

DATE FILED: March 25, 2016

<p>SUPREME COURT OF COLORADO 2 E. 14th Ave., 4th Floor Denver, CO 80203</p>	<p>FILED IN THE SUPREME COURT,</p>
<p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107 (2) Appeal from the Ballot Title Board</p>	<p>MAR 24 2016 OF THE STATE OF COLORADO Christopher T. Ryan, Clerk</p>
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2015- 2016 #93 (Threshold for Voter Approval of Initiated Constitutional Amendments)</p> <p>Petitioner: CHRIS FORSYTH</p> <p>v.</p> <p>Respondents: GREG BROPHY, DAN GIBBS and Title Board</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorney for Petitioner: Petitioners is proceeding pro se</p>	<p>Case Number: 16SA103</p>
<p>PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2015-2016 #93 (THRESHOLD FOR VOTER APPROVAL OF INITIATED CONSTITUTIONAL AMENDMENTS)</p>	

Chris Forsyth (petitioner), registered elector of the State of Colorado,
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 jurisdiction of the title board and the title, ballot title, and submission clause set for Initiative 2015-2016 #93 (Threshold for Voter Approval of Initiated Constitutional Amendments).

STATEMENT OF THE CASE

A. Procedural history

Initiative 2015-2016 #93 was filed by respondents. A review and comment hearing was held before representatives of the Offices of Legislative Council and Legislative Legal Services. Thereafter, respondents submitted a final version 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 March 2, 2016, to establish the proposed initiative's single subject and to set a title. On March 9, 2016, petitioner filed a motion for rehearing alleging multiple grounds for the Title Board to deny a title or set a different title. The rehearing was held on March 16, 2016, at which time the Title Board denied the motion for rehearing to set title or to cure deficiencies in the in the title it had set.

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. *See* C.R.S. § 1-40-107 (1). Petitioner timely filed this Petition for Review pursuant to C.R.S. § 1-40-107 (2).

Attached to this Petition for Review are certified copies of the petition with the titles and submission clause of the proposed law or constitutional amendment, together with a certified copy of the motion for rehearing and of the ruling thereon. C.R.S. § 1-40-107 (2). Petitioner believes that the Title Board erred in denying petitioners' motions for rehearing.

GROUND FOR APPEAL

The Colorado Constitution reserves the right of the initiative to the people of the State of Colorado. Colo. Const. Art. V., Sec. 1., Para. (2). The Colorado citizen proponents must initially meet with the legislative research and drafting offices of the general assembly. Colo. Const. Art. V., Sec. 1., Para. (5). Brophy is a paid designated representative in this matter. Whoever is paying him is the proponent. Brophy was one of two people who met with the legislative research and drafting office. Because both proponents have not met with the legislative research and drafting offices of the general assembly, the Title Board did not have jurisdiction to determine a title.

In violation of C.R.S. §§ 1-40-106, -107, the title set by the Title Board is misleading, does not fairly and correctly express the true meaning of the

proponents or the proposed initiative, and will lead to voter confusion. The following is an advisory list of issues to be addressed in petitioners' brief:

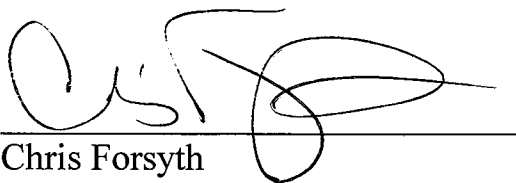
ADVISORY STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. The Title Board did not have jurisdiction to set title because both proponents of the measure did not meet with the legislative research and drafting offices of the general assembly.
2. The measure violates the single subject requirement of the Colorado Constitution by seeking to address separate subjects that are created by the measure.
3. The title is incomplete and thus misleading because it does not reflect the intent, effect, or complexity of the initiative. Furthermore, the title contains an impermissible catch phrase.

PRAYER FOR RELIEF

Petitioner respectfully requests that the Court issue a briefing schedule in this matter for the parties to submit briefs in support of their position. Once the briefs are received by the Court, petitioner requests that the Court determine that the Title Board exceeded its jurisdiction and/or set a title that is neither fair nor accurate. Petitioner respectfully requests that the title be denied due to a lack of jurisdiction or that the matter be remanded to the Title Board for a different title.

