

SUPREME COURT OF COLORADO
101 West Colfax Avenue, Suite 800
Denver, Colorado 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 Initiatives 2011-
2012 #67, #68, #69 ("Citizen Initiative Process")

Petitioner: PHILIP HAYES

v.

**Respondents: DAVID OTTKE and JOHN
SLOTA**

and

**Title Board: SUZANNE STAIERT; DANIEL
DOMENICO; and SHARON EUBANKS**

Attorneys for Petitioner:

Mark G. Grueskin, #14621
Heizer Paul Grueskin LLP
2401 15th Street, Suite 300
Denver, CO 80202
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FILED IN THE
SUPREME COURT.

APR 25 2012

OF THE STATE OF COLORADO
Christopher T. Ryan, Clerk

▲ COURT USE ONLY ▲

Case No. 125A117

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE
SETTING BOARD CONCERNING PROPOSED INITIATIVES 2011-2012
#67, #68, AND #69 ("CITIZEN INITIATIVE PROCESS")**

Philip Hayes (“Petitioner”), registered elector of the State of Colorado, through his undersigned counsel, respectfully petitions this Court pursuant to Colo. Rev. Stat. § 1-40-107(2), 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 Initiatives 2011-2012 #67, #68, and #69 (“Citizen Initiative Process”).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiatives #67, #68, and #69

David Ottke and John Slota (hereafter “Proponents”) proposed Initiatives 2011-2012 #67, #68, #69 (the “Proposed Initiatives”). A review and comment hearing was held before representatives of the Offices of Legislative Council and Legislative Legal Services, as required by law. Thereafter, the Proponents submitted the original, amended and final versions of the Proposed Initiative to the Secretary of State so that a ballot title could be set.

A Title Board hearing was held on April 4, 2012 both to evaluate whether the initiatives contained single subjects and, to the extent they did, set titles. The Board set titles for all three measures at that meeting. On April 11, 2012, Petitioner filed Motions for Rehearing and alleged violations of the single subject requirement and that the title was unfair and misleading. The rehearing was held on April 19, 2012, at which time the Title Board denied the motions 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 a Motion for Rehearing with the Title Board that addressed all three Proposed Initiatives. 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 (1), (2).

As required by C.R.S. §1-40-107(2), attached to this Petition for Review are certified copies of: (1) the final initiatives filed by the Proponents; (2) the titles and the submission clauses set by the Title Board; (3) the Motion for Rehearing filed by the Petitioner; and (4) the Board's rulings on the Motion for Rehearing.

Petitioner is not satisfied with the Title Board's ruling on the Motion for Rehearing. As such, this matter is properly before the Colorado Supreme Court.

GROUND FOR APPEAL

In violation of Colo. Const., art. V, § 1(5.5) and C.R.S. § 1-40-106.5, the measure violates the single subject requirement. In addition, both Proponents failed to attend the rehearing at which their measures were considered, as they are required to do by Colorado law. § 1-40-106(4)(a), (d). Finally, the titles set by the Board are misleading, do not fairly and correctly express the true meaning of the initiative, do not unambiguously state the principles of the provisions to be added

to the Constitution, and will lead to voter confusion. The following is an advisory list of issues to be addressed in Petitioner's brief:

1. The Board erred in asserting jurisdiction to set a title in connection with the Proposed Initiative because the Proponents undisputedly failed to comply with the statutory mandate that both proponents must attend any Board proceeding at which the ballot measure and its ballot title are considered. C.R.S. § 1-40-106(4)(a), (d).
2. The Board lacked jurisdiction to set a title because all three measures contain multiple subjects, including the new threshold requirements for any amendment or the repeal of an initiated statute (obtaining three-fourths approval of each house of the Colorado General Assembly or referring the matter to the voters) as well as the insulation of all initiated statutes (future, currently proposed, and previously adopted) from change except as provided by the Proposed Initiative, even though such previously adopted initiated statutes deal with a myriad of unrelated subjects. In addition, two of the three measures (#67 and #68) also contain the unrelated subject of reducing the number of required petition signatures as a condition for placing an initiated statute before the voters (3% and 4%, respectively, which is a change from the existing 5%).

3. The Board erred by setting confusing titles that fail to inform voters about the applicability of the new restraints on legislative authority to all previously adopted initiated statutes.

PRAYER FOR RELIEF

Petitioner respectfully requests that, after consideration of the parties' briefs, this Court determine that the Proponents failed to comply with the statute requiring them both to attend the rehearing, that the Proposed Initiative comprises multiple subjects, and that the titles for all such measures are neither fair nor accurate. As such, the actions of the Board are invalid, and the Proponents are prohibited from proceeding with these measures until such time as they correct the jurisdictional and title wording issues presented in this appeal.

Respectfully submitted this 25th day of April, 2012.



