATA.

SECTION 3. In the constitution of the state of Colorado, add section 44.5 of article V as follows:

Section 44.5. CRITERIA – CONGRESSIONAL DISTRICTS.

(1) THE STATE SHALL BE DIVIDED INTO AS MANY CONGRESSIONAL DISTRICTS AS THERE ARE REPRESENTATIVES IN CONGRESS APPORTIONED TO THIS STATE BY THE CONGRESS OF THE UNITED STATES FOR THE ELECTION OF ONE REPRESENTATIVE TO CONGRESS FROM EACH DISTRICT.

(2) IN ESTABLISHING CONGRESSIONAL DISTRICTS THE COMMISSION AND NONPARTISAN STAFF:

(a) SHALL UTILIZE THE FOLLOWING FACTORS:

(I) EQUAL POPULATION AS PROVIDED BY LAW;

(II) COMPLIANCE WITH SECTION 2 OF THE FEDERAL "VOTING RIGHTS ACT OF 1965"; AND,

(b) MAY, WITHOUT WEIGHT TO ANY FACTOR, UTILIZE FACTORS INCLUDING, BUT NOT LIMITED TO:

(I) THE PRESERVATION OF POLITICAL SUBDIVISIONS SUCH AS COUNTIES, CITIES, AND TOWNS. WHEN COUNTY, CITY, OR TOWN BOUNDARIES ARE CHANGED, ADJUSTMENTS, IF ANY, IN DISTRICT BOUNDARIES SHALL BE AS PRESCRIBED BY LAW;

(II) THE PRESERVATION OF COMMUNITIES OF INTEREST, INCLUDING ETHNIC, CULTURAL, ECONOMIC, TRADE AREA, GEOGRAPHIC, AND DEMOGRAPHIC FACTORS;

(III) THE COMPACTNESS OF EACH CONGRESSIONAL DISTRICT; AND,

(IV) THE MINIMIZATION OF DISRUPTION OF PRIOR DISTRICT LINES.

(c) SHALL, AFTER ADHERING TO THE PROVISIONS OF THIS PARAGRAPH (a) OF THIS SUBSECTION (2) AND CONSIDERING THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (2), MAXIMIZE THE NUMBER OF COMPETITIVE CONGRESSIONAL DISTRICTS.

SECTION 4. In the constitution of the state of Colorado, add section 47.5 of article V as follows:

Section 47.5. REVISION OF CONGRESSIONAL DISTRICTS -- (1) (a) (I) WITHIN THIRTY DAYS AFTER THE INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION HAS BEEN

CONVENED, OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, STAFF SHALL PUBLISH A PRELIMINARY REDISTRICTING PLAN FOR CONGRESSIONAL DISTRICTS. STAFF SHALL KEEP EACH PLAN PREPARED CONFIDENTIAL UNTIL IT HAS BEEN PRESENTED TO THE COMMISSION AT A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION.

(II) WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE PUBLICATION OF THE PRELIMINARY CONGRESSIONAL PLAN, THE COMMISSION MUST COMPLETE PUBLIC HEARINGS ON THE PRELIMINARY PLANS IN SEVERAL PLACES THROUGHOUT THE STATE, INCLUDING AT LEAST THREE HEARINGS IN EACH OF COLORADO'S CONGRESSIONAL DISTRICTS. INCLUDED IN THESE HEARINGS MUST BE AT LEAST TWO HEARINGS WEST OF THE CONTINENTAL DIVIDE AND AT LEAST TWO HEARINGS SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY AND EAST OF THE CONTINENTAL DIVIDE.

(III) IF, FOR ANY REASON, STAFF IS UNABLE TO PRESENT A PRELIMINARY PLAN TO THE COMMISSION, THE STAFF SHALL PUBLISH THE PRELIMINARY PLAN AND ACCEPT PUBLIC COMMENTS ON THE PLANS PRIOR TO SUBMITTING THE PRELIMINARY PLAN DIRECTLY TO THE SUPREME COURT ON THE LAST BUSINESS DAY PRIOR TO OCTOBER 7 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE FEDERAL CENSUS IS TAKEN. THE COURT'S CONSIDERATION SHALL BE AS TO WHETHER THE PLANS ADHERE TO THE CRITERIA OUTLINED IN THIS SECTION AND SECTIONS 44 AND 44.5 OF THIS ARTICLE.

(IV) THE COMMISSION SHALL NOT AMEND OR VOTE UPON ANY PRELIMINARY PLAN, BUT MAY INSTRUCT STAFF ON HOW THE PRELIMINARY PLAN CAN BE ADJUSTED DURING THE DEVELOPMENT OF THE INITIAL PLAN.

(b) (I) NO LATER THAN TWENTY DAYS AFTER THE CONCLUSION OF THE LAST PUBLIC HEARING, THE STAFF SHALL SUBMIT AN INITIAL PLAN TO THE COMMISSION FOR ITS CONSIDERATION. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER ITS SUBMISSION. IF THE COMMISSION VOTES ON AN INITIAL PLAN AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(II) IF THE COMMISSION REJECTS A PLAN PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE STAFF MUST PREPARE A SECOND PLAN, ADJUSTING THE PLAN ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE INITIAL PLAN. IF A SECOND PLAN IS REQUIRED UNDER THIS SUBPARAGRAPH (II), THE PLAN MUST BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION. IF THE COMMISSION VOTES ON A PLAN PURSUANT TO THIS SUBPARAGRAPH (II) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(III) IF THE COMMISSION REJECTS A PLAN PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), THE STAFF MUST PREPARE A THIRD PLAN, ADJUSTING THE PLAN ACCORDING TO

THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE SECOND PLAN. IF A THIRD PLAN IS REQUIRED UNDER THIS SUBPARAGRAPH (III), THE PLAN MUST BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION. IF THE COMMISSION VOTES ON A PLAN PURSUANT TO THIS SUBPARAGRAPH (III) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(IV) IF THE COMMISSION DOES NOT APPROVE A PLAN PURSUANT TO SUBPARAGRAPHS (I), (II), OR (III) OF THIS PARAGRAPH (b), THE COMMISSION MUST SUBMIT THE UNAMENDED SECOND PLAN TO THE SUPREME COURT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION. IF SUCH A PLAN IS NOT DRAFTED PURSUANT TO SUBPARAGRAPHS (I), (II) OR (III), THE COMMISSION MUST SUBMIT THE UNAMENDED INITIAL PLAN TO THE SUPREME COURT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

(2) (a) (I) NO LATER THAN OCTOBER 6 OF THAT SAME YEAR, THE COMMISSION MUST FINALIZE THE PLAN. THE COMMISSION MAY ADJUST THE DEADLINES SPECIFIED IN SUBSECTION (1) OF THIS SECTION IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE FINALIZING EACH PLAN AS REQUIRED BY THIS SUBSECTION.

(II) THE COMMISSION MAY GRANT STAFF THE ABILITY TO MAKE TECHNICAL, DE MINIMUS ADJUSTMENTS TO ANY PLAN PRIOR TO ITS SUBMISSION TO THE SUPREME COURT.

(b) (I) THE COMMISSION MUST PROMPTLY SUBMIT THE PLAN TO THE SUPREME COURT FOR REVIEW AND DETERMINATION AS TO WHETHER THE PLAN COMPLIES WITH THIS SECTION AND SECTIONS 44 AND 44.5 OF ARTICLE V. SUCH REVIEW AND DETERMINATION TAKES PRECEDENCE OVER THE OTHER MATTERS BEFORE THE COURT.

(II) THE SUPREME COURT MUST ADOPT RULES FOR SUCH PROCEEDINGS AND FOR THE PRODUCTION AND PRESENTATION OF SUPPORTIVE EVIDENCE FOR THE PLAN. LEGAL ARGUMENTS OR EVIDENCE CONCERNING THE PLAN MUST BE SUBMITTED TO THE COURT PURSUANT TO THE SCHEDULE ESTABLISHED BY THE COURT, EXCEPT THAT THE FINAL SUBMISSION MUST BE MADE NO LATER THAN OCTOBER 20 OF THAT SAME YEAR.

(c) (I) THE SUPREME COURT MUST EITHER APPROVE THE PLAN OR RETURN THE PLAN AND THE COURT'S REASONS FOR DISAPPROVAL TO THE COMMISSION. IF THE PLAN IS RETURNED, STAFF WILL PREPARE FOR THE COMMISSION'S CONSIDERATION A PLAN TO CONFORM TO THE COURT'S REQUIREMENTS. THE COMMISSION MAY REQUEST THAT STAFF MAKE ADJUSTMENTS TO THE CONFORMING PLAN. AN APPROVED, CONFORMING PLAN MUST BE SUBMITTED TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT. ADOPTION OF A PLAN PURSUANT TO THIS PARAGRAPH REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS.

(II) IF THE COMMISSION HAS NOT ADOPTED A PLAN WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT, THE STAFF SHALL PREPARE AND SUBMIT THE UNAMENDED

CONFORMING PLAN TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT.

(III) THE SUPREME COURT MUST APPROVE THE REDISTRICTING PLAN BY A DATE THAT WILL ALLOW SUFFICIENT TIME FOR THE PLAN TO BE FILED WITH THE SECRETARY OF STATE NO LATER THAN DECEMBER 15 OF THAT SAME YEAR. THE COURT MUST ORDER THAT THE PLAN BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SUCH DATE.

RECEIVED

APR 08 2016

SWARD

1:05 P.M.

Be it Enacted by the People of the State of Colorado:

Colorado Secretary of State

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Congressional and Legislative Appointments

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SECTION 2. In the constitution of the state of Colorado, **amend** section 44 of article V as follows:

Section 44. INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION.