Respectfully submitted this 22nd day of March, 2016, by:

A handwritten signature in black ink, appearing to read 'CF', is written over a horizontal line.

Chris Forsyth
3155 Ingalls St.
Wheat Ridge, CO 80214

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was delivered to the following on the ~~23rd~~ day of March, 2016:

Via hand-delivery

Supreme Court of Colorado
2 East 14th Ave.
4th Floor
Denver, CO 80203

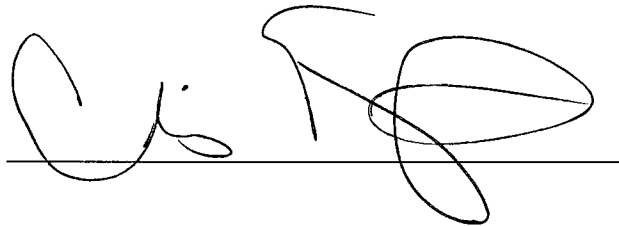
24th
(23rd - Court closed
due to snow)
CF

Via first-class, postage-prepaid, United States mail

Greg Brophy
8061 South Williams Circle
Centennial, Co

Dan Gibbs
P.O. Box 5635
Breckenridge, CO

Dee Wisor
Butler Snow
1801 California St., Suite 5100
Denver, CO 80202



A handwritten signature in black ink, appearing to read 'Dee Wisor', is written over a horizontal line.



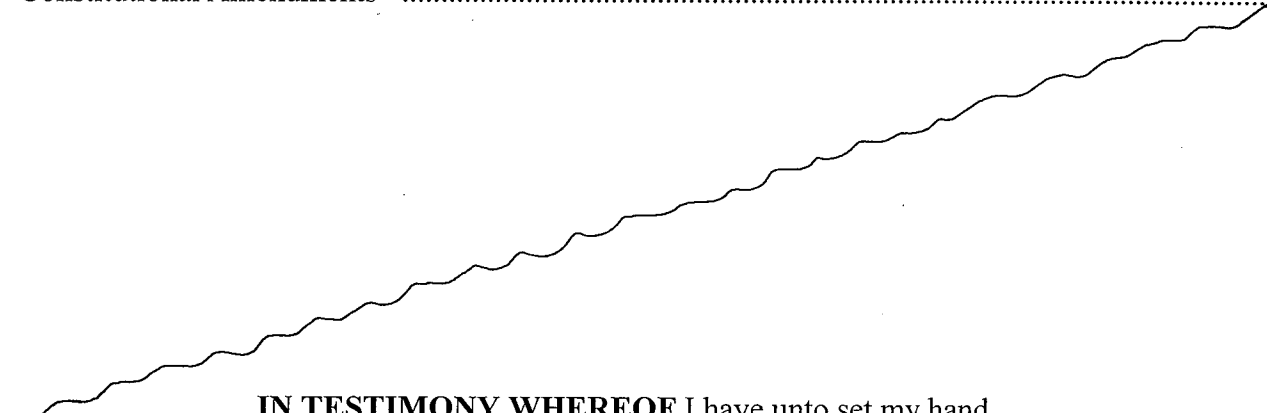
STATE OF COLORADO

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, motions for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2015-2016 #93 'Threshold for Voter Approval of Initiated Constitutional Amendments'".....



..... **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 March, 2016.

Wayne W. Williams

SECRETARY OF STATE



RECEIVED

FEB 19 2016

S-WARD

12:02 P.M.

2015-2016 93

Colorado Secretary of State

Final version filed with Secretary of State

BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:

SECTION 1. In the constitution of the state of Colorado, Section 1(4) of article V of is amended to read:

Section 1. General assembly - initiative and referendum

(4) (a) The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures initiated by or referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the power to enact any measure.