Mark G. Grueskin, #14621
Heizer Paul Grueskin LLP
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Denver, CO 80202
Telephone: 303-376-3703
Facsimile: 303-595-4750
Email: mgrueskin@hpgfirm.com
ATTORNEYS FOR PETITIONER


CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2012, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVES 2011-2012 #67, #68, AND #69 ("CITIZEN INITIATIVE PROCESS)** was served via U.S. mail, postage prepaid, to the following:

David Ottke
3308 S. Hannibal Street
Aurora, CO 80013

John Slota
2990 Shadow Creek Drive, #108
Boulder, CO 80303

Maurice G. Knaizer, Esq.
Assistant Deputy Attorney General
Office of the Colorado Attorney General
1525 Sherman Street, 7th Floor
Denver, Colorado 80203



Amy Knight



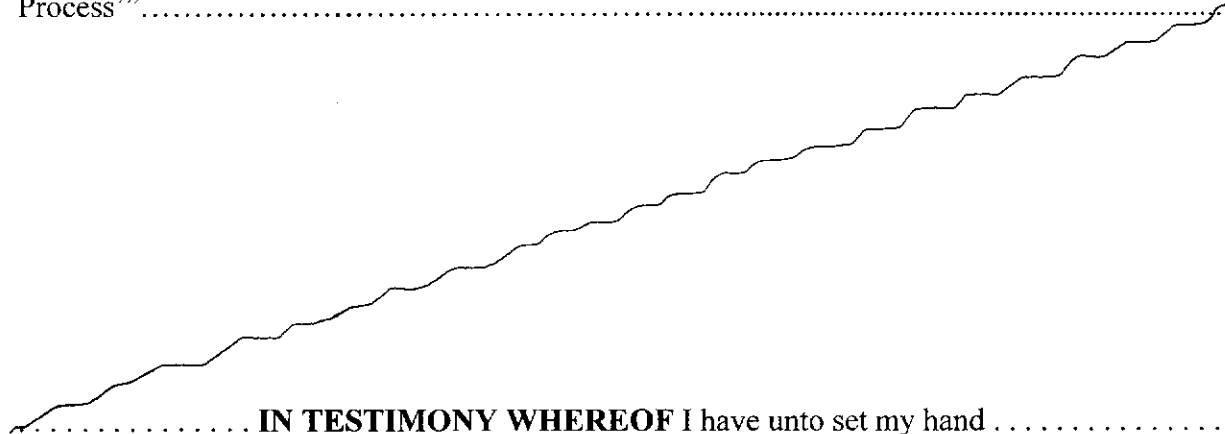
STATE OF COLORADO

DEPARTMENT OF
STATE

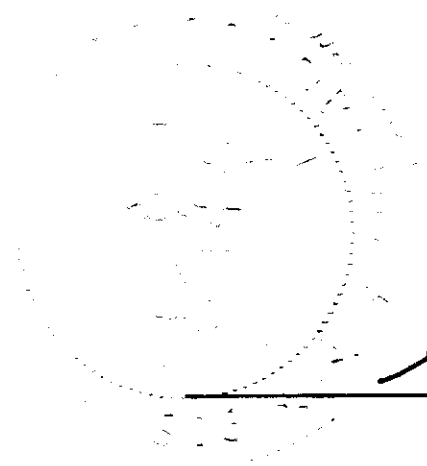
CERTIFICATE

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

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #67 'Citizen Initiative Process'".....



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 18th day of January, 2012.



A handwritten signature in cursive script, which reads 'Scott Gessler', written over a horizontal line.

SECRETARY OF STATE

Ballot Title Setting Board

Proposed Initiative 2011-2012 #67¹

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

An amendment to the Colorado constitution requiring a vote of at least 3/4ths of the members of each house of the state legislature to amend or repeal any statute enacted by citizen initiative, unless the initiated statute includes a provision allowing for its amendment or repeal by a majority vote of the legislature or unless the legislature refers the amendment or repeal of an initiated statute to the voters.

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 requiring a vote of at least 3/4ths of the members of each house of the state legislature to amend or repeal any statute enacted by citizen initiative, unless the initiated statute includes a provision allowing for its amendment or repeal by a majority vote of the legislature or unless the legislature refers the amendment or repeal of an initiated statute to the voters?

*Hearing April 4, 2012:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 10:05 a.m.*

*Hearing April 19, 2012:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 10:50 a.m.*

¹ Unofficially captioned "**Citizen Initiative Process**" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

3:45 P.M.

APR 11 2012

S. WARD

BEFORE COLORADO STATE TITLE SETTING BOARD

ELECTIONS/LICENSING
SECRETARY OF STATE

In re Ballot Title and Submission Clause for 2011-2012 Initiatives #67, 68, and 69 ("Citizen Initiative Process")

PHILIP HAYES, Objector

MOTION FOR REHEARING

Pursuant to C.R.S. § 1-40-107, Objector, Philip Hayes, a registered elector of the State of Colorado, by and through his legal counsel, Heizer Paul Grueskin LLP, is not satisfied with the April 4, 2012 decisions of the Title Board that Initiatives # 67, 68, and 69 comprise a single subject and further that the titles for these proposed ballot measures are fair and that they accurately express the meaning and intent of said measures.

