

SUPREME COURT, STATE OF COLORADO
Court Address: 2 East 14th Avenue, Denver,
Colorado 80203

ORIGINAL PROCEEDING PURSUANT TO
§ 1-40-107(2), C.R.S. (2005)
Appeal from the Ballot Title Setting Board

Petitioner:
NORA BASHIR, Objector,

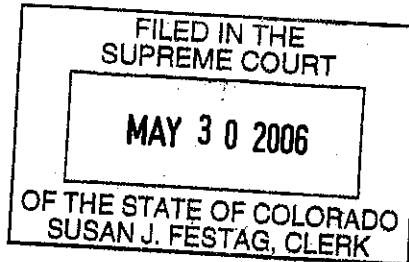
v.

Respondents:
JOHN C. BERRY and MARY WOODARD,
Proponents,

and

Title Board:
WILLIAM A. HOBBS, JASON R. DUNN, and
DANIEL L. CARTIN

Attorneys for Petitioners:
Edward T. Ramey, #6748
Isaacson Rosenbaum P.C.
633 17th Street, Suite 2200
Denver, Colorado 80202
Phone Number: 303/256-3968
Fax Number: 303/292-3152
E-mail: eramey@ir-law.com



▲ COURT USE ONLY ▲

Case No. 06SA166

**PETITION FOR REVIEW OF FINAL ACTION OF
BALLOT TITLE SETTING BOARD
CONCERNING PROPOSED INITIATIVE 2005-2006 #123
("GOVERNMENT WAGE DEDUCTIONS FOR POLITICAL PURPOSES")**

Nora Bashir ("Petitioner"), being a registered elector of the State of Colorado, through her undersigned counsel, respectfully petitions this Court pursuant to § 1-40-107(2), C.R.S. (2005), 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 2005-2006 #123 ("Government Wage Deductions for Political Purposes").

I. Actions of the Ballot Title Setting Board

The Title Board conducted its initial public meeting and set titles for proposed Initiative 2005-2006 #123 on May 17, 2006. The Petitioner filed a Motion for Rehearing pursuant to § 1-40-107(1), C.R.S. (2005), on May 24, 2006. The Motion for Rehearing was heard at the next meeting of the Title Board on May 25, 2006. At the rehearing, the Board granted in part and denied in part Petitioner's Motion. Petitioner hereby seeks review of the final action of the Title Board with regard to proposed Initiative 2005-2006 #123 pursuant to § 1-40-107(2), C.R.S. (2005).

II. Issues Presented

1. Is the title misleading in that it omits reference to the specific prohibition against deductions from government employee wages of dues or other

moneys to be transferred to labor organizations to the extent that such moneys are to be used for political purposes?

2. Is the title misleading in that it does not disclose that the term "political purpose" includes "expenditures relating to an office . . . which, if incurred by the individual, would be allowable as ordinary and necessary business expenses paid or incurred in carrying on any trade or business" notwithstanding the ordinary understanding of that term?

3. Does the initiative violate the single subject requirement of Colo. Const. art. V, §1(5.5) and §1-40-106.5, C.R.S. (2005), by seeking within a single initiative to enact amendments to both the Colorado Constitution and the Colorado Revised Statutes?

III. Supporting Documentation

As required by § 1-40-107(2), C.R.S. (2005), a certified copy of the Petition, with the titles and submission clause of the proposed constitutional and statutory amendments, together with a certified copy of the Motion for Rehearing and the rulings thereon, are submitted herewith.

IV. Relief Requested

Petitioners respectfully request this Court to reverse the actions of the Title Board with directions to decline to set a title and return the proposed Initiative to the proponents.

Respectfully submitted this 30th day of May, 2006.

ISAACSON ROSENBAUM P.C.