~~Representatives in congress. The general assembly shall divide the state into as many congressional districts as there are representatives in congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment shall be made by congress, the general assembly shall divide the state into congressional districts accordingly.~~

(1) AFTER EACH FEDERAL CENSUS OF THE UNITED STATES, THE INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION SHALL MEET, IN OPEN MEETINGS AND SUBJECT TO OPEN MEETINGS AND PUBLIC DISCLOSURE LAWS, TO ADOPT COMPETITIVE PLANS FOR CONGRESSIONAL DISTRICTS. THE COMMISSION MUST HOLD MEETINGS THROUGHOUT THE STATE AND CONDUCT ALL OF ITS ACTIVITIES IN PLACES WHERE MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND. THE COMMISSION OR ITS STAFF SHALL NOT DRAW OR ADOPT ANY PLAN FOR THE PURPOSE OF FAVORING A POLITICAL PARTY, INCUMBENT MEMBER OF THE GENERAL ASSEMBLY ~~LEGISLATOR~~, MEMBER OF CONGRESS OR OTHER PERSON.

(2) THE COMMISSION SHALL CONSIST OF TWELVE MEMBERS WHO ~~WILL~~ HAVE THE FOLLOWING QUALIFICATIONS:

(a) FOUR MEMBERS WHO ARE UNAFFILIATED, NOT HAVING BEEN REGISTERED WITH ANY POLITICAL PARTY FOR A PERIOD OF AT LEAST TWO CALENDAR YEARS PRIOR TO THE MEMBER'S APPOINTMENT, OR ARE REGISTERED WITH A MINOR POLITICAL PARTY, HAVING BEEN REGISTERED WITH THAT PARTY FOR A PERIOD OF AT LEAST TWO CALENDAR YEARS PRIOR TO THE MEMBER'S APPOINTMENT.

(b) FOUR MEMBERS REGISTERED WITH ONE OF THE STATE'S TWO LARGEST POLITICAL PARTIES.

(c) FOUR MEMBERS REGISTERED WITH ANY POLITICAL PARTY, OR WHO ARE UNAFFILIATED, SO LONG AS NO POLITICAL PARTY HAS A MAJORITY OF MEMBERS ON THE COMMISSION.

(3) NO MEMBER OF THE COMMISSION MAY BE A REGISTERED LOBBYIST, INCUMBENT MEMBER OF THE GENERAL ASSEMBLY OR CONGRESS, OR A CURRENT CANDIDATE FOR ONE OF THESE OFFICES. ALL ~~C~~COMMISSION MEMBERS MUST BE QUALIFIED ELECTORS OF THE STATE OF COLORADO.

(4) AT LEAST ONE MEMBER OF THE COMMISSION SHALL BE APPOINTED FROM EACH CONGRESSIONAL DISTRICT, SO LONG AS COLORADO IS NOT APPORTIONED MORE THAN TWELVE CONGRESSIONAL DISTRICTS. NO MORE THAN ~~FOUR-THREE~~ MEMBERS MAY COME FROM ANY SINGLE CONGRESSIONAL DISTRICT. AT LEAST ONE OTHER MEMBER SHALL RESIDE WEST OF THE CONTINENTAL DIVIDE AND AT LEAST ONE MEMBER SHALL RESIDE SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY AND EAST OF THE CONTINENTAL DIVIDE.

(5) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND APPROVAL OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSION MEMBERS.

(6) EXCEPT AS TO MATTERS OTHERWISE PROVIDED FOR IN THIS SECTION AND SECTIONS 47.548, THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS ADMINISTRATION AND OPERATION INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(a) MAINTENANCE OF A RECORD OF THE COMMISSION'S ACTIVITIES AND PROCEEDINGS, INCLUDING A RECORD OF WRITTEN AND ORAL TESTIMONY RECEIVED, AND OF THE COMMISSION'S DIRECTION TO NONPARTISAN STAFF ON PROPOSED CHANGES TO ANY PLANMAP AND THE COMMISSION'S RATIONALE FOR SUCH CHANGES;

(b) THE PROCESS FOR REMOVAL OF MEMBERS FOR ~~CAUSE~~ VIOLATING PUBLIC DISCLOSURE OR OPEN MEETINGS PROVISIONS OF THIS ARTICLE OR CONDUCTING PROHIBITED COMMUNICATIONS UNDER THIS ARTICLE;

(c) THE PROCESS FOR RECOMMENDING CHANGES TO PLANS SUBMITTED TO THE COMMISSION BY NONPARTISAN STAFF;

(d) PROVIDING FOR ANY VACANCY CREATED BY THE DEATH, RESIGNATION OR REMOVAL OF A MEMBER, OR OTHERWISE, WHICH MUST BE FILLED BY THE RESPECTIVE APPOINTING AUTHORITY. MEMBERS OF THE COMMISSION SHALL HOLD OFFICE UNTIL A REDISTRICTING PLAN IS IMPLEMENTED, OR OTHERWISE REMOVED; ~~AND;~~

(e) THE ADOPTION OF A STATEWIDE MEETING AND HEARING SCHEDULE; AND.

(f) THE PROCESS BY WHICH EACH COMMISSIONER SHALL REPORT COMMUNICATIONS MADE OUTSIDE OF A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION RELATED TO THE MAPPING OF CONGRESSIONAL DISTRICTS.

(7) (a) THE COMMISSION IS SUBJECT TO COLORADO STATUTORY PROVISIONS CONCERNING OPEN MEETINGS, OPEN RECORDS AND DISCLOSURE BY PUBLIC OFFICIALS, GENERALLY REFERRED TO AS COLORADO SUNSHINE LAWS, AS AMENDED FROM TIME TO TIME BY THE GENERAL ASSEMBLY, AND THE COMMISSIONERS ARE CONSIDERED PUBLIC OFFICIALS FOR THESE PURPOSES. FOR THE PURPOSE OF THIS COMMISSION, PROPER NOTICE FOR A MEETING OR HEARING, INCLUDING TIME, PLACE, AND AGENDA, MUST BE POSTED AT LEAST THREE DAYS PRIOR TO THE MEETING ON A WEB SITE DEDICATED FOR THE COMMISSION AND FOR THE PURPOSE OF REDISTRICTING.

(b) A COMMISSIONER WHO ENGAGES IN COMMUNICATIONS, IF THE COMMUNICATIONS ARE MADE OUTSIDE OF A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION AND ARE RELATED TO THE MAPPING OF CONGRESSIONAL DISTRICTS, SHALL DISCLOSE, AT EACH MEETING, THE NAMES OF THE INDIVIDUALS WITH WHOM ~~THEY~~ THE COMMISSIONER COMMUNICATED AND THE PURPOSE AND SUBJECT OF THE COMMUNICATION.

(c) COMMISSIONERS MAY COMMUNICATE WITH ONE ANOTHER ABOUT THE MAPPING OF CONGRESSIONAL DISTRICTS, PROVIDED THAT COMMUNICATION BETWEEN MORE THAN THREE COMMISSIONERS AT ONE TIME MUST BE PROPERLY NOTICED PURSUANT TO THIS SUBSECTION (7). EXCEPT FOR TECHNICAL AND OPERATIONAL MATTERS, AND PREPARING AMENDMENTS DEVELOPED BY A COMMISSIONER FOR THE COMMISSION'S CONSIDERATION, COMMISSIONERS MAY NOT COMMUNICATE WITH STAFF ON THE MAPPING OF CONGRESSIONAL DISTRICTS UNLESS THE COMMUNICATION IS DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION.

(d) STAFF ARE NOT PERMITTED TO HAVE EX PARTE COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN. COMMUNICATIONS TO AND FROM STAFF RELATED TO ADMINISTRATIVE, TECHNICAL AND OPERATIONAL MATTERS ON THE MAPPING OF CONGRESSIONAL DISTRICTS, AND GENERAL DISCUSSIONS ABOUT THE REDISTRICTING PROCESS, ARE NOT PROHIBITED. WORK PRODUCT AND COMMUNICATIONS BETWEEN STAFF SHALL BE SUBJECT TO DISCLOSURE UNDER COLORADO OPEN RECORDS LAWS ONCE A PLAN TO WHICH THE WORK PRODUCT OR COMMUNICATION PERTAINS IS PRESENTED TO THE COMMISSION DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION. AT THE DIRECTION OF THE COMMISSION, STAFF MAY CONSULT WITH EXPERTS RETAINED BY THE COMMISSION.

(e) ANY COMMISSIONER WHO PARTICIPATES IN A COMMUNICATION PROHIBITED IN ~~THE~~ SUBSECTION (7) WILL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS ACCORDING TO COMMISSION RULES.

(f) ANYONE WHO CONTRACTS OR RECEIVES COMPENSATION FOR ADVOCATING TO THE COMMISSION, ONE OR MORE COMMISSIONERS, OR THE STAFF CONCERNING THE ADOPTION OF ANY PLAN, AMENDMENT TO A PLAN, PLAN APPROACH, OR MANNER OF COMPLIANCE WITH ANY OF THE

PLAN CRITERIA SET FORTH IN THIS SECTION AND SECTIONS ~~S 44.5 AND 47.546~~ OF THIS ARTICLE ARE LOBBYISTS WHO MUST REGISTER WITH THE SECRETARY OF STATE AS LOBBYISTS AND ADHERE TO LOBBYIST DISCLOSURE REQUIREMENTS IN STATUTE AND BY RULE SET BY THE SECRETARY OF STATE.

(g) STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPTS BY ANYONE TO EXERT UNDUE INFLUENCE OVER THE DRAFTING OF PLANS.