- I. These ballot measures violate the single subject requirement, Colo. Const., art. V, § 1(5.5), including but not limited to the multiple topics of:
 - A. Imposing a constraint on legislative power by creating super-majority requirements for effecting amendments and/or repeals of initiated statutes enacted in the future. Proposed Colo. Const., art. V, sec. 11(1)(d).
 - B. Imposing this limitation on legislative power as to initiated statutes that are enacted at the 2012 election, even where, individually or as a group, they contain multiple, unrelated subjects. *Id.*
 - C. Imposing this limitation on legislative power as to initiated statutes that were enacted at previous elections, even though, individually and as a group, they contained multiple, unrelated subjects. *Id.*; *In re Ballot Title and Submission Clause for Initiative 2001-02 #43*, 46 P.3d 438, 445-48 (Colo. 2002).
 - D. As to #68 and #69, in addition to the above subjects, changing percentages of electors' signatures required for an initiated statute (3% and 4% respectively). *Id.* at 443-444 (petition procedures is a separate subject.)
- II. The Title Board did not provide a fair or accurate ballot title because it omitted any reference in the title to, among other things:
 - A. Any legislative repeal or amendment must be by "at least" three-fourths of each house of the general assembly.

- B. The vote taken to refer a measure to the voters must be by a majority of each house of the general assembly.
- C. A referred measure passes when a majority of voters casting ballots agree to the amendment or repeal.
- D. The fact that the measure applies to actions of the general assembly in connection with already enacted initiated statutes, as well as initiated statutes considered at the 2012 election and future initiated statutes.

Please set this matter for rehearing, pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 11th day of April, 2012.

HEIZER PAUL GRUESKIN LLP



Mark G. Grueskin

Objector's address:

Philip Hayes, 5464 South Ward Way, Littleton CO 80127

CERTIFICATE OF SERVICE

A true and accurate copy of this MOTION FOR REHEARING was sent to the designated representatives, by means of U.S. Mail, first class, postage prepaid:

David Ottke, 3308 S. Hannibal Street, Aurora, CO 80013

John Slota, 2990 Shadow Creek Drive, #108, Boulder, CO 80303



RECEIVED

MAR 23 2012 12:30 P.M.

ELECTIONS/LICENSING
SECRETARY OF STATE
S. WARD

"Your Vote Counts Act" – 2011-2012 #67

Final version . . . (spelling of referendum corrected by the Elections Division on 4/4/12 as requested by the Title Board)

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

In the constitution of the state of Colorado, section 1 of article V, add (11), and amend section 22 of article V, as follows:

"Section 1. General assembly - initiative and referendum. (11) (a) THIS MEASURE SHALL BE KNOWN AND MAY BE CITED AS THE "YOUR VOTE COUNTS ACT."

(b) A STATUTE ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE SHALL NOT BE REPEALED OR AMENDED BY THE GENERAL ASSEMBLY EXCEPT BY AT LEAST A THREE-FOURTHS VOTE OF THE MEMBERS OF EACH HOUSE, UNLESS SUCH STATUTE EXPLICITLY PROVIDES THAT THE GENERAL ASSEMBLY MAY REPEAL OR AMEND THE STATUTE OR SPECIFIC PARTS OF THE STATUTE BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE.

(c) THE GENERAL ASSEMBLY MAY BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE PLACE A REPEAL OF A STATUTE ENACTED BY CITIZEN INITIATIVE OR AN AMENDMENT OR AMENDMENTS TO SUCH A STATUTE ON THE BALLOT FOR A VOTE OF THE PEOPLE THROUGH A STATEWIDE REFERENDUM . IF A MAJORITY OF VOTERS CASTING BALLOTS ON THE SPECIFIC REFERENDUM VOTE IN FAVOR, THE REPEAL, AMENDMENT OR AMENDMENTS SHALL BE ENACTED.

(d) THIS SUBSECTION (11) SHALL APPLY PROSPECTIVELY TO ACTIONS OF THE GENERAL ASSEMBLY RELATING TO STATUTES ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE, WHETHER THE INITIATIVE STATUTE WAS ENACTED BEFORE OR IS ENACTED AFTER THE EFFECTIVE DATE OF THIS SECTION.

"Section 22. Reading and Passage of Bills. Every bill shall be read by title when introduced, and at length on two different days in each house; provided, however, any reading at length may be dispensed with upon unanimous consent of the members present. All substantial amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill, and no bill shall become a law except by a vote of the majority of all members elected to each house taken on two separate days in each house, EXCEPT AS SET FORTH IN SECTION 1 (11) OF ARTICLE V OF THIS CONSTITUTION, nor unless upon its final passage the vote be taken by ayes and noes and the names of those voting be entered on the journal.

David Ottke
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Aurora CO 80013
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Dottke@gmail.com

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2990 Shadow Creed Dr., #108
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John.slota@gmail.com

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MAR 23 2012 12:30 P.M.

ELECTIONS/LICENSING
SECRETARY OF STATE S.WARD

"Your Vote Counts Act" - #67

Version showing changes in RED . . .

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

In the constitution of the state of Colorado, section 1 of article V, add (11). and amend section 22 of article V. as follows:

"Section 1. General assembly - initiative and referendum. (11) a) THIS MEASURE SHALL BE KNOWN AND MAY BE CITED AS THE "YOUR VOTE COUNTS ACT."

