

SUPREME COURT
STATE OF COLORADO

2 East 14th Avenue
Denver, CO 80203

Original Proceeding Pursuant to § 1-40-107(2),
C.R.S. (2013)

Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative 2013-2014
#139 and #140

Petitioners:

Vickie L. Armstrong and Bob Hagedorn

v.

Respondents:

Richard Evans and Stephen Roark

and

Title Board:

Suzanne Staiert, Daniel Domenico, and Jason
Gelender

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Case No. 2014SA147

TITLE BOARD'S ANSWER BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

It contains 570 words.

The brief complies with C.A.R. 28(k).

It contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record (R. , p.), not to an entire document, where the issue was raised and ruled on.

/s/ Matthew D. Grove

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Suzanne Staiert, Daniel Domenico, and Jason Gelender, as members of the Ballot Title Setting Board (“Title Board”), hereby submit their answer brief. In the interest of brevity, issues that have already been thoroughly addressed will not be discussed here.

I. #139 and #140 do not contain multiple subjects.

Petitioners first assert that #139 and #140 contain five distinct subjects,¹ and that they therefore violate the single-subject rule. Their arguments, however, confuse the subject of a measure with its potential effects. Petitioners complain that, for example, that if adopted #139 and #140 would preclude further expansion of gaming in Colorado, and would lead to a “fundamental alteration of the relationship between home rule cities and their counties.” *Pet. Open. Br.* at 12.

Irrespective of the accuracy of Petitioners’ predictions about the likely impact of the measures, this Court has long maintained that the title setting process does not extend to the potential effects that a ballot initiative might have on the existing statutory or constitutional scheme.

Blake v. King (2007-2008 #62), 184 P.3d 52, 59 (Colo. 2008) (“[i]n

¹ The Petition identified nine ostensible subjects; however, Petitioners’ opening brief only discusses five.

determining whether a proposed initiative comports with the single subject requirement, we do not address the merits of a proposed initiative, *nor do we interpret its language or predict its application if adopted by the electorate*) (emphasis in original), quoting *In re Proposed Initiative for 1997-1998 #64*, 960 P.2d, 1192, 1197 (Colo. 1998). Yet Petitioners' arguments are based largely on what they believe the potential effects of #139 and #140 will be.

Petitioners also rely on *Jones v. Polhill (2001-2002 #43)*, 46 P.3d 438, 446 (Colo. 2002), to argue that #139 and #140 violate the single-subject because they could have an impact on other proposed initiatives that the Title Board (and this Court) have already approved or are in the process of reviewing. *Jones* involved a ballot measure that was, among other things, intended to eliminate the single-subject requirement itself. The Court found that the initiative contained multiple subjects, noting in part that “[i]t is ironic that in approving a seemingly innocuous initiative proposing to relax the procedural requirements for placing a measure on the ballot, voters may inadvertently nullify” the single-subject rule. *Id.* at 446. But the potential inadvertent nullification of an existing law was

not the problem. Rather, the Court invoked the single-subject rule because the measures would affect not only procedural requirements for ballot initiatives (“*how* a proponent exercises his right to petition”) but also substantive ones (“*what* an initiative placed on the ballot may contain”). *Id.* (emphasis added).

#139 and #140 do not suffer from the problems that the Court pointed out in *Jones*. While the initiatives could potentially have some effects on other aspects of Colorado law, those subsidiary effects should not be confused with its single subject – ensuring that local communities will have a say after an expansion of gambling in a particular area has been approved by a statewide vote.

II. The titles are not misleading.

For the reasons outlined in the Title Board’s opening brief, the titles for #139 and #140 do not contain catchphrases, accurately reflect the meaning of the underlying initiatives, and sufficiently balance the need to explain the meaning of the measures with the requirement of brevity and clarity in the title.

III. Conclusion

Based on the foregoing reasoning and authority, as well as that in its opening brief, the Title Board respectfully requests that this Court affirm the title set for #138.

Respectfully submitted this 29th day of May 2014.

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CERTIFICATE OF SERVICE

This is to certify that, on May 29, 2014, I duly served this
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