

<p>SUPREME COURT, STATE OF COLORADO</p> <p>2 East 14th Avenue Denver, CO 80203</p>	
<p>ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2007) Appeal from Ballot Title Board</p>	
<p>IN THE MATTER OF THE TITLE, BALLOT TITLE AND SUBMISSION CLAUSE FOR 2007-2008, #113 ("SEVERANCE TAX") HOWARD STANLEY DEMPSEY, OBJECTOR,</p> <p>Petitioner,</p> <p>v.</p> <p>MICHAEL A. BOWMAN AND DAVID THEOBALD, PROPONENTS; AMD WILLIAM A. HOBBS, SHARON EUBANKS AND DANIEL DOMENICO,</p> <p>Respondents.</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No.: 08 SA 198</p>
<p>JOHN W. SUTHERS, Attorney General MAURICE G. KNAIZER, Deputy Attorney General* 1525 Sherman Street, 7th Floor Denver, CO 80203 (303) 866-5380 Registration Number: 05264 *Counsel of Record</p>	
<p>ANSWER BRIEF OF TITLE BOARD</p>	

TABLE OF CONTENTS

	PAGE
ARGUMENT	1
I. #113 contains a single subject	1
II. The public will not be misled into believing that students at junior colleges are eligible to receive scholarships	2
CONCLUSION	3

TABLE OF AUTHORITIES

PAGE

CASES

In re Title, Ballot Title and Submission Clause for 2005-2006, #55,
138 P.3d 273 (Colo. 2006)..... 1

In re Title, Ballot Title and Submission Clause for 2007-2008, #14,
07 SA 155 (June 28, 2007) 1

CONSTITUTIONS

Colo. Const. art. IX, § 17 2

OTHER AUTHORITIES

Webster’s Third New International Dictionary (1993)..... 2

William A. Hobbs, Sharon Eubanks and Daniel Domenico, as members of the Title Board (hereinafter "Board") hereby submit their Answer Brief. The Board will not repeat arguments made in its Opening Brief.

ARGUMENT

I. #113 contains a single subject.

Prior decisions by this Court which were not selected for publication do not have precedential value. *In re Title, Ballot Title and Submission Clause for 2005-2006*, #55, 138 P.3d 273, 276 (Colo. 2006). However, unpublished decisions in cases in which the Board is a party must guide the Board in determining whether similar measures have single subjects and the titles are fair, clear and accurate.

With regard to #113, this Court's affirmance in *In re Title, Ballot Title and Submission Clause for 2007-2008*, #14, 07 SA 155 (June 28, 2007) provided a template for the Board. In #14, the proposed initiative sought to amend the Colorado Constitution by adding a section authorizing "a tax upon the gross income attributable to the sale of oil and gas severed from the earth in this state." The proposal established a tax rate and disallowed certain tax credits. Revenues from the taxes would be exempted from revenue and spending limits. These revenues would have been appropriated to: (1) the school capital construction expenditures reserve fund; (2) the education fund established in Colo. Const. art.

IX, § 17; (3) the state capital construction fund; (4) funds that would be distributed to local governments impacted by the development, processing, transportation, or energy conversion of the oil and gas resources; and (5) the state's general fund.

Objectors to #14 raised many of the same arguments raised by Objector in this case. In particular, they contended that the recipients of funds were disparate and the appropriation of funds to such disparate recipients constituted a classic case of log-rolling. The Court rejected Objectors' argument and affirmed the Board's action.

II. The public will not be misled into believing that students at junior colleges are eligible to receive scholarships.

Objector asserts that the ballot is misleading. He contends that a voter reading the titles will assume that the word "colleges" includes "junior colleges."

The Court must reject his argument. He ignores the commonly-accepted definitions of these terms. A "college" in this context means "an independent institution of higher learning offering a course of general studies and usu. preprofessional training leading to a bachelor's degree." *Webster's Third New International Dictionary* (1993) 445. A "junior college" is defined as "an educational institution of post-high school rank that offers two years of studies

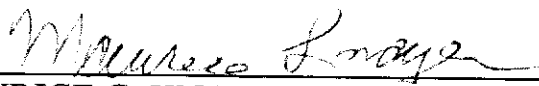
corresponding to the first two years of a senior college and prepares for a transfer to such college.” *Id.* at 1226.

The meanings of the terms are distinctly different. Based upon these definitions, there is no reason to conclude that the public will read the word “college” to include “junior college.” Objector has not offered any evidence to show that public will confuse or conflate the terms.

CONCLUSION

For the reasons stated herein and in the Board’s Opening Brief, the Court must affirm the Board’s action.

JOHN W. SUTHERS
Attorney General



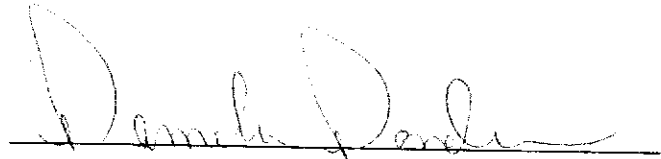
MAURICE G. KNAIZER, 05264*
Deputy Attorney General
Public Officials
State Services Section
Attorneys for Title Board
*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **ANSWER BRIEF OF TITLE BOARD** upon all parties herein by depositing copies of same, overnight by DHL at Denver, Colorado, this 16th day of June 2008 addressed as follows:

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

Edward Ramey, Esq.
Isaacson Rosenbaum, PC
633 17th Street, #2200
Denver, Colorado 80202



A handwritten signature in cursive script, appearing to read "Daniel Dandridge", is written over a horizontal line.