(b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, AN INITIATED CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO AN INITIATED CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

SECTION 2. In the constitution of the state of Colorado, Section 2(1) of article XIX is amended to read:

Section 2. Amendments to constitution - how adopted

(1) (a) Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and, if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment or amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals. The proposed amendment or amendments shall be published with the laws of that session of the general assembly. At the next general election for members of the general assembly, the said amendment or amendments shall be submitted to the registered electors of the state for their approval or rejection, and such as are approved by a majority of those voting thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1), shall become part of this constitution.

(b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, A CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY AT LEAST FIFTY-

FIVE PERCENT OF THE VOTES CAST THEREON; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO A CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

RECEIVED 12:02 P.M.

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2015-2016 93

Colorado Secretary of State

Amended draft in response to review and comment

~~MAKING IT HARDER TO AMEND THE CONSTITUTION 55% APPROVAL EXCEPT 50% FOR MEASURE LIMITED TO REPEAL.~~ BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:

SECTION 1. In the constitution of the state of Colorado, Section 1(4) of article V of the constitution of the state of Colorado is amended to read:

Section 1. General assembly - initiative and referendum

(4) (a) The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures initiated by or referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the power to enact any measure.

(b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, AN INITIATED CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; ~~PROVIDE EXCEPT~~ THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO AN INITIATED CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

SECTION 2. In the constitution of the state of Colorado, Section 2(1) of article XIX of the constitution of the state of Colorado is amended to read:

Section 2. Amendments to constitution - how adopted

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S. WARD

2015-2016 93

Original filed with Legislative Council

Colorado Secretary of State

MAKING IT HARDER TO AMEND THE CONSTITUTION-55% APPROVAL EXCEPT 50% FOR MEASURE LIMITED TO REPEAL.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:

Section 1(4) of article V of the constitution of the state of Colorado is amended to read:

Section 1. General assembly - initiative and referendum

(4) (a) The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures initiated by or referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the power to enact any measure.

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Section 2(1) of article XIX of the constitution of the state of Colorado is amended to read:

Section 2. Amendments to constitution - how adopted

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(b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, A CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS

CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; PROVIDED THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO A CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

Ballot Title Setting Board

Proposed Initiative 2015 2016 #93¹

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

An amendment to the Colorado constitution making it more difficult to amend the Colorado constitution by increasing the percentage of votes needed to pass a proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only removes language from the constitution.

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 making it more difficult to amend the Colorado constitution by increasing the percentage of votes needed to pass a proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only removes language from the constitution?

Hearing March 2, 2016:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 9:52 a.m.

¹ Unofficially captioned “**Threshold for Voter Approval of Initiated Constitutional Amendments**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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MAR 09 2016

S.WARD
11:27 A.M.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

Timothy Markham, Objector,

vs.

Greg Brophy and Dan Gibbs, Proponents.

MOTION FOR REHEARING ON INITIATIVE 2015-2016 #93

Timothy Markham, a registered elector 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 #93 ("Threshold for Voter Approval of Initiated Constitutional Amendments").

I. The Title Board set a title for Initiative 2015-16 #93 on March 2, 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 making it more difficult to amend the Colorado constitution by increasing the percentage of votes needed to pass a proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only removes language from the constitution?

II. The Title Board's title setting for this measure was error.

A. The initiative violates the single subject requirement.

1. This initiative violates the single subject requirement by restricting the voters' fundamental right of initiative and changing the ability of the people to authorize constitutional amendments placed on the ballot by the General Assembly.
2. This measure applies both to constitutional amendments adopted through exercise of the right of initiative and through measures referred to the voters by the General Assembly, thus limiting the powers of both the voters and the legislature to engage in distinct processes to propose a constitutional amendment

B. The titles are misleading, confusing, and prejudicial.

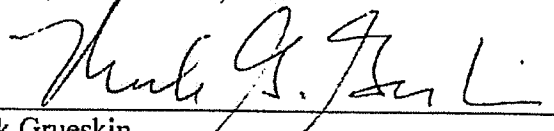
1. "Making it more difficult to amend the Colorado constitution" is a prohibited catch phrase and is misleading to voters.