By: 

Edward T. Ramey, #6748

ATTORNEYS FOR PETITIONER

Address of Petitioner:

Nora Bashir
12470 East Iliff Place
Aurora, CO 80014

CERTIFICATE OF SERVICE

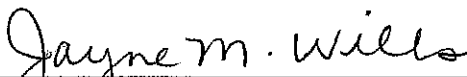
I hereby certify that on this 30th day of May, 2006, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2005-2006 #123 ("GOVERNMENT WAGE DEDUCTIONS FOR POLITICAL PURPOSES")** was placed in the United States mail, postage prepaid, to the following:

John C. Berry
6457 South Potomac Court
Centennial, CO 80111

Mary Woodard
191 University Boulevard, #352
Denver, CO 80206

Scott E. Gessler, Esq.
Hackstaff Gessler LLC
1601 Blake Street, Suite 310
Denver, CO 80202

Maurice G. Knaizer, Esq.
Deputy Attorney General
Colorado Department of Law
1525 Sherman Street, 5th Floor
Denver, CO 80203



Jayne M Wills



STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **GINETTE DENNIS**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2005-2006 #123".

.....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 26th day of May, 2006.

GINETTE DENNIS

SECRETARY OF STATE

STATE OF COLORADO
Department of State
1700 Broadway
Suite 270
Denver, CO 80290



Ginette Dennis
Secretary of State

J. Wayne Munster
Acting Director, Elections Division

May 23, 2006

NOTICE OF REHEARING MEETING

You are hereby notified that the Secretary of State,
Attorney General, and the Director of the Office of Legislative

Legal Services will meet to consider all

Motions for Rehearing filed by the deadline of

Wednesday, May 24, 2006 at 5:00 p.m.

Meeting will take place on

Thursday, May 25, 2006 at 9:00 a.m.

Secretary of State's Blue Spruce Conference Room

1700 Broadway, Suite 270

Denver, Colorado

You are invited to attend.

GINETTE DENNIS
Secretary of State

AUDIO BROADCASTS NOW AVAILABLE. PLEASE VISIT WWW.SOS.STATE.CO.US AND CLICK ON THE 'INFORMATION CENTER'.

RECEIVED

MAY 24 2006

ELECTIONS / LICENSING
SECRETARY OF STATE

BALLOT TITLE BOARD

MOTION FOR REHEARING

IN RE PROPOSED INITIATIVE 2005-2006 #123 ("GOVERNMENT WAGE DEDUCTIONS FOR POLITICAL PURPOSES")

Nora Bashir ("Petitioner"), being a registered elector of the State of Colorado, through her undersigned counsel, respectfully submits the following Motion for Rehearing, pursuant to C.R.S. §1-40-107(1), concerning the actions of the Title Board at the hearing on May 17, 2006 regarding Proposed Initiative 2005-2006 #123 ("Government Wage Deductions for Political Purposes"). Petitioner requests a rehearing with regard to the following issues:

1. The Board lacks jurisdiction to set a title for this initiative as it contains multiple subjects in violation of Colo. Const. art. V, §1(5.5) and C.R.S. §1-40-106.5. Specifically, the initiative seeks to amend both the Colorado Constitution and a provision of the Colorado Revised Statutes within a single measure.
2. The title is misleading in that it does not clearly disclose that the prohibitions of deductions from government employee wages of dues or other moneys applies to the use of such moneys for federal and local as well as state political purposes.
3. The title is misleading in that it does not clearly disclose that the term "political purpose" includes electioneering communications that may not have the purpose of influencing or attempting to influence the selection, nomination, retention, or appointment of an individual to a public office.

4. The title is misleading in that it does not clearly disclose that the term "political purpose" includes expenditures relating to an office, including an office in a political organization, that would qualify as an ordinary and necessary business expense if incurred by an individual.

5. The title is misleading in that it does not clearly disclose the prohibition of deductions from government employee wages of dues or other moneys to be transferred to labor organizations to the extent that such moneys are to be used for a political purpose.

6. The title is misleading in that it does not clearly disclose the affirmative authorization of deductions from government employee wages of dues or other moneys that are not to be used for a political purpose.