(b) A STATUTE ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE SHALL NOT BE REPEALED OR AMENDED BY THE GENERAL ASSEMBLY EXCEPT BY AT LEAST A THREE-FOURTHS VOTE OF THE MEMBERS OF EACH HOUSE, UNLESS SUCH STATUTE EXPLICITLY PROVIDES THAT THE GENERAL ASSEMBLY MAY REPEAL OR AMEND THE STATUTE OR SPECIFIC PARTS OF THE STATUTE BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE.

(c) THE GENERAL ASSEMBLY MAY BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE PLACE A REPEAL OF A STATUTE ENACTED BY CITIZEN INITIATIVE OR AN AMENDMENT OR AMENDMENTS TO SUCH A STATUTE ON THE BALLOT FOR A VOTE OF THE PEOPLE THROUGH A STATEWIDE REFERENDUM. IF A MAJORITY OF VOTERS CASTING BALLOTS ON THE SPECIFIC REFERENDUM VOTE IN FAVOR, THE REPEAL, AMENDMENT OR AMENDMENTS SHALL BE ENACTED.

(d) THIS SUBSECTION (11) SHALL APPLY PROSPECTIVELY TO ACTIONS OF THE GENERAL ASSEMBLY RELATING TO STATUTES ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE, WHETHER THE INITIATIVE STATUTE WAS ENACTED BEFORE OR IS ENACTED AFTER THE EFFECTIVE DATE OF THIS SECTION.

"Section 22. Reading and Passage of Bills. Every bill shall be read by title when introduced, and at length on two different days in each house; provided, however, any reading at length may be dispensed with upon unanimous consent of the members present. All substantial amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill, and no bill shall become a law except by a vote of the majority of all members elected to each house taken on two separate days in each house, EXCEPT AS SET FORTH IN SECTION 1 (11) OF ARTICLE V OF THIS CONSTITUTION, nor unless upon its final passage the vote be taken by ayes and noes and the names of those voting be entered on the journal.

RECEIVED

MAR 23 2012

**ELECTIONS/LICENSING
SECRETARY OF STATE**

12:30 P.M.
S. WARD

"Voter Protection Act" – #67

As originally introduced . . .

A new subsection (11) under Section 1 of Article V, of the Colorado Constitution:

Be it enacted by the people of the state of Colorado:

(11) The "Voter Protection Act."

(11.1) A statute enacted by citizen initiative pursuant to this article shall not be repealed or amended by the general assembly except by a three-fourths vote of the members of each house, unless such statute explicitly provides that the general assembly may repeal or amend it by a majority vote of the members of each house.

(11.2) The general assembly may by a majority vote of the members of each house place a repeal of a statute enacted by citizen initiative or an amendment or amendments to such a statute on the ballot for a vote of the people through a statewide referendum.

(11.3) This section shall apply prospectively to actions of the general assembly relating to statutes enacted by citizen initiative pursuant to this article, whether the initiative statute was enacted before or is enacted after the effective date of this section.



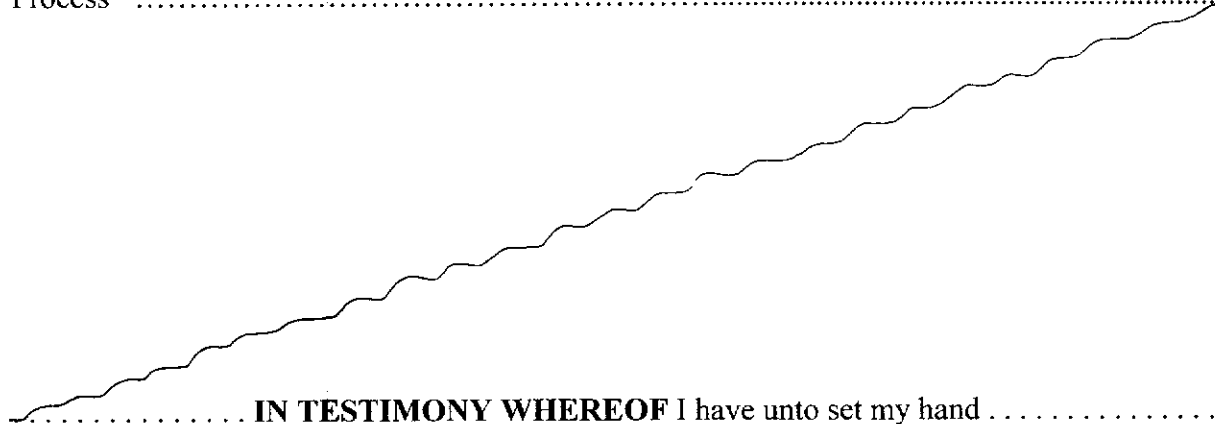
STATE OF COLORADO

DEPARTMENT OF
STATE

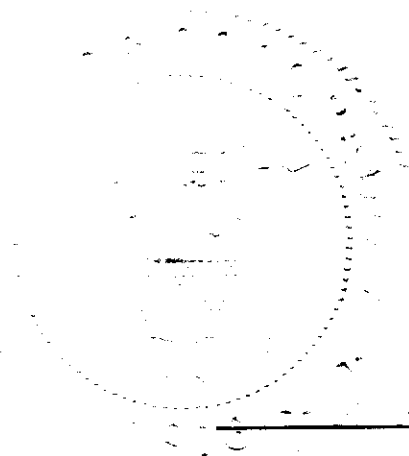
CERTIFICATE

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

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #68 'Citizen Initiative Process'".....