(8) (a) THE GOVERNOR SHALL CONVENE THE COMMISSION NO LATER THAN MAY 15 OF THE YEAR FOLLOWING THAT IN WHICH THE FEDERAL CENSUS IS TAKEN, APPOINTING A TEMPORARY CHAIRPERSON FROM THE COMMISSION'S MEMBERS, WHO ARE APPOINTED IN THE FOLLOWING MANNER:

(I) NO LATER THAN MARCH ~~1725~~ OF THAT SAME YEAR, THE SPEAKER OF THE COLORADO HOUSE OF REPRESENTATIVES AND THE MINORITY LEADER OF THE SAME SHALL EACH APPOINT TWO MEMBERS IN ACCORDANCE WITH SUBSECTION (2) (b) OF THIS SECTION.

(II) NO LATER THAN MARCH ~~2431~~ OF THAT SAME YEAR, THE ~~PP~~PRESIDENT OF THE COLORADO SENATE AND THE MINORITY LEADER OF THE SAME SHALL EACH APPOINT TWO MEMBERS IN ACCORDANCE WITH SUBSECTION (2) (c) OF THIS SECTION.

(III) (A) THE COLORADO SUPREME COURT NOMINATING COMMISSION, OR ITS SUCCESSOR, SHALL ESTABLISH AND ANNOUNCE A PROCESS FOR THE APPOINTMENT OF MEMBERS IDENTIFIED IN SUBSECTION (2) (a) OF THIS SECTION. THE PROCESS SHALL INCLUDE AN INVITATION TO APPLY FOR THOSE COLORADANS WHO MEET THE IDENTIFIED CRITERIA AND A TIMELINE FOR RECEIVING AND REVIEWING THESE APPLICATIONS.

(B) ON OR BEFORE APRIL 2 OF THAT SAME YEAR, THE ~~SS~~SUPREME ~~CC~~COURT ~~NN~~NOMINATING ~~CC~~COMMISSION SHALL FORWARD A LIST OF TEN RECOMMENDED APPLICANTS TO THE EIGHT APPOINTED MEMBERS OF THE COMMISSION. THE RECOMMENDED LIST SHALL, TO THE EXTENT PRACTICAL, REPRESENT ~~CC~~EOLORADO'S RACIAL, ETHNIC, AND GEOGRAPHIC DIVERSITY. NO LATER THAN ~~A~~APRIL 25 OF THAT SAME YEAR, THE COMMISSIONERS SHALL UNANIMOUSLY APPOINT FOUR MEMBERS FROM THE LIST OF RECOMMENDED APPLICANTS SO THAT THE COMMISSION CONSISTS OF TWELVE MEMBERS.

(C) IF THE COMMISSIONERS FAIL IN THEIR RESPONSIBILITY TO MAKE ANY OF THESE APPOINTMENTS, THE DIRECTOR OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH STAFF, ON ~~A~~APRIL 26 OF THAT SAME YEAR OR THE NEXT BUSINESS DAY THAT FOLLOWS AND IN A PUBLIC SETTING, SHALL RANDOMLY SELECT AS MANY NAMES AS NECESSARY UP TO FOUR NAMES FROM THE LIST OF TEN NAMES RECOMMENDED BY THE SUPREME COURT NOMINATING COMMISSION TO SERVE ON THE COMMISSION SO THAT THE COMMISSION CONSISTS OF TWELVE MEMBERS. IF ANY OF THE GEOGRAPHIC REQUIREMENTS HAVE NOT YET BEEN MET, THE DIRECTOR WILL DISCARD THE MOST RECENT NAME DRAWN AND CONTINUE TO DRAW NAMES AT RANDOM UNTIL A NAME IS DRAWN

THAT FULFILLS A REMAINING GEOGRAPHIC REQUIREMENT. THE NAME OF THE PERSON WHO FULFILLS THE NEEDED GEOGRAPHIC REQUIREMENT WILL THEN SERVE ON THE COMMISSION.

DATE FILED: May 5, 2016 2:43 PM

(9) IN DRAFTING COMPETITIVE PLANS, THE COMMISSION MEMBERS MUST RELY ON NONPARTISAN STAFF IDENTIFIED FOR SUCH PURPOSE BY THE DIRECTORS OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH AND LEGAL SERVICES, REFERRED TO IN SECTIONS 43.5 THROUGH 47.548 OF THIS ARTICLE V AS STAFF OR NONPARTISAN STAFF. IN DRAFTING COMPETITIVE PLANS, THE COMMISSION AND ITS STAFF MAY CONSIDER GENERAL ELECTION PERFORMANCE DATA.

SECTION 3. In the constitution of the state of Colorado, **add** section 44.5 of article V as follows:

Section 44.5. CRITERIA – CONGRESSIONAL DISTRICTS.

(1) THE STATE SHALL BE DIVIDED INTO AS MANY CONGRESSIONAL DISTRICTS AS THERE ARE REPRESENTATIVES IN CONGRESS APPORTIONED TO THIS STATE BY THE CONGRESS OF THE UNITED STATES FOR THE ELECTION OF ONE REPRESENTATIVE TO CONGRESS FROM EACH DISTRICT.

(2) IN ESTABLISHING CONGRESSIONAL DISTRICTS THE COMMISSION AND NONPARTISAN STAFF:

(a) SHALL UTILIZE THE FOLLOWING FACTORS:

(I) EQUAL POPULATION AS PROVIDED BY LAW;

(II) COMPLIANCE WITH SECTION 2 OF THE FEDERAL "VOTING RIGHTS ACT OF 1965"; AND_;

(b) MAY, WITHOUT WEIGHT TO ANY FACTOR, UTILIZE FACTORS INCLUDING, BUT NOT LIMITED TO:

(I) THE PRESERVATION OF POLITICAL SUBDIVISIONS SUCH AS COUNTIES, CITIES, AND TOWNS. WHEN COUNTY, CITY, OR TOWN BOUNDARIES ARE CHANGED, ADJUSTMENTS, IF ANY, IN DISTRICT BOUNDARIES SHALL BE AS PRESCRIBED BY LAW;

(II) THE PRESERVATION OF COMMUNITIES OF INTEREST, INCLUDING ETHNIC, CULTURAL, ECONOMIC, TRADE AREA, GEOGRAPHIC, AND DEMOGRAPHIC FACTORS;

(III) THE COMPACTNESS OF EACH CONGRESSIONAL DISTRICT_; AND_;

(IV) THE MINIMIZATION OF DISRUPTION OF PRIOR DISTRICT LINES.

(c) SHALL, AFTER ADHERING TO THE PROVISIONS OF THIS PARAGRAPH (a) OF THIS SUBSECTION (2a) AND CONSIDERING THE PROVISIONS OF THIS PARAGRAPH (b) OF THIS SUBSECTION (2b), MAXIMIZE THE NUMBER OF COMPETITIVE CONGRESSIONAL DISTRICTS.

SECTION 4. In the constitution of the state of Colorado, **add** section 47.5 of article V as follows:

Section 47.5. REVISION OF CONGRESSIONAL DISTRICTS -- (1) (a) (I) WITHIN THIRTY DAYS AFTER THE INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION HAS BEEN CONVENED, OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, ~~NONPARTISAN STAFF AS IDENTIFIED IN SECTION 44, REFERRED TO AS STAFF FOR THE PURPOSE OF THIS SECTION;~~ STAFF SHALL PUBLISH A PRELIMINARY REDISTRICTING PLAN FOR CONGRESSIONAL DISTRICTS. STAFF SHALL KEEP ~~EACH ALL~~ PLANS PREPARED CONFIDENTIAL UNTIL ~~IT HAS~~ THEY HAVE BEEN PRESENTED TO THE COMMISSION AT A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION.

(II) WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE PUBLICATION OF THE PRELIMINARY CONGRESSIONAL PLAN, THE COMMISSION MUST COMPLETE PUBLIC HEARINGS ON THE PRELIMINARY PLANS IN SEVERAL PLACES THROUGHOUT THE STATE, INCLUDING AT LEAST THREE HEARINGS IN EACH OF COLORADO'S CONGRESSIONAL DISTRICTS. INCLUDED IN THESE HEARINGS MUST BE AT LEAST TWO HEARINGS WEST OF THE CONTINENTAL DIVIDE AND ~~SEPARATELY~~, AT LEAST TWO HEARINGS SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY AND EAST OF THE CONTINENTAL DIVIDE.

(III) IF, FOR ANY REASON, STAFF IS UNABLE TO PRESENT A PRELIMINARY PLAN TO THE COMMISSION, THE STAFF SHALL PUBLISH THE PRELIMINARY PLAN AND ACCEPT PUBLIC COMMENTS ON THE PLANS PRIOR TO SUBMITTING THE PRELIMINARY PLAN DIRECTLY TO THE SUPREME COURT ON THE LAST BUSINESS DAY PRIOR TO OCTOBER 7 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE FEDERAL CENSUS IS TAKEN. THE COURT'S CONSIDERATION SHALL BE AS TO WHETHER THE PLANS ADHERE TO THE CRITERIA OUTLINED IN THIS SECTION AND SECTIONS 44 AND 44.5 ~~AND 46~~ OF THIS ARTICLE.

(IV) THE COMMISSION SHALL NOT AMEND OR VOTE UPON ANY PRELIMINARY PLAN, BUT MAY INSTRUCT STAFF ON HOW THE PRELIMINARY PLAN CAN BE ADJUSTED DURING THE DEVELOPMENT OF THE INITIAL PLAN.