7. The title is misleading in that it does not clearly disclose the prohibition of deductions from government employee wages of amounts to be paid directly or indirectly to persons or organizations, other than those specifically enumerated in the title, that spend or collect money for a political purpose.

8. The title is misleading in that it does not disclose that fines paid as a result of violations of the wage deduction prohibitions are to be excluded from revenue and spending figures for purposes of Colo. Const. art. X, § 20(7) and § 20(8).

9. The title is misleading in that it fails to disclose which aspects of the proposed initiative would be effectuated through a constitutional amendment and which aspects would be effectuated through an amendment to the Colorado Revised Statutes.

Respectfully submitted this 24th day of May, 2006.

ISAACSON ROSENBAUM P.C.

By: 

Edward T. Ramey, #6748

633 17th Street, Suite 2200

Denver, Colorado 80202

Telephone: (303) 292-5656

Facsimile: (303) 292-3152

ATTORNEYS FOR PETITIONER

Petitioner's Address:

Nora Bashir
12470 East Iliff Place
Aurora, CO 80014

CERTIFICATE OF SERVICE

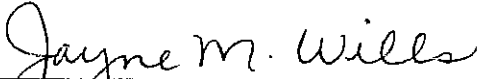
I HEREBY CERTIFY that on this 24th day of May, 2006, a true and correct copy of the foregoing **MOTION FOR REHEARING** was placed in the United States mail, postage prepaid, to the following:

John C. Berry
6457 South Potomac Court
Centennial, CO 80111

Mary Woodard
191 University Boulevard, #352
Denver, CO 80206

and sent via facsimile to the following:

Scott E. Gessler, Esq.
Hackstaff Gessler LLC
Facsimile: (303) 534-4309



Jayne M. Wills

RECEIVED

MAY 05 2006

ELECTIONS/LICENSING
SECRETARY OF STATE**REVISED***Be it Enacted by the People of the State of Colorado:*

SECTION 1. Article XXVIII of the constitution of the state of Colorado is amended by the addition of the following section:

SECTION 15. PROHIBITION ON WAGE DEDUCTIONS BY STATE AND LOCAL GOVERNMENT FOR POLITICAL PURPOSES.

(1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT STATE AND LOCAL GOVERNMENTS MUST SCRUPULOUSLY AVOID INVOLVEMENT IN POLITICAL ACTIVITIES. FURTHER, STATE AND LOCAL GOVERNMENTS MUST NOT BE USED AS A VEHICLE FOR COLLECTING OR DISTRIBUTING MONEYS THAT ARE USED FOR POLITICAL PURPOSES. STATE AND LOCAL GOVERNMENTS MUST THEREFORE REFRAIN FROM TRANSFERRING ANY EMPLOYEE WAGES TO AN ORGANIZATION OR PERSON THAT MAY USE SUCH MONEYS FOR POLITICAL PURPOSES.

(2) A STATE OR LOCAL GOVERNMENT SHALL NOT DEDUCT FROM ANY EMPLOYEE WAGES ANY AMOUNTS TO BE PAID, DIRECTLY OR INDIRECTLY, TO:

- (a) A CANDIDATE;
- (b) A CANDIDATE COMMITTEE;
- (c) AN ISSUE COMMITTEE;
- (d) A POLITICAL COMMITTEE;
- (e) A POLITICAL PARTY;
- (f) A SMALL DONOR COMMITTEE;
- (g) A PERSON OR ORGANIZATION THAT SPENDS OR COLLECTS MONEY FOR A POLITICAL PURPOSE; OR
- (h) A CONDUIT FOR ANY OF THE ABOVE.

(3) A STATE OR LOCAL GOVERNMENT SHALL NOT DEDUCT FROM THE WAGES OF ANY OF ITS EMPLOYEES ANY PORTION OF DUES OR OTHER MONEYS TO BE TRANSFERRED TO A LABOR ORGANIZATION THAT ARE TO BE USED FOR A POLITICAL PURPOSE. A STATE OR LOCAL GOVERNMENT MAY DEDUCT FROM THE WAGES OF ITS EMPLOYEES DUES OR OTHER MONEYS THAT ARE NOT TO BE USED FOR A POLITICAL PURPOSE.