..... **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 18th day of January, 2012.



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

SECRETARY OF STATE

Ballot Title Setting Board

Proposed Initiative 2011-2012 #68¹

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

An amendment to the Colorado constitution concerning statutes enacted by citizen initiative, and, in connection therewith, reducing the minimum number of signatures required to propose an initiated statute from 5% to 4% of the votes cast in the previous election for secretary of state; and requiring a vote of at least 3/4ths of the members of each house of the state legislature to amend or repeal any initiated statute, unless the initiated statute includes a provision allowing for its amendment or repeal by a majority vote of the legislature or unless the legislature refers the amendment or repeal of an initiated statute to the voters.

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 statutes enacted by citizen initiative, and, in connection therewith, reducing the minimum number of signatures required to propose an initiated statute from 5% to 4% of the votes cast in the previous election for secretary of state; and requiring a vote of at least 3/4ths of the members of each house of the state legislature to amend or repeal any initiated statute, unless the initiated statute includes a provision allowing for its amendment or repeal by a majority vote of the legislature or unless the legislature refers the amendment or repeal of an initiated statute to the voters?

*Hearing April 4, 2012:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 10:17 a.m.*

*Hearing April 19, 2012:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 10:51 a.m.*

¹ Unofficially captioned "**Citizen Initiative Process**" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

APR 11 2012 3:45 P.M.

ELECTIONS/LICENSING
SECRETARY OF STATE
S.WARD**BEFORE COLORADO STATE TITLE SETTING BOARD**

In re Ballot Title and Submission Clause for 2011-2012 Initiatives #67, 68, and 69 ("Citizen Initiative Process")**PHILIP HAYES, Objector**

MOTION FOR REHEARING

Pursuant to C.R.S. § 1-40-107, Objector, Philip Hayes, a registered elector of the State of Colorado, by and through his legal counsel, Heizer Paul Grueskin LLP, is not satisfied with the April 4, 2012 decisions of the Title Board that Initiatives # 67, 68, and 69 comprise a single subject and further that the titles for these proposed ballot measures are fair and that they accurately express the meaning and intent of said measures.

- I. These ballot measures violate the single subject requirement, Colo. Const., art. V, § 1(5.5), including but not limited to the multiple topics of:
 - A. Imposing a constraint on legislative power by creating super-majority requirements for effecting amendments and/or repeals of initiated statutes enacted in the future. Proposed Colo. Const., art. V, sec. 11(1)(d).
 - B. Imposing this limitation on legislative power as to initiated statutes that are enacted at the 2012 election, even where, individually or as a group, they contain multiple, unrelated subjects. *Id.*
 - C. Imposing this limitation on legislative power as to initiated statutes that were enacted at previous elections, even though, individually and as a group, they contained multiple, unrelated subjects. *Id.*; *In re Ballot Title and Submission Clause for Initiative 2001-02 #43*, 46 P.3d 438, 445-48 (Colo. 2002).
 - D. As to #68 and #69, in addition to the above subjects, changing percentages of electors' signatures required for an initiated statute (3% and 4% respectively). *Id.* at 443-444 (petition procedures is a separate subject.)

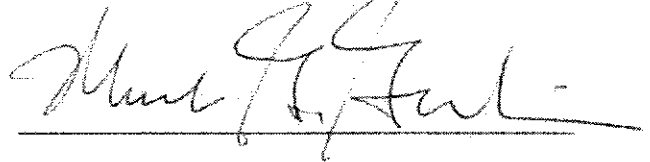
- II. The Title Board did not provide a fair or accurate ballot title because it omitted any reference in the title to, among other things:
 - A. Any legislative repeal or amendment must be by "at least" three-fourths of each house of the general assembly.

- B. The vote taken to refer a measure to the voters must be by a majority of each house of the general assembly.
- C. A referred measure passes when a majority of voters casting ballots agree to the amendment or repeal.
- D. The fact that the measure applies to actions of the general assembly in connection with already enacted initiated statutes, as well as initiated statutes considered at the 2012 election and future initiated statutes.

Please set this matter for rehearing, pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 11th day of April, 2012.

HEIZER PAUL GRUESKIN LLP



Mark G. Grueskin

Objector's address:

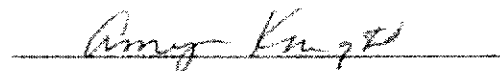
Philip Hayes, 5464 South Ward Way, Littleton CO 80127

CERTIFICATE OF SERVICE

A true and accurate copy of this MOTION FOR REHEARING was sent to the designated representatives, by means of U.S. Mail, first class, postage prepaid:

David Ottke, 3308 S. Hannibal Street, Aurora, CO 80013

John Slota, 2990 Shadow Creek Drive, #108, Boulder, CO 80303



RECEIVED

"Your Vote Counts Act" 2011-2012 #68

MAR 23 2012

12:30
P.M.