(b) (I) NO LATER THAN TWENTY DAYS AFTER THE CONCLUSION OF THE LAST PUBLIC HEARING, THE STAFF SHALL SUBMIT AN INITIAL PLAN TO THE COMMISSION FOR ITS CONSIDERATION. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER ITS SUBMISSION. IF THE COMMISSION VOTES ON AN INITIAL PLAN AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(II) IF THE COMMISSION REJECTS A PLAN PURSUANT TO SUBPARAGRAPH (I) OF THIS ~~SUBSECTION~~ PARAGRAPH (b), THE STAFF MUST PREPARE A SECOND PLAN, ADJUSTING THE PLAN ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE INITIAL PLAN. IF A SECOND PLAN IS REQUIRED UNDER THIS SUBPARAGRAPH (II), THE PLAN MUST BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S

SUBMISSION. IF THE COMMISSION VOTES ON A PLAN PURSUANT TO THIS SUBPARAGRAPH (II) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(III) IF THE COMMISSION REJECTS A PLAN PURSUANT TO SUBPARAGRAPH (II) OF THIS SUBSECTION-PARAGRAPH (b), THE STAFF MUST PREPARE A THIRD PLAN, ADJUSTING THE PLAN ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE SECOND PLAN. IF A THIRD PLAN IS REQUIRED UNDER THIS SUBPARAGRAPH (III), THE PLAN MUST BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION. IF THE COMMISSION VOTES ON A PLAN PURSUANT TO THIS SUBPARAGRAPH (III) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(IV) IF THE COMMISSION DOES NOT APPROVE A PLAN PURSUANT TO SUBPARAGRAPHS (I), (II), OR (III) OF THIS PARAGRAPH (b), THE COMMISSION MUST SUBMIT THE UNAMENDED SECOND PLAN TO THE SUPREME COURT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION. IF SUCH A PLAN IS NOT DRAFTED PURSUANT TO SUBPARAGRAPHS (I), (II) OR (III), THE COMMISSION MUST SUBMIT THE UNAMENDED INITIAL PLAN TO THE SUPREME COURT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

(2) (a) (I) NO LATER THAN OCTOBER 6 OF THAT SAME YEAR, THE COMMISSION MUST FINALIZE THE PLAN. THE COMMISSION MAY ADJUST THE DEADLINES SPECIFIED IN SUBSECTION (1) OF THIS SECTION IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE FINALIZING EACH PLAN AS REQUIRED BY THIS SUBSECTION.

(II) THE COMMISSION MAY GRANT STAFF THE ABILITY TO MAKE TECHNICAL, DE MINIMUS ADJUSTMENTS TO ANY PLAN PRIOR TO ITS SUBMISSION TO THE SUPREME COURT.

(b) (I) THE COMMISSION MUST PROMPTLY SUBMIT THE PLAN TO THE SUPREME COURT FOR REVIEW AND DETERMINATION AS TO WHETHER THE PLAN'S COMPLIES WITH THIS SECTION AND SECTIONS 44 AND 44.546 OF ARTICLE V. SUCH REVIEW AND DETERMINATION TAKES PRECEDENCE OVER THE OTHER MATTERS BEFORE THE COURT.

(II) THE SUPREME COURT MUST ADOPT RULES FOR SUCH PROCEEDINGS AND FOR THE PRODUCTION AND PRESENTATION OF SUPPORTIVE EVIDENCE FOR THE PLAN. LEGAL ARGUMENTS OR EVIDENCE CONCERNING THE PLAN MUST BE SUBMITTED TO THE COURT PURSUANT TO THE SCHEDULE ESTABLISHED BY THE COURT, EXCEPT THAT THE FINAL SUBMISSION MUST BE MADE NO LATER THAN OCTOBER 20 OF THAT SAME YEAR.

(c) (I) THE SUPREME COURT MUST EITHER APPROVE THE PLAN OR RETURN THE PLAN AND THE COURT'S REASONS FOR DISAPPROVAL TO THE COMMISSION. IF THE PLAN IS RETURNED, ~~THE COMMISSION MUST~~ STAFF WILL PREPARE FOR THE COMMISSION'S CONSIDERATION A PLAN TO CONFORM TO THE COURT'S REQUIREMENTS. THE COMMISSION MAY REQUEST THAT STAFF MAKE

ADJUSTMENTS TO THE CONFORMING PLAN. AN APPROVED, CONFORMING PLAN MUST BE SUBMITTED TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT. ADOPTION OF A PLAN PURSUANT TO THIS PARAGRAPH REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS.

(II) IF THE COMMISSION HAS NOT ADOPTED A PLAN WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT, THE STAFF SHALL PREPARE AND SUBMIT THE UNAMENDED CONFORMING PLAN TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT.

(III) THE SUPREME COURT MUST APPROVE THE REDISTRICTING PLAN BY A DATE THAT WILL ALLOW SUFFICIENT TIME FOR THE PLAN TO BE FILED WITH THE SECRETARY OF STATE NO LATER THAN DECEMBER 15 OF THAT SAME YEAR. THE COURT MUST ORDER THAT THE PLAN BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SUCH DATE.

RECEIVED

APR 08 2016

S. WARD

1:05 P.M.

Be it Enacted by the People of the State of Colorado: Colorado Secretary of State

SECTION 1. In the constitution of the state of Colorado, add section 43.5 to article V as follows:

Congressional and Legislative Appointments

SECTION 43.5. POLITICAL GERRYMANDERING PROHIBITED.

THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT FAIR REPRESENTATION REQUIRES THAT THE PRACTICE OF POLITICAL GERRYMANDERING, WHEREBY CONGRESSIONAL DISTRICTS ARE PURPOSEFULLY DRAWN TO FAVOR ONE POLITICAL PARTY OR INCUMBENT POLITICIAN OVER ANOTHER, OR TO ACCOMPLISH POLITICAL GOALS, MUST END. THE PUBLIC'S INTEREST IN PROHIBITING POLITICAL GERRYMANDERING AND IN CREATING FAIR AND COMPETITIVE PLANS FOR CONGRESSIONAL DISTRICTS IS BEST ACCOMPLISHED BY A NEW AND INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS THAT IS FREE FROM POLITICAL INFLUENCE AND RELIES ON NONPARTISAN LEGISLATIVE STAFF TO DIVIDE THE STATE INTO THESE DISTRICTS WITHOUT REGARD TO POLITICAL PRESSURES OR POLITICAL CONSIDERATIONS.

SECTION 2. In the constitution of the state of Colorado, amend section 44 of article V as follows:

Section 44. INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION.

~~Representatives in congress. The general assembly shall divide the state into as many congressional districts as there are representatives in congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment shall be made by congress, the general assembly shall divide the state into congressional districts accordingly.~~

(1) AFTER EACH FEDERAL CENSUS OF THE UNITED STATES, THE INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION SHALL MEET, IN OPEN MEETINGS AND SUBJECT TO OPEN MEETINGS AND PUBLIC DISCLOSURE LAWS, TO ADOPT COMPETITIVE PLANS FOR CONGRESSIONAL DISTRICTS. THE COMMISSION MUST HOLD MEETINGS THROUGHOUT THE STATE AND CONDUCT ALL OF ITS ACTIVITIES IN PLACES WHERE MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND. THE COMMISSION OR ITS STAFF SHALL NOT DRAW OR ADOPT ANY PLAN FOR THE PURPOSE OF FAVORING A POLITICAL PARTY, INCUMBENT LEGISLATOR, MEMBER OF CONGRESS OR OTHER PERSON.

(2) THE COMMISSION SHALL CONSIST OF TWELVE MEMBERS WHO WILL HAVE THE FOLLOWING QUALIFICATIONS:

(a) FOUR MEMBERS WHO ARE UNAFFILIATED NOT HAVING BEEN REGISTERED WITH ANY POLITICAL PARTY FOR A PERIOD OF TWO CALENDAR YEARS PRIOR TO THE MEMBER'S APPOINTMENT, OR ARE REGISTERED WITH A MINOR POLITICAL PARTY.

(b) FOUR MEMBERS REGISTERED WITH ONE OF THE STATE'S TWO LARGEST POLITICAL PARTIES.

(c) FOUR MEMBERS REGISTERED WITH ANY POLITICAL PARTY, SO LONG AS NO POLITICAL PARTY HAS A MAJORITY OF MEMBERS ON THE COMMISSION.

(3) NO MEMBER OF THE COMMISSION MAY BE A REGISTERED LOBBYIST, INCUMBENT MEMBER OF THE GENERAL ASSEMBLY OR CONGRESS, OR A CURRENT CANDIDATE FOR ONE OF THESE OFFICES. ALL COMMISSION MEMBERS MUST BE QUALIFIED ELECTORS OF THE STATE OF COLORADO.

(4) AT LEAST ONE MEMBER OF THE COMMISSION SHALL BE APPOINTED FROM EACH CONGRESSIONAL DISTRICT, SO LONG AS COLORADO IS NOT APPORTIONED MORE THAN TWELVE CONGRESSIONAL DISTRICTS. NO MORE THAN FOUR MEMBERS MAY COME FROM ANY SINGLE CONGRESSIONAL DISTRICT. AT LEAST ONE OTHER MEMBER SHALL RESIDE WEST OF THE CONTINENTAL DIVIDE AND AT LEAST ONE MEMBER SHALL RESIDE SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY.

(5) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND APPROVAL OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSION MEMBERS.

(6) EXCEPT AS TO MATTERS OTHERWISE PROVIDED FOR IN THIS SECTION AND SECTIONS 48, THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS ADMINISTRATION AND OPERATION INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(a) MAINTENANCE OF A RECORD OF THE COMMISSION'S ACTIVITIES AND PROCEEDINGS, INCLUDING A RECORD OF WRITTEN AND ORAL TESTIMONY RECEIVED, AND OF THE COMMISSION'S DIRECTION TO NONPARTISAN STAFF ON PROPOSED CHANGES TO ANY MAP AND THE COMMISSION'S RATIONALE FOR SUCH CHANGES;

(b) THE PROCESS FOR REMOVAL OF MEMBERS FOR CAUSE;

(c) THE PROCESS FOR RECOMMENDING CHANGES TO PLANS SUBMITTED TO THE COMMISSION BY NONPARTISAN STAFF;

(d) PROVIDING FOR ANY VACANCY CREATED BY THE DEATH, RESIGNATION OR REMOVAL OF A MEMBER, OR OTHERWISE, WHICH MUST BE FILLED BY THE RESPECTIVE APPOINTING AUTHORITY. MEMBERS OF THE COMMISSION SHALL HOLD OFFICE UNTIL A REDISTRICTING PLAN IS IMPLEMENTED, OR OTHERWISE REMOVED, AND;

(e) THE ADOPTION OF A STATEWIDE MEETING AND HEARING SCHEDULE.