(4) NO ORGANIZATION DESCRIBED IN SUBSECTION (2) OF THIS SECTION MAY ACCEPT EMPLOYEE WAGES THAT HAVE BEEN DEDUCTED BY A STATE OR LOCAL GOVERNMENT. NO LABOR ORGANIZATION MAY ACCEPT EMPLOYEE WAGES THAT HAVE BEEN DEDUCTED BY A STATE OR LOCAL GOVERNMENT, IF SUCH WAGES ARE USED FOR A POLITICAL PURPOSE.

(5) AS USED IN THIS SECTION:

- (a) "CANDIDATE", "CANDIDATE COMMITTEE", "CONTRIBUTION", "ELECTIONEERING COMMUNICATIONS", "EXPENDITURE", "INDEPENDENT EXPENDITURE", "ISSUE COMMITTEE", "PERSON", "POLITICAL COMMITTEE", "POLITICAL PARTY", AND "SMALL DONOR COMMITTEE"

SHALL HAVE THE MEANINGS SET FORTH IN SECTION 2 OF THIS ARTICLE.

(b) "CONDUIT" MEANS A PERSON WHO TRANSMITS MONEYS FROM ANY PERSON OR ENTITY TO ANOTHER PERSON OR ENTITY.

(c) "ELECTION ACTIVITY" MEANS:

(I) VOTER REGISTRATION ACTIVITY DURING THE PERIOD THAT BEGINS ON THE DATE THAT IS ONE HUNDRED TWENTY DAYS BEFORE THE DATE A REGULARLY SCHEDULED STATE OR LOCAL ELECTION IS HELD AND ENDS ON THE DATE OF THE ELECTION;

(II) VOTER IDENTIFICATION, GET-OUT-THE-VOTE ACTIVITY, OR GENERIC CAMPAIGN ACTIVITY CONDUCTED IN CONNECTION WITH A FEDERAL, STATE, OR LOCAL ELECTION;

(III) A PUBLIC COMMUNICATION THAT PROMOTES, ATTACKS, SUPPORTS OR OPPOSES A FEDERAL, STATE OR LOCAL CANDIDATE OR BALLOT MEASURE.

(d) "EMPLOYEE WAGES" MEANS MONEYS DUE TO OR HELD ON BEHALF OF AN EMPLOYEE OR CONSULTANT.

(e) "POLITICAL PURPOSE" MEANS ANY ACTIVITY THAT:

(I) HAS THE PURPOSE OF INFLUENCING OR ATTEMPTING TO INFLUENCE THE SELECTION, NOMINATION, ELECTION, OR APPOINTMENT OF ANY INDIVIDUAL TO ANY FEDERAL, STATE, OR LOCAL PUBLIC OFFICE OR OFFICE IN A POLITICAL ORGANIZATION, OR THE ELECTION OF PRESIDENTIAL OR VICE-PRESIDENTIAL ELECTORS, WHETHER OR NOT SUCH INDIVIDUAL OR ELECTORS ARE SELECTED, NOMINATED, ELECTED, OR APPOINTED;

(II) INVOLVES EXPENDITURES RELATING TO AN OFFICE DESCRIBED IN SUBSECTION (e)(I) WHICH, IF INCURRED BY THE INDIVIDUAL, WOULD BE ALLOWABLE AS ORDINARY AND NECESSARY BUSINESS EXPENSES PAID OR INCURRED IN CARRYING ON ANY TRADE OR BUSINESS;

(III) HAS THE PURPOSE OF INFLUENCING OR ATTEMPTING TO INFLUENCE THE PASSAGE OR DEFEAT OF A BALLOT MEASURE;

(IV) HAS THE PURPOSE OF PROPOSING A BALLOT INITIATIVE, SEEKING TO QUALIFY A PROPOSED BALLOT INITIATIVE FOR THE BALLOT, OR OPPOSING A PROPOSED BALLOT INITIATIVE; OR

(V) CONSTITUTES A CONTRIBUTION, EXPENDITURE, INDEPENDENT EXPENDITURE, ELECTIONEERING COMMUNICATION OR ELECTION ACTIVITY.