Final version . . . (spelling of referendum corrected by the Elections Division on 4/4/12 as requested by the Title Board)

ELECTIONS/LICENSING
SECRETARY OF STATE S.WARD

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

In the constitution of the state of Colorado, section 1 of article V, amend (2); add (11), and amend section 22 of article V, as follows:

"Section 1. General assembly - initiative and referendum. (2) The first power hereby reserved by the people is the initiative, and signatures by registered electors in an amount equal to at least five percent of the total number of votes cast for all candidates for the office of secretary of state at the previous general election shall be required to propose ~~any measure~~ A CONSTITUTIONAL AMENDMENT by petition AND AT LEAST FOUR PERCENT TO PROPOSE LEGISLATION BY PETITION, and every such petition shall include the full text of the measure so proposed. Initiative petitions for state legislation and amendments to the constitution, in such form as may be prescribed pursuant to law, shall be addressed to and filed with the secretary of state at least three months before the general election at which they are to be voted upon.

(11) (a) THIS MEASURE SHALL BE KNOWN AND MAY BE CITED AS THE "YOUR VOTE COUNTS ACT."

(b) A STATUTE ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE SHALL NOT BE REPEALED OR AMENDED BY THE GENERAL ASSEMBLY EXCEPT BY AT LEAST A THREE-FOURTHS VOTE OF THE MEMBERS OF EACH HOUSE, UNLESS SUCH STATUTE EXPLICITLY PROVIDES THAT THE GENERAL ASSEMBLY MAY REPEAL OR AMEND THE STATUTE OR SPECIFIC PARTS OF THE STATUTE BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE.

(c) THE GENERAL ASSEMBLY MAY BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE PLACE A REPEAL OF A STATUTE ENACTED BY CITIZEN INITIATIVE OR AN AMENDMENT OR AMENDMENTS TO SUCH A STATUTE ON THE BALLOT FOR A VOTE OF THE PEOPLE THROUGH A STATEWIDE REFERENDUM. IF A MAJORITY OF VOTERS CASTING BALLOTS ON THE SPECIFIC REFERENDUM VOTE IN FAVOR, THE REPEAL, AMENDMENT OR AMENDMENTS SHALL BE ENACTED.

(d) THIS SUBSECTION (11) SHALL APPLY PROSPECTIVELY TO ACTIONS OF THE GENERAL ASSEMBLY RELATING TO STATUTES ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE, WHETHER THE INITIATIVE STATUTE WAS ENACTED BEFORE OR IS ENACTED AFTER THE EFFECTIVE DATE OF THIS SECTION.

"Section 22. Reading and Passage of Bills. Every bill shall be read by title when introduced, and at length on two different days in each house; provided, however, any reading at length may be dispensed with upon unanimous consent of the members present. All substantial amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill, and no bill shall become a law except by a vote of the majority of all members elected to each house taken on two separate days in each house, EXCEPT AS SET FORTH IN SECTION 1 (11) OF ARTICLE V OF THIS CONSTITUTION, nor unless upon its final passage the vote be taken by ayes and noes and the names of those voting be entered on the journal.

David Ottke
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Aurora CO 80013
303-552-7236
Dottke@gmail.com

John Slota
2990 Shadow Creed Dr., #10
Boulder, CO 80303
303-638-2979
John.slota@gmail.com

RECEIVED

MAR 23 2012

12:30 P.M.

ELECTIONS/LICENSING
SECRETARY OF STATE

S. WARD

"Your Vote Counts Act" - #68
Version showing changes in RED . . .

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

In the constitution of the state of Colorado, section 1 of article V, amend (2); add (11), and amend section 22 of article V, as follows:

"Section 1. General assembly - Initiative and referendum. (2) The first power hereby reserved by the people is the initiative, and signatures by registered electors in an amount equal to at least five percent of the total number of votes cast for all candidates for the office of secretary of state at the previous general election shall be required to propose ~~any measure~~ A CONSTITUTIONAL AMENDMENT by petition AND AT LEAST FOUR PERCENT TO PROPOSE LEGISLATION BY PETITION, and every such petition shall include the full text of the measure so proposed. Initiative petitions for state legislation and amendments to the constitution, in such form as may be prescribed pursuant to law, shall be addressed to and filed with the secretary of state at least three months before the general election at which they are to be voted upon.

(11) (a) THIS MEASURE SHALL BE KNOWN AND MAY BE CITED AS THE "YOUR VOTE COUNTS ACT."

(b) A STATUTE ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE SHALL NOT BE REPEALED OR AMENDED BY THE GENERAL ASSEMBLY, EXCEPT BY EITHER AT LEAST A THREE-FOURTHS VOTE OF THE MEMBERS OF EACH HOUSE, UNLESS SUCH STATUTE EXPLICITLY PROVIDES THAT THE GENERAL ASSEMBLY MAY REPEAL OR AMEND ~~IF~~ THE STATUTE OR SPECIFIC PARTS OF THE STATUTE BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE.