(7) (a) THE COMMISSION IS SUBJECT TO COLORADO STATUTORY PROVISIONS CONCERNING OPEN MEETINGS, OPEN RECORDS AND DISCLOSURE BY PUBLIC OFFICIALS, GENERALLY REFERRED TO AS COLORADO SUNSHINE LAWS, AS AMENDED FROM TIME TO TIME BY THE GENERAL ASSEMBLY. FOR THE PURPOSE OF THIS COMMISSION, PROPER NOTICE FOR A MEETING OR HEARING, INCLUDING TIME,

PLACE, AND AGENDA, MUST BE POSTED AT LEAST THREE DAYS PRIOR TO THE MEETING ON A WEB SITE DEDICATED FOR THE COMMISSION AND FOR THE PURPOSE OF REDISTRICTING.

(b) A COMMISSIONER WHO ENGAGES IN COMMUNICATIONS, IF THE COMMUNICATIONS ARE MADE OUTSIDE OF A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION AND ARE RELATED TO THE MAPPING OF CONGRESSIONAL DISTRICTS, SHALL DISCLOSE, AT EACH MEETING, THE NAMES OF THE INDIVIDUALS WITH WHOM THEY COMMUNICATED AND THE PURPOSE AND SUBJECT OF THE COMMUNICATION.

(c) COMMISSIONERS MAY COMMUNICATE WITH ONE ANOTHER ABOUT THE MAPPING OF CONGRESSIONAL DISTRICTS, PROVIDED THAT COMMUNICATION BETWEEN MORE THAN THREE COMMISSIONERS AT ONE TIME MUST BE PROPERLY NOTICED PURSUANT TO THIS SUBSECTION (7). EXCEPT FOR TECHNICAL AND OPERATIONAL MATTERS, AND PREPARING AMENDMENTS DEVELOPED BY A COMMISSIONER FOR THE COMMISSION'S CONSIDERATION, COMMISSIONERS MAY NOT COMMUNICATE WITH STAFF ON THE MAPPING OF CONGRESSIONAL DISTRICTS UNLESS THE COMMUNICATION IS DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION.

(d) STAFF ARE NOT PERMITTED TO HAVE EX PARTE COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN. COMMUNICATIONS TO AND FROM STAFF RELATED TO ADMINISTRATIVE, TECHNICAL AND OPERATIONAL MATTERS ON THE MAPPING OF CONGRESSIONAL DISTRICTS, AND GENERAL DISCUSSIONS ABOUT THE REDISTRICTING PROCESS ARE NOT PROHIBITED. WORK PRODUCT AND COMMUNICATIONS BETWEEN STAFF SHALL BE SUBJECT TO DISCLOSURE UNDER COLORADO OPEN RECORDS LAWS ONCE A PLAN TO WHICH THE WORK PRODUCT OR COMMUNICATION PERTAINS IS PRESENTED TO THE COMMISSION DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION.

(e) ANY COMMISSIONER WHO PARTICIPATES IN A COMMUNICATION PROHIBITED IN THE SUBSECTION (7) WILL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS ACCORDING TO COMMISSION RULES.

(f) ANYONE WHO CONTRACTS OR RECEIVES COMPENSATION FOR ADVOCATING TO THE COMMISSION, ONE OR MORE COMMISSIONERS, OR THE STAFF THE ADOPTION OF ANY PLAN, AMENDMENT TO A PLAN, PLAN APPROACH, OR MANNER OF COMPLIANCE WITH ANY OF THE PLAN CRITERIA SET FORTH IN THIS SECTION AND SECTION 46 OF THIS ARTICLE ARE LOBBYISTS WHO MUST REGISTER WITH THE SECRETARY OF STATE AS LOBBYISTS AND ADHERE TO LOBBYIST DISCLOSURE REQUIREMENTS IN STATUTE AND BY RULE.

(g) STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPTS BY ANYONE TO EXERT UNDUE INFLUENCE OVER THE DRAFTING OF PLANS.

(8) (a) THE GOVERNOR SHALL CONVENE THE COMMISSION NO LATER THAN MAY 15 OF THE YEAR FOLLOWING THAT IN WHICH THE FEDERAL CENSUS IS TAKEN, APPOINTING A TEMPORARY CHAIRPERSON FROM THE COMMISSION'S MEMBERS, WHO ARE APPOINTED IN THE FOLLOWING MANNER:

(I) NO LATER THAN MARCH 25 OF THAT SAME YEAR, THE SPEAKER OF THE COLORADO HOUSE OF REPRESENTATIVES AND THE MINORITY LEADER OF THE SAME SHALL EACH APPOINT TWO MEMBERS IN ACCORDANCE WITH SUBSECTION (2) (b) OF THIS SECTION.

(II) NO LATER THAN MARCH 31 OF THAT SAME YEAR, THE PRESIDENT OF THE COLORADO SENATE AND THE MINORITY LEADER OF THE SAME SHALL EACH APPOINT TWO MEMBERS IN ACCORDANCE WITH SUBSECTION (2) (c) OF THIS SECTION.

(III) (A) THE COLORADO SUPREME COURT NOMINATING COMMISSION, OR ITS SUCCESSOR, SHALL ESTABLISH AND ANNOUNCE A PROCESS FOR THE APPOINTMENT OF MEMBERS IDENTIFIED IN SUBSECTION (2) (a) OF THIS SECTION. THE PROCESS SHALL INCLUDE AN INVITATION TO APPLY FOR THOSE COLORADANS WHO MEET THE IDENTIFIED CRITERIA AND A TIMELINE FOR RECEIVING AND REVIEWING THESE APPLICATIONS.

(B) ON OR BEFORE APRIL 2 OF THAT SAME YEAR, THE SUPREME COURT NOMINATING COMMISSION SHALL FORWARD A LIST OF TEN RECOMMENDED APPLICANTS TO THE EIGHT APPOINTED MEMBERS OF THE COMMISSION. THE RECOMMENDED LIST SHALL, TO THE EXTENT PRACTICAL, REPRESENT COLORADO'S RACIAL, ETHNIC, AND GEOGRAPHIC DIVERSITY. NO LATER THAN APRIL 25 OF THAT SAME YEAR, THE COMMISSIONERS SHALL UNANIMOUSLY APPOINT FOUR MEMBERS FROM THE LIST OF RECOMMENDED APPLICANTS SO THAT THE COMMISSION CONSISTS OF TWELVE MEMBERS.

(C) IF THE COMMISSIONERS FAIL IN THEIR RESPONSIBILITY TO MAKE ANY OF THESE APPOINTMENTS, THE DIRECTOR OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH STAFF, ON APRIL 26 OF THAT SAME YEAR OR THE NEXT BUSINESS DAY THAT FOLLOWS AND IN A PUBLIC SETTING, SHALL RANDOMLY SELECT AS MANY NAMES AS NECESSARY UP TO FOUR NAMES FROM THE LIST OF TEN NAMES RECOMMENDED BY THE SUPREME COURT NOMINATING COMMISSION TO SERVE ON THE COMMISSION SO THAT THE COMMISSION CONSISTS OF TWELVE MEMBERS.

(9) IN DRAFTING COMPETITIVE PLANS, THE COMMISSION MEMBERS MUST RELY ON NONPARTISAN STAFF IDENTIFIED FOR SUCH PURPOSE BY THE DIRECTORS OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH AND LEGAL SERVICES, REFERRED TO IN SECTIONS 43.5 THROUGH 48 OF THIS ARTICLE V AS STAFF OR NONPARTISAN STAFF. IN DRAFTING COMPETITIVE PLANS, THE COMMISSION AND ITS STAFF MAY CONSIDER GENERAL ELECTION PERFORMANCE DATA.

SECTION 3. In the constitution of the state of Colorado, add section 44.5 of article V as follows:

Section 44.5. CRITERIA – CONGRESSIONAL DISTRICTS.

(1) THE STATE SHALL BE DIVIDED INTO AS MANY CONGRESSIONAL DISTRICTS AS THERE ARE REPRESENTATIVES IN CONGRESS APPORTIONED TO THIS STATE BY THE CONGRESS OF THE UNITED STATES FOR THE ELECTION OF ONE REPRESENTATIVE TO CONGRESS FROM EACH DISTRICT.

(2) IN ESTABLISHING CONGRESSIONAL DISTRICTS THE COMMISSION AND NONPARTISAN STAFF:

(a) SHALL UTILIZE THE FOLLOWING FACTORS:

(I) EQUAL POPULATION AS PROVIDED BY LAW;

(II) COMPLIANCE WITH SECTION 2 OF THE FEDERAL "VOTING RIGHTS ACT OF 1965", AND;

(b) MAY, WITHOUT WEIGHT TO ANY FACTOR, UTILIZE FACTORS INCLUDING, BUT NOT LIMITED TO:

(I) THE PRESERVATION OF POLITICAL SUBDIVISIONS SUCH AS COUNTIES, CITIES, AND TOWNS. WHEN COUNTY, CITY, OR TOWN BOUNDARIES ARE CHANGED, ADJUSTMENTS, IF ANY, IN DISTRICT SHALL BE AS PRESCRIBED BY LAW;

(II) THE PRESERVATION OF COMMUNITIES OF INTEREST, INCLUDING ETHNIC, CULTURAL, ECONOMIC, TRADE AREA, GEOGRAPHIC, AND DEMOGRAPHIC FACTORS;

(III) THE COMPACTNESS OF EACH CONGRESSIONAL DISTRICT, AND;

(IV) THE MINIMIZATION OF DISRUPTION OF PRIOR DISTRICT LINES.