(f) "STATE AND LOCAL GOVERNMENT" MEANS THE STATE OF COLORADO OR ANY AGENCY, DEPARTMENT, BOARD, DIVISION, BUREAU, COMMISSION, OR COUNCIL OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, TO INCLUDE WITHOUT LIMITATION COUNTIES, MUNICIPALITIES, DISTRICTS, AND ENTERPRISES.

(6) **ENFORCEMENT PROVISIONS.** (a) ANY PERSON OR ORGANIZATION THAT VIOLATES ANY PROVISION OF THIS SECTION AND THAT RECEIVES MONEYS DEDUCTED FROM EMPLOYEE WAGES MUST REFUND ALL MONEYS IMPROPERLY DEDUCTED.

(b) ANY STATE OR LOCAL GOVERNMENT OR ANY LABOR ORGANIZATION THAT KNOWINGLY OR INTENTIONALLY VIOLATES ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO A FINE EQUAL TO THE AMOUNT DEDUCTED FROM ALL EMPLOYEES' WAGES. ALL FINES SHALL BE PAID TO THE SECRETARY OF STATE AND SHALL NOT BE INCLUDED IN OVERALL REVENUE AND SPENDING FIGURES FOR PURPOSES OF ART. X, SECTIONS 20(7) AND 20(8) OF THE COLORADO CONSTITUTION.

(c) THE ATTORNEY GENERAL, SECRETARY OF STATE, OR ANY REGISTERED ELECTOR MAY BRING AN ENFORCEMENT ACTION IN A COURT OF RECORD SEEKING FINES, RESTITUTION OR INJUNCTIVE RELIEF.

(d) NO ENFORCEMENT ACTION MAY BE BROUGHT MORE THAN TWO YEARS AFTER ANY VIOLATION OF THIS SECTION.

SECTION 2. Section 8-9-106, Colorado Revised Statutes, is amended to read:

§ 8-9-106. Deductions for union dues

EXCEPT AS PROVIDED IN ARTICLE XXVIII, SECTION 15 OF THE COLORADO CONSTITUTION, ~~N~~Nothing in this article shall prevent or prohibit the use of the check-off between employers or employees in the custom or practice of the deduction of union dues by an employer for his employees where such an arrangement has been entered into between the parties.

The two ballot proponents for this measure remain:

**John C. Berry
6457 S. Potomac Ct.
Centennial, CO 80111**

**Mary Woodard
191 University Blvd., #352
Denver, CO 80206**

Ballot Title Setting Board

Proposed Initiative 2005-2006 #123¹

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

An amendment to the Colorado constitution and the Colorado Revised Statutes concerning a prohibition on wage deductions by governments for political purposes, and, in connection therewith, prohibiting any deductions by a state or local government from an employee's wages for political purposes; authorizing such deductions for non-political purposes; requiring refunds of any moneys deducted in violation of this amendment; imposing fines in the case of a knowing or intentional violation; exempting such fines from constitutional revenue and spending limitations; and authorizing enforcement by the state attorney general, secretary of state, or any registered elector.

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 and the Colorado Revised Statutes concerning a prohibition on wage deductions by governments for political purposes, and, in connection therewith, prohibiting any deductions by a state or local government from an employee's wages for political purposes; authorizing such deductions for non-political purposes; requiring refunds of any moneys deducted in violation of this amendment; imposing fines in the case of a knowing or intentional violation; exempting such fines from constitutional revenue and spending limitations; and authorizing enforcement by the state attorney general, secretary of state, or any registered elector?

Hearing May 17, 2006:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 12:10 p.m.

Hearing May 25, 2006:

Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.

Hearing adjourned 12:00 p.m.

¹ Unofficially captioned "Government Wage Deductions for Political Purposes" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.