(c) THE GENERAL ASSEMBLY MAY BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE PLACE A REPEAL OF A STATUTE ENACTED BY CITIZEN INITIATIVE OR AN AMENDMENT OR AMENDMENTS TO SUCH A STATUTE ON THE BALLOT FOR A VOTE OF THE PEOPLE THROUGH A STATEWIDE REFEREDNUM. IF A MAJORITY OF VOTERS CASTING BALLOTS ON THE SPECIFIC REFERENDUM VOTE IN FAVOR, THE REPEAL AMENDMENT OR AMENDMENTS SHALL BE ENACTED

(d) THIS ~~SECTION~~ SUBSECTION (11) SHALL APPLY PROSPECTIVELY TO ACTIONS OF THE GENERAL ASSEMBLY RELATING TO STATUTES ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE, WHETHER THE INITIATIVE STATUTE WAS ENACTED BEFORE OR IS ENACTED AFTER THE EFFECTIVE DATE OF THIS SECTION.

"Section 22. Reading and Passage of Bills. Every bill shall be read by title when introduced, and at length on two different days in each house; provided, however, any reading at length may be dispensed with upon unanimous consent of the members present. All substantial amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill, and no bill shall become a law except by a vote of the majority of all members elected to each house taken on two separate days in each house, EXCEPT AS SET FORTH IN SECTION 1 (11) OF ARTICLE V OF THIS CONSTITUTION, ~~nor~~ unless upon its final passage the vote be taken by ayes and noes and the names of those voting be entered on the journal.

RECEIVED

MAR 23 2012

12:30PM

S. WARD

ELECTIONS LICENSING
SECRETARY OF STATE

"Voter Protection Act" - #68

As originally introduced . . .

Revisions to Section 1 of Article V, of the Colorado Constitution:

Be it enacted by the people of the state of Colorado:

The "Voter Protection Act."

An amendment to Article V, Section 1, changing subsection (2) and adding a new subsection (11), is enacted to read as follows:

Art. V, Section 1. Subsection (2) The first power hereby reserved by the people is the initiative, and signatures by registered electors in an amount equal to at least five percent of the total number of votes cast for all candidates for the office of secretary of state at the previous general election shall be required to propose any measure a constitutional amendment by petition and at least four percent to propose legislation by petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions for state legislation and amendments to the constitution, in such form as may be prescribed pursuant to law, shall be addressed to and filed with the secretary of state at least three months before the general election at which they are to be voted upon.

Subsection 11. (a) This section shall be known and may be cited as the "Voter Protection Act."

(b) A statute enacted by citizen initiative pursuant to this article shall not be repealed or amended by the general assembly, except by either a three-fourths vote of the members of each house, unless such statute explicitly provides that the general assembly may repeal or amend it by a majority vote of the members of each house.

(c) The general assembly may by a majority vote of the members of each house place a repeal of a statute enacted by citizen initiative or an amendment or amendments to such a statute on the ballot for a vote of the people through a statewide referendum.

(d) This section shall apply prospectively to actions of the general assembly relating to statutes enacted by citizen initiative pursuant to this article, whether the initiative statute was enacted before or is enacted after the effective date of this section.



STATE OF COLORADO

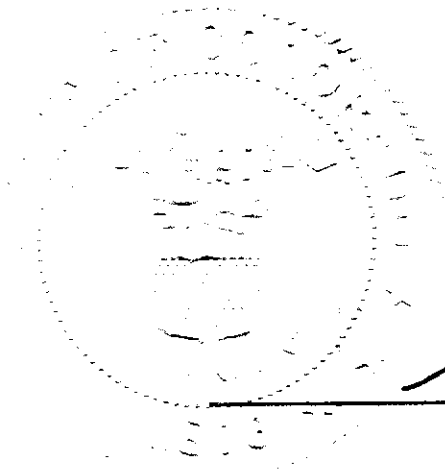
DEPARTMENT OF
STATE

CERTIFICATE

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

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #69 'Citizen Initiative Process'".

..... **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 18th day of January, 2012.



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

SECRETARY OF STATE

Ballot Title Setting Board

Proposed Initiative 2011-2012 #69¹

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

An amendment to the Colorado constitution concerning statutes enacted by citizen initiative, and, in connection therewith, reducing the minimum number of signatures required to propose an initiated statute from 5% to 3% of the votes cast in the previous election for secretary of state; and requiring a vote of at least 3/4ths of the members of each house of the state legislature to amend or repeal any initiated statute, unless the initiated statute includes a provision allowing for its amendment or repeal by a majority vote of the legislature or unless the legislature refers the amendment or repeal of an initiated statute to the voters.

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 statutes enacted by citizen initiative, and, in connection therewith, reducing the minimum number of signatures required to propose an initiated statute from 5% to 3% of the votes cast in the previous election for secretary of state; and requiring a vote of at least 3/4ths of the members of each house of the state legislature to amend or repeal any initiated statute, unless the initiated statute includes a provision allowing for its amendment or repeal by a majority vote of the legislature or unless the legislature refers the amendment or repeal of an initiated statute to the voters?

*Hearing April 4, 2012:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 10:20 a.m.*

*Hearing April 19, 2012:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 10:52 a.m.*

¹ Unofficially captioned "**Citizen Initiative Process**" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

APR 11 2012

3:45 P.M.