(c) SHALL, AFTER ADHERING TO THE PROVISIONS OF THIS SUBSECTION (a) AND CONSIDERING THE PROVISIONS OF THIS SUBSECTION (b), MAXIMIZE THE NUMBER OF COMPETITIVE CONGRESSIONAL DISTRICTS.

SECTION 4. In the constitution of the state of Colorado, add section 47.5 of article V as follows:

Section 47.5. REVISION OF DISTRICTS – (1) (a) (I) WITHIN THIRTY DAYS AFTER THE INDEPENDENT COLORADO CONGRESSIONAL REDISTRICTING COMMISSION HAS BEEN CONVENED, OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, NONPARTISAN STAFF AS IDENTIFIED IN SECTION 44, REFERRED TO AS STAFF FOR THE PURPOSE OF THIS SECTION, SHALL PUBLISH A PRELIMINARY REDISTRICTING PLAN FOR CONGRESSIONAL DISTRICTS. STAFF SHALL KEEP ALL PLANS PREPARED CONFIDENTIAL UNTIL THEY HAVE BEEN PRESENTED TO THE COMMISSION AT A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION.

(II) WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE PUBLICATION OF THE PRELIMINARY CONGRESSIONAL PLAN, THE COMMISSION MUST COMPLETE PUBLIC HEARINGS ON THE PRELIMINARY PLANS IN SEVERAL PLACES THROUGHOUT THE STATE, INCLUDING AT LEAST THREE HEARINGS IN EACH OF COLORADO'S CONGRESSIONAL DISTRICTS. INCLUDED IN THESE HEARINGS MUST BE AT LEAST TWO HEARINGS WEST OF THE CONTINENTAL DIVIDE AND, SEPARATELY, AT LEAST TWO HEARINGS SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY.

(III) IF, FOR ANY REASON, STAFF IS UNABLE TO PRESENT A PRELIMINARY PLAN TO THE COMMISSION, THE STAFF SHALL PUBLISH THE PRELIMINARY PLAN AND ACCEPT PUBLIC COMMENTS ON THE PLANS PRIOR TO SUBMITTING THE PRELIMINARY PLAN DIRECTLY TO THE SUPREME COURT ON THE LAST BUSINESS DAY PRIOR TO OCTOBER 7 OF THE YEAR IN WHICH THE FEDERAL CENSUS IS

TAKEN. THE COURT'S CONSIDERATION SHALL BE AS TO WHETHER THE PLANS ADHERE TO THE CRITERIA OUTLINED IN THIS SECTION AND SECTIONS 44 AND 46 OF THIS ARTICLE.

(IV) THE COMMISSION SHALL NOT AMEND OR VOTE UPON ANY PRELIMINARY PLAN, BUT MAY INSTRUCT STAFF ON HOW THE PRELIMINARY PLAN CAN BE ADJUSTED DURING THE DEVELOPMENT OF THE INITIAL PLAN.

(b) (I) NO LATER THAN TWENTY DAYS AFTER THE CONCLUSION OF THE LAST PUBLIC HEARING, THE STAFF SHALL SUBMIT AN INITIAL PLAN TO THE COMMISSION FOR ITS CONSIDERATION. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER ITS SUBMISSION. IF THE COMMISSION VOTES ON AN INITIAL PLAN AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(II) IF THE COMMISSION REJECTS A PLAN PURSUANT TO PARAGRAPH (I) OF THIS SUBSECTION (b), THE STAFF MUST PREPARE A SECOND PLAN, ADJUSTING THE PLAN ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE INITIAL PLAN. IF A SECOND PLAN IS REQUIRED UNDER THIS PARAGRAPH (I), THE PLAN MUST BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION. IF THE COMMISSION VOTES ON A PLAN PURSUANT TO THIS PARAGRAPH (I) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(III) IF THE COMMISSION REJECTS A PLAN PURSUANT TO PARAGRAPH (II) OF THIS SUBSECTION (b), THE STAFF MUST PREPARE A THIRD PLAN, ADJUSTING THE PLAN ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE SECOND PLAN. IF A THIRD PLAN IS REQUIRED UNDER THIS PARAGRAPH (III), THE PLAN MUST BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION MUST VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION. IF THE COMMISSION VOTES ON A PLAN PURSUANT TO THIS PARAGRAPH (III) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(2) (a) (I) NO LATER THAN OCTOBER 6 OF THAT SAME YEAR, THE COMMISSION MUST FINALIZE THE PLAN. THE COMMISSION MAY ADJUST THE DEADLINES SPECIFIED IN SUBSECTION (1) OF THIS SECTION IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE FINALIZING EACH PLAN AS REQUIRED BY THIS SUBSECTION.

(II) THE COMMISSION MAY GRANT STAFF THE ABILITY TO MAKE TECHNICAL, DE MINIMUS ADJUSTMENTS TO ANY PLAN PRIOR TO ITS SUBMISSION TO THE SUPREME COURT.

(b) (I) THE COMMISSION MUST PROMPTLY SUBMIT THE PLAN TO THE SUPREME COURT FOR REVIEW AND DETERMINATION AS TO WHETHER THE PLANS COMPLY WITH THIS SECTION AND

SECTIONS 44 AND 46 OF ARTICLE V. SUCH REVIEW AND DETERMINATION TAKES PRECEDENCE OVER THE OTHER MATTERS BEFORE THE COURT.

(II) THE SUPREME COURT MUST ADOPT RULES FOR SUCH PROCEEDINGS AND FOR THE PRODUCTION AND PRESENTATION OF SUPPORTIVE EVIDENCE FOR THE PLAN. LEGAL ARGUMENTS OR EVIDENCE CONCERNING THE PLAN MUST BE SUBMITTED TO THE COURT PURSUANT TO THE SCHEDULE ESTABLISHED BY THE COURT, EXCEPT THAT THE FINAL SUBMISSION MUST BE MADE NO LATER THAN OCTOBER 20 OF THAT SAME YEAR.

(c) (I) THE SUPREME COURT MUST EITHER APPROVE THE PLAN OR RETURN THE PLAN AND THE COURT'S REASONS FOR DISAPPROVAL TO THE COMMISSION. IF THE PLAN IS RETURNED, THE COMMISSION MUST PREPARE A PLAN TO CONFORM TO THE COURT'S REQUIREMENTS. THE COMMISSION MAY REQUEST THAT STAFF MAKE ADJUSTMENTS TO THE CONFORMING PLAN. AN APPROVED, CONFORMING PLAN MUST BE SUBMITTED TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT. ADOPTION OF A PLAN PURSUANT TO THIS PARAGRAPH REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS.

(II) IF THE COMMISSION HAS NOT ADOPTED A PLAN WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT, THE STAFF SHALL SUBMIT THE UNAMENDED CONFORMING PLAN TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT.

(III) THE SUPREME COURT MUST APPROVE THE REDISTRICTING PLAN BY A DATE THAT WILL ALLOW SUFFICIENT TIME FOR THE PLAN TO BE FILED WITH THE SECRETARY OF STATE NO LATER THAN DECEMBER 15 OF THAT SAME YEAR. THE COURT MUST ORDER THAT THE PLAN BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SUCH DATE.

Ballot Title Setting Board

Proposed Initiative 2015-2016 #128¹

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

An amendment to the Colorado constitution concerning congressional redistricting, and, in connection therewith, transferring authority to establish congressional districts from the general assembly to a newly created twelve-member Colorado congressional redistricting commission; requiring at least four commissioners to be either affiliated with a minor political party or unaffiliated with any political party; prohibiting commissioners from being registered lobbyists or members of or candidates for the U.S. Congress or the Colorado legislature; specifying that all actions of the commission must be agreed to by at least eight of the twelve appointed commissioners; adopting existing criteria to be used in setting boundaries of congressional districts and adding competitiveness to the criteria; providing for judicial review of an adopted redistricting map; and requiring that the commission's work be done in public meetings.

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 congressional redistricting, and, in connection therewith, transferring authority to establish congressional districts from the general assembly to a newly created twelve-member Colorado congressional redistricting commission; requiring at least four commissioners to be either affiliated with a minor political party or unaffiliated with any political party; prohibiting commissioners from being registered lobbyists or members of or candidates for the U.S. Congress or the Colorado legislature; specifying that all actions of the commission must be agreed to by at least eight of the twelve appointed commissioners; adopting existing criteria to be used in setting boundaries of congressional districts and adding competitiveness to the criteria; providing for judicial review of an adopted redistricting map; and requiring that the commission's work be done in public meetings?

Hearing April 20, 2016:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 1:52 p.m. .

¹ Unofficially captioned “Colorado Congressional Redistricting Commission” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

APR 27 2016

S.W.R.D.
1:33 P.M.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

Donna R. Johnson, Objector

vs.

Kathleen Curry and Frank McNulty, Proponents.

**MOTION FOR REHEARING ON INITIATIVE 2015-2016 #128
("Colorado Congressional Redistricting Commission")**

Donna R. Johnson, a registered elector of the State 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 #128 ("Colorado Redistricting Commission").

A. The Title Board set a title for Initiative 2015-16 #128 on April 20, 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 concerning congressional redistricting, and, in connection therewith, transferring authority to establish congressional districts from the general assembly to a newly created twelve-member Colorado congressional redistricting commission; requiring at least four commissioners to be either affiliated with a minor political party or unaffiliated with any political party; prohibiting commissioners from being registered lobbyists or members of or candidates for the U.S. Congress or the Colorado legislature; specifying that all actions of the commission must be agreed to by at least eight of the twelve appointed commissioners; adopting existing criteria to be used in setting boundaries of congressional districts and adding competitiveness to the criteria; providing for judicial review of an adopted redistricting map; and requiring that the commission's work be done in public meetings?