S. WARD

BEFORE COLORADO STATE TITLE SETTING BOARD

ELECTIONS/LICENSING
SECRETARY OF STATE

In re Ballot Title and Submission Clause for 2011-2012 Initiatives #67, 68, and 69 ("Citizen Initiative Process")

PHILIP HAYES, Objector

MOTION FOR REHEARING

Pursuant to C.R.S. § 1-40-107, Objector, Philip Hayes, a registered elector of the State of Colorado, by and through his legal counsel, Heizer Paul Grueskin LLP, is not satisfied with the April 4, 2012 decisions of the Title Board that Initiatives # 67, 68, and 69 comprise a single subject and further that the titles for these proposed ballot measures are fair and that they accurately express the meaning and intent of said measures.

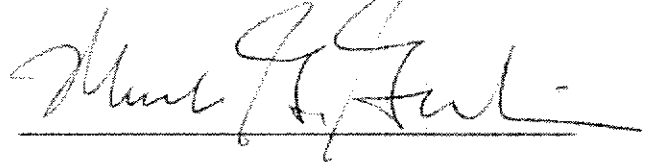
- I. These ballot measures violate the single subject requirement, Colo. Const., art. V, § 1(5.5), including but not limited to the multiple topics of:
 - A. Imposing a constraint on legislative power by creating super-majority requirements for effecting amendments and/or repeals of initiated statutes enacted in the future. Proposed Colo. Const., art. V, sec. 11(1)(d).
 - B. Imposing this limitation on legislative power as to initiated statutes that are enacted at the 2012 election, even where, individually or as a group, they contain multiple, unrelated subjects. *Id.*
 - C. Imposing this limitation on legislative power as to initiated statutes that were enacted at previous elections, even though, individually and as a group, they contained multiple, unrelated subjects. *Id.*; *In re Ballot Title and Submission Clause for Initiative 2001-02 #43*, 46 P.3d 438, 445-48 (Colo. 2002).
 - D. As to #68 and #69, in addition to the above subjects, changing percentages of electors' signatures required for an initiated statute (3% and 4% respectively). *Id.* at 443-444 (petition procedures is a separate subject.)
- II. The Title Board did not provide a fair or accurate ballot title because it omitted any reference in the title to, among other things:
 - A. Any legislative repeal or amendment must be by "at least" three-fourths of each house of the general assembly.

- B. The vote taken to refer a measure to the voters must be by a majority of each house of the general assembly.
- C. A referred measure passes when a majority of voters casting ballots agree to the amendment or repeal.
- D. The fact that the measure applies to actions of the general assembly in connection with already enacted initiated statutes, as well as initiated statutes considered at the 2012 election and future initiated statutes.

Please set this matter for rehearing, pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 11th day of April, 2012.

HEIZER PAUL GRUESKIN LLP



Mark G. Grueskin

Objector's address:

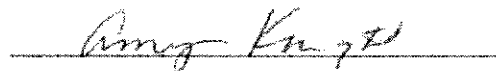
Philip Hayes, 5464 South Ward Way, Littleton CO 80127

CERTIFICATE OF SERVICE

A true and accurate copy of this MOTION FOR REHEARING was sent to the designated representatives, by means of U.S. Mail, first class, postage prepaid:

David Ottke, 3308 S. Hannibal Street, Aurora, CO 80013

John Slota, 2990 Shadow Creek Drive, #108, Boulder, CO 80303



RECEIVED

MAR 23 2012 12:30 P.M.

ELECTIONS/LICENSING S.WARD
SECRETARY OF STATE

"Your Vote Counts Act" 2011-2012 #69

Final version . . .

(spelling of referendum corrected by the Elections Division on 4/4/12 as requested by the Title Board)

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

In the constitution of the state of Colorado, section 1 of article V, amend (2); add (11), and amend section 22 of article V, as follows:

"Section 1. General assembly - initiative and referendum. (2) The first power hereby reserved by the people is the initiative, and signatures by registered electors in an amount equal to at least five percent of the total number of votes cast for all candidates for the office of secretary of state at the previous general election shall be required to propose ~~any measure~~ A CONSTITUTIONAL AMENDMENT by petition AND AT LEAST THREE PERCENT TO PROPOSE LEGISLATION BY PETITION, and every such petition shall include the full text of the measure so proposed. Initiative petitions for state legislation and amendments to the constitution, in such form as may be prescribed pursuant to law, shall be addressed to and filed with the secretary of state at least three months before the general election at which they are to be voted upon.

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(d) THIS SUBSECTION (11) SHALL APPLY PROSPECTIVELY TO ACTIONS OF THE GENERAL ASSEMBLY RELATING TO STATUTES ENACTED BY CITIZEN INITIATIVE PURSUANT TO THIS ARTICLE, WHETHER THE INITIATIVE STATUTE WAS ENACTED BEFORE OR IS ENACTED AFTER THE EFFECTIVE DATE OF THIS SECTION.

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David Ottke
3308 S. Hannibal St.
Aurora CO 80013
303-552-7236
Dottke@gmail.com

John Slota
2990 Shadow Creed Dr., #108
Boulder, CO 80303
303-638-2979
John.slota@gmail.com

RECEIVED

MAR 23 2012

12:30 P.M.
SWARD

ELECTIONS/LICENSING
SECRETARY OF STATE

"Your Vote Counts Act" - #69
Version showing changes in RED . . .

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SECRETARY OF STATE

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