B. Initiative #128 contains multiple subjects, contrary to Colo. Const., art. V, sec. 1(5.5).

1. Changes to the process used for congressional redistricting

Among other things, the initiative creates a commission for congressional redistricting, sets up a hearing process concerning congressional districts, allows for judicial review, sets standards for members of the commission (both as to party affiliation and communications about redistricting that do not occur in a commission meeting), sets standards for commission staff,

authorizes certain actions to be undertaken by staff, establishes timelines for commission actions, and summarizes criteria to be used in districting decisions.

2. Changes to the constitutional objective of the Supreme Court Nominating Commission

One mandate of this initiative is to impose upon the Supreme Court Nominating Commission, for the first time, the requirements that it:

- (a) “establish and announce a process for appointment” of the four redistricting commission members who must be either unaffiliated with any major political party or members of a minor political party;
- (b) solicit, receive, and review applications for these redistricting commission positions; and
- (c) “forward a list of 10 recommended applicants to the eight members of the (redistricting) commission.”

As such, the Supreme Court Nominating Commission is given the task under this initiative of choosing among applicant names to provide the decisive four votes on the redistricting commission. Given the Proponents’ ominous warning about gerrymandering in the redistricting process, *see* Section 1, they certainly cannot deny that this redistricting task will be among the most politically charged undertakings performed by any commission in the State. And to the extent that the Supreme Court Nominating Commission would provide the list of nominees to be the political balance of power on the redistricting commission, its’ members will have a uniquely political role to perform and can be chosen to serve with that goal in mind.

This conversion of a non-political commission, which is now charged solely with winnowing names to fill vacancies on the Colorado Court of Appeals and the Colorado Supreme Court, is a major change in mission. Not only does the Supreme Court Nominating Commission have no expertise regarding redistricting or persons suited to undertake that task, voters approved it to completely divorce political influence from the process of determining the membership of the judiciary. The 1966 voter-adopted constitutional amendment reflected “the intent of Colorado’s voters to maintain an independent judiciary by **insulating the judicial nominating process from politics.**” Formal Op. Att’y. Gen. No. 04-03 (April 12, 2004) (emphasis added).

An example of how the non-political Supreme Court Nominating Commission can easily become a partisan effort can be seen in reviewing the list of current members’ terms. Non-attorney Nominating Commission members are appointed by the governor, and all of them, except for one, will turn over prior to the 2021 redistricting.¹ *See* Colo. Const., art. VI, § 24(4). If the Proponents are correct about the infusion of political interests by persons engaged in redistricting, then the same people who are narrowing a statewide list of redistricting commission applicants will also be nominating appellate justices, even though their primary focus is supposed to be on “insulating the judicial nominating process from politics.”

¹ *See* Exhibit A, attached hereto (current roster and terms of Supreme Court Nominating Commission).

The current merit selection process for judges and justices utilizes the Supreme Court Nominating Commission to identify two or three nominees to fill a vacant position on the Supreme Court or an intermediate appellate court. The governor appoints from this list, and if he or she fails to do so within fifteen days of receiving the list, the chief justice makes the appointment. Colo. Const., art. VI, sec. 20(1).

Redistricting is a legislative task, a fact made clear given that congressional redistricting is assigned to the legislature by the U.S. Constitution. U.S. Const., Art., 1, § 4 (“The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof”). Use of the initiative process to divest the General Assembly of this authority is still a legislative act, as the voters are exercising that portion of their “reserved” legislative authority that they have decided not to cede to the legislature itself. Colo. Const., art. V, § 1(1); *Armstrong v. Mitten*, 37 P.2d 757, 759-60 (Colo. 1934).

However, the Supreme Court Nominating Commission is not part of the legislative branch. None of its members are legislatively appointed. *See* Colo. Const., art. VI, § 24(4) (“Members of each judicial nominating commission selected by reason of their being citizens admitted to practice law in the courts of this state shall be appointed by majority action of the governor, the attorney general and the chief justice. All other members shall be appointed by the governor.”) Moreover, the Commission does not exercise legislative powers or perform a legislative function.

Voter-proposed initiatives contain separate subjects if they: (1) alter the powers of a commission that has a particularized mission; and (2) revamp a key function of an unrelated branch of government. *In re Title, Ballot Title and Submission Clause, and Summary for Initiative 1997–1998 #64*, 960 P.2d 1192, 1199–1200 (Colo.1998). This proposed initiative both changes the focus of the Supreme Court Nominating Commission (from non-political to political and from appellate judges to legislative district boundaries) and revises the redistricting function of the legislative branch.

Additionally, this measure requires voters to accept a fundamental policy trade-off – between de-politicizing the body charged with congressional redistricting and re-politicizing the body charged with appellate judicial selection. This is precisely the type of initiative that Colo. Const., art. V, § 1(5.5) was intended to prevent. “[T]he single subject requirement protects against proponents that might seek to secure an initiative’s passage by joining together unrelated or even conflicting purposes and pushing voters into an all-or-nothing decision.” *In re Title, Ballot Title, and Submission Clause for Proposed Initiative 2009-2010 No. 24*, 218 P.3d 350, 353 (Colo. 2009) (emphasis added).

This measure is a virtual poster-child for the concerns that led to enactment of the single subject requirement. First, the use of a generalized descriptor for the measure’s subject does not meet the constitutional standard for a “single subject.” *In re Title, Ballot Title, and Submission Clause and Summary for Proposed Initiative for 1997–1998 # 64*, 960 P.2d 1192, 1200 (Colo. 1998) (“If the entire judicial branch were regarded as a single subject, incongruous and disconnected provisions could be contained in a single initiative and the very practices the single subject requirement was intended to prevent would be facilitated.”). “Congressional

redistricting” does not encompass “changes to the objective of an independent judicial nominating commission.”

Second, the single subject requirement was designed to avoid voter surprise resulting from the inadvertent passage of a surreptitious provision, concealed within an omnibus initiative. *In re Title, Ballot Title, and Submission Clause for Proposed Initiative 2001-2002 No. 43*, 46 P.3d 438, 442-443 (Colo. 2002); C.R.S. § 1-40-106.5(1)(e)(II). Given the drastic overhaul of the redistricting process sought by this measure, it is unlikely that voters discern this initiative’s actual reach to a fundamentally unrelated commission.

Therefore, the measure contains multiple subjects and deprives, solely by the decision of the Proponents, this Board of jurisdiction to set a ballot title.

3. Limits on political involvement for any person who is a “registered lobbyist”

Initiative #128 prohibits any person who is a “registered lobbyist” from serving on the Commission. This prohibition would apply to any person who is either a professional lobbyist or a volunteer lobbyist. See C.R.S. § 24-6-301(3.7) (“‘Lobbyist’ means either a professional or volunteer lobbyist.”)

This matter is controlled by a clear holding on another ballot initiative that sought to restrict political involvement based on a person’s profession. In *In re Title, Ballot Title and Submission Clause for 2003-2004 #32 and #33*, 76 P.3d 460, 462 (Colo. 2003), the Supreme Court addressed an initiative that both changed the process around initiative qualification for the ballot and also prohibited the Attorney General and any other lawyer from participating in the ballot title setting process as a “ballot title setter.” The Court’s holding there is instructive in this matter.

More generally and perhaps more importantly, however, the provision also limits the substantive rights of all attorneys. By foreclosing any possibility that an attorney could serve on the title board, these initiatives restrict the political rights of all attorneys. Under our prior decisions, this exclusion from the political process is a substantive matter, not a procedural change to the petitions process. See *Evans v. Romer*, 854 P.2d 1270 (Colo.1993), *cert. denied*, 510 U.S. 959, 114 S.Ct. 419, 127 L.Ed.2d 365 (1993)....

In the case at hand, the four initiatives propose that a specifically identifiable group, lawyers, be excluded from the ballot title board. Although this provision is much more limited than the exclusion in *Evans v. Romer*, it does affect the substantive rights of attorneys to participate in the political process. It has no necessary or proper connection to the purpose of the proposed measures, i.e., to liberalize the procedure for initiative and referendum petitions.... Because these proposed measures would affect existing substantive rights in addition to the primary subject concerning the procedural mechanisms of the initiative and referendum process, # 21 and # 22 do not comply with the single subject requirement.

#32 and #33, *supra*, 76 P.3d at 462-63 (emphasis added).

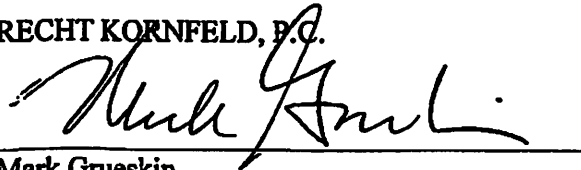
In the same way, Initiative #128 prohibits any person who lobbies, either as a professional or as a volunteer, from serving on the Commission. This is true even though a person may lobby at one level (federal vs. state) but not the other. It is also true that the mere frequency of this type of political participation is enough to disqualify one as a possible commissioner. Thus, a person who lobbies for the League of Women Voters,² for instance, on issues such as openness in government or fairness of elections is prohibited, from also participating in the political line drawing process for legislative and congressional districts. *See* C.R.S. § 24-6-301(3.5)(a)(I), (II.5), (IV) ("lobbying" means communicating directly or soliciting others to communicate with a covered official on a wide variety of matters, including any legislation, report, fiscal impact statement, or agency rule or standard).

This additional subject – the exclusion of a "specifically identifiable group" from certain political involvement – violates Article V, § 1(5.5).

WHEREFORE, the titles set April 20, 2016 should be reversed, due to the single subject violations addressed herein.

RESPECTFULLY SUBMITTED this 27th day of April, 2016.

RECHT KORNFELD, P.C.



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Objector's Address:

Donna R. Johnson
9280 Yarrow Street, #4207
Westminster CO 80021

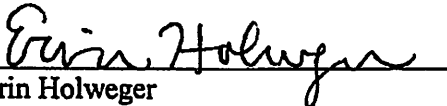
² *See* Exhibit B, attached hereto (list of volunteer lobbyists for current legislative session).

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2015-2016 #128 was sent this day, April 27, 2016 via email to proponents and their counsel at:

Kelly B. Duke
Benjamin J. Larson
Ireland Stapleton Pryor & Pascoe, P.C.
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Frank McNulty
Kathleen Curry
frank@frankmcnulty.com


Erin Holweger

Supreme Court Nominating Commission Members

Attorney Members

• Kathleen Lord (D) 1st Congressional District	01/01/14 to 12/31/19
• Shannon Stevenson (U) 2nd Congressional District	01/01/15 to 12/31/20
• Kim Childs (U) 3rd Congressional District	08/14/12 to 12/31/17
• Scott C. Johnson (U) 4th Congressional District	04/13/12 to 12/31/17
• Eric Von Levern Hall (R) 5th Congressional District	01/01/12 to 12/31/17
• Michael Burg (D) 6th Congressional District	01/01/14 to 12/31/19
• Charles Tingle (R) 7th Congressional District	09/08/11 to 12/31/16

Non Attorney Members

• Mosiah Montoya (D) 1st Congressional District	08/12/14 to 12/31/19
• Ann Hendrickson (R) 2nd Congressional District	04/06/12 to 12/31/17
• Robert Scott (R) 3rd Congressional District	01/31/14 to 12/31/19
• Tracee Marie Bentley (R) 4th Congressional District	03/16/15 to 12/31/20
• Jay Patel (R) 5th Congressional District	01/01/16 to 12/31/21
• Jim Carpenter (D) 6th Congressional District	01/01/14 to 12/31/19
• Olivia Mendoza (D) 7th Congressional District	04/06/12 to 12/31/17
• Connie McArthur (D) At Large	01/01/14 to 12/31/19

As of: 03-16-15



Registered Volunteer Lobbyists - 2016

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Akinahew, Serena L CCDC	(H) 18224 E. Layton Pl. Aurora CO 80015	(H) 720.256.1
Atwood, Frank F Approval Voting	(O) 7094 South Costilla Street Littleton, CO 80120-3518	(O) 720-260-
Augden, Sally League of Women Voters	(H) 4482 Quiltman Street Denver, CO 80212	(H) 303-455-
Clinton, Carisa CCDC	(O) 1121 W. Prospect Rd. Ft. Collins 80526	(O) 970.204.1
Cloven, Matthew ARC of Larimer County	(O) 1121 W. Prospect #140 Fort Collins CO 80526	(O) 970-204-
DeBey, Kenneth Colorado Alliance for Retired Americans	(H) 10650 West 87th Place Lakewood, CO 80215	(H) 303-233-
Diana, Milne Colorado Cross-Disability Coalition	(O) 855 Broadway Denver, CO 80203	(O) 303-839-
Edmiston, Robert E Colorado Citizens for Sound in Medicare	(O) 721 S Maiposa Way Denver, CO 80223	(H) 303.935.1
Fahrenbruch, Karin CCDC	(H) 1303 N. Wilson #102 Loveland CO 80537	(O) 970-221-
Fahrenbruch, Melody L CO Cross Disability Coalition	(H) 735 14th Street #106 Loveland CO 80537	(H) 970-581-



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Fahrenbruch, Melody L CO Cross Disability Coalition	(H) 735 14th Street #106 Loveland CO 80537	(H) 970-581-
Grattet, Jean League of Women Voters	(O) 1410 Grant Street B204 Denver, CO 80203	(O) 303-863-
Hanilton, Richard G Action for Public Trust The South Park Coalition Citizens Progressive Alliance	(O) 531 Front St Fairplay, CO 80440	(O) 720.483.:
Hart, Linda K Colorado Federation of Dog Clubs, Inc	(O) PO Box 265 Littleton, CO 80160	(O) 303.842.:
Haven, Robert D Colorado Cross Disability Coalition	(O) 655 Broadway #775 Denver, CO 80203	(O) 303-839- (H) 303-564-
Hillery, Jeannette League of Women voters	(O) 1410 Grant Street B 204 Denver, CO 80203	(O) 303-863- (H) 303-494-
Hillery, Jeannette League of Women Voters	(O) 1410 Grant St Denver, CO 80203	(O) 303.494.:
Huber, Blake Approval Voting USA	(O) 7094 S. Costilla Way Littleton, CO 80120 (H) 655 S. Clinton 655 S. Clinton St. #3B Denver, CO 80247	(H) 720.254.:
Hutter, Sheryle A CCDC PAD-CO EJF S.A.V.E. ADAPT	(H) 935 S Joliet St Aurora, CO 80012	(H) 303.364.:
Hutter, Ron K Self ARC of Aurora	(O) 935 S Joliet St Aurora, CO 80012	(O) 303.364.:

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Hutter, Ron K Self ARC of Aurora	(O) 935 S Joliet St Aurora, CO 80012	(O) 303.364.:
Hutter JR., Ron CCDC		
Jones Glischiwsky, Gregoy D ERROR Incorrect data type for operator or @Function Text expected AARP	(O) 5160 S Pitkin St Centennial CO 80237	(O) 303.331.:
Levine, Jonna C 7859 W. 38th Ave	(O) 7859 W. 38th Ave. Wheatridge, CO 80033	
Levutt, Burchan L Self	(O) 2668 West Colfax Ave Denver, CO 80219	(O) 720-628-
McVaney, James M Industrial Hemp in Colorado LLC	(O) PO Box	
Medbery, Angela Colorado Pesticide Network	(O) 2205 Meade St Denver, CO 80211	(O) 303.433.:
Merrill, Forrest Nicole R Colorado Cross Disablitiy Coalition	(H) 6150 W. 13th Ave Lakewood, CO 80214	(O) 720.231.:
Moffatt, Ramona J CO Alliance for Retired Americans	(O) 140Sheridan Blvd. Denver, CO 80226	(O) 303.980.:
Nofles, Jean Legislative Advocate - AARP	(O) 303 17th ST denver, CO 80203	

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Nofles, Jean Legislative Advocate - AARP	(O) 303 17th ST denver, CO 80203	
Norris, Olympia Posterity Productions, LLC	(O) 2200 Market Street Denver CO 80205	(H) 310-254-
Officer, Derek R Social Justice and Environmental Issues	(O) PO Box 876 Denver CO 80201	(O) 303-915-
Pace, Carol League of Women Voters-----AARP	(O) 1410 Grant Street B204 Denver, CO 80203	(O) 303-863-
Robertson, Aaron The Patriot League	(O) PO Box 1435 Eastlake, CO 80614	(O) 303.876.1 (H) 719.495.9
Rosa, Linda A Providing information on pbstroca; cpmsumer advocacy	(H) 711 W 9th St. Loveland, CO 80537	(O) 970.667.1
Rosser, Edwin "Mike" M ERROR Incorrect data type for operator or @Function Text expected AARP Colorado Mortgage Lenders Association	(O) 12478 E Ameherst Circe bldg A, Suite 80222 Auora, CO 80014	(O) 303.887.1
San Miguel, Sophia C	(H) 5520 Federal Blvd. #52 Denver 80221	(H) 720-907.1
Stoker, RJ CCDC	(O) 900 Marmot Ct. Longmont 80504	
Welch, Maureen P self	(H) 4896 South Clarkson St. Cherry Hills Village, CO 80113	(H) 720.436.4

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Welch, Maureen P self	(H) 4896 South Clarkson St. Cherry Hills Village, CO 80113	(H) 720.436.4
Whinery, Barbara League of Women Voters	(H) 235 North 39th Place Gree;ey, CO 80634	(H) 970-353--
Williams, Shannon M CCDC	(H) 6093 S. Beeler Greenwood Village 80111	
Wren, Randy M		
Wright, Hal V Coloradans for Alternatives to the Death Penalty	(H) 7311 South Marion St Centennial, CO 80122	(H) 303-795 !
Yott, Paul L CCDC, Veterans Military Affairs	(H) 1203 E 108th Ave Northglenn 80233	(H) 303.254.7

Ballot Title Setting Board

Proposed Initiative 2015-2016 #128¹

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

An amendment to the Colorado constitution concerning congressional redistricting, and, in connection therewith, transferring authority to establish congressional districts from the general assembly to a newly created twelve-member Colorado congressional redistricting commission; requiring at least four commissioners to be either affiliated with a minor political party or unaffiliated with any political party; prohibiting commissioners from being registered lobbyists or members of or candidates for the U.S. Congress or the Colorado legislature; specifying that all actions of the commission must be agreed to by at least eight of the twelve appointed commissioners; adopting existing criteria to be used in setting boundaries of congressional districts and adding competitiveness to the criteria; providing for judicial review of an adopted redistricting map; and requiring that the commission's work be done in public meetings.

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 congressional redistricting, and, in connection therewith, transferring authority to establish congressional districts from the general assembly to a newly created twelve-member Colorado congressional redistricting commission; requiring at least four commissioners to be either affiliated with a minor political party or unaffiliated with any political party; prohibiting commissioners from being registered lobbyists or members of or candidates for the U.S. Congress or the Colorado legislature; specifying that all actions of the commission must be agreed to by at least eight of the twelve appointed commissioners; adopting existing criteria to be used in setting boundaries of congressional districts and adding competitiveness to the criteria; providing for judicial review of an adopted redistricting map; and requiring that the commission's work be done in public meetings?

Hearing April 20, 2016:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 1:52 p.m.

¹ Unofficially captioned “Colorado Congressional Redistricting Commission” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

Rehearing April 28, 2016:
Motion for Rehearing denied.
Hearing adjourned 11:25 a.m.