2. If the title is to describe the goal of "making it more difficult to amend the Colorado constitution," that goal should at least accurately state that initiative's actual purpose which is "making it more difficult to exercise the fundamental right of initiative for the purpose of amending the Colorado constitution."
3. The title is misleading because it states this initiative does not apply where "the proposed constitutional amendment only removes language from the constitution" and does not indicate that it could apply to "any provision" or provisions of the Constitution.
4. The title fails to state that the new provisions apply both to constitutional amendments adopted through exercise of the right of initiative and through measures referred to the voters by the General Assembly, thus limiting the powers of the voters and the legislature to engage in distinct processes to propose a constitutional amendment.

WHEREFORE, the titles set on March 2, 2016 should be stricken altogether or modified to account for the concerns raised in this Motion for Rehearing.

RESPECTFULLY SUBMITTED this 9th day of March, 2016.

RECHT.KORNFELD, P.C.



Mark Grueskin
1600 Stout Street, Suite 1000
Denver, CO 80202
Phone: 303-573-1900
Email: mark@rklawpc.com

Objector's Address:

2848 Eliot Street
Denver CO 80211

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2015-2016 #93 was sent this day, March 9, 2016 via first class U.S. mail, postage pre-paid to the proponents' counsel at:

Dee Wisor, Esq.
Butler Snow LLP
1801 California Street
Suite 5100
Denver, CO 80202



RECEIVED S.WARD

MAR 09 2016 4:18 P.M.

COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

In re:

Initiative 2015-2016 #93

AMENDED MOTION FOR REHEARING

Chris Forsyth, a registered elector of the State of Colorado, objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-2016 #93 pursuant to C.R.S. § 1-40-107.

On March 2, 2016, the Board set the following ballot title and submission clause:

An amendment to the Colorado constitution making it more difficult to amend the Colorado constitution by increasing the percentage of votes needed to pass a proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only removes language from the constitution.

ADVISORY GROUNDS FOR RECONSIDERATION

A. The Colorado Constitution reserves the right of the initiative to the people of the State of Colorado. Colo. Const. Art. V., Sec. 1., Para. (2). The Colorado citizen proponents must initially meet with the legislative research and drafting offices of the general assembly. Colo. Const. Art. V., Sec. 1., Para. (5). The proponents of this measure have not revealed themselves and have not met with the legislative research and drafting offices of the general assembly. We do not know that the proponents of this measure are Colorado citizens. We do know that Greg Brophy and Dan Gibbs are the designated representative of the proponents. And we also know that Greg Brophy is getting paid for his work. He has admitted to the Independent Ethics Commission that he is being paid to perform his work. Therefore, Brophy is merely the agent of someone else. The Colorado Constitution requires that the principal - the actual proponent - meet with the legislative research and drafting offices of the general assembly. Brophy is not the principal or proponent because he has admitted that he is getting paid for his services. The proponents of this measure did not meet with the legislative research and drafting offices of the general assembly. The designated representatives, Brophy and Gibbs, met with the legislative research and drafting offices of the general assembly. There is no jurisdiction for the Title Board to set title in this matter because there are no Colorado citizen proponents of this initiative. If this initiative is to be pursued, the actual proponents must re-file this initiative, reveal themselves, and meet with the legislative

research and drafting offices of the general assembly. To allow this initiative to proceed further constitutes fraud.

B. Pursuant to C.R.S. § 1-40-104, the designated representatives are to file their mailing addresses. The designated representatives failed to provide the zip codes for their addresses and therefore failed to provide the mailing address. A zip code is an essential part of the mailing address. The Title Board does not have jurisdiction to set a title. *See Hayes v. Ottke*, 293 P.3d 551 (Colo. 2013).

C. We don't know whether the title is reflective of the intent of proponents because we don't know who the proponents are. Contrary to the statutory requirements for a ballot title that is not confusing, not misleading, and reflective of the intent of the initiative, C.R.S. § 1-40-106, 107, the Board has erred by setting a title that is unfair and does not reveal that the measure:

- (1) Increases the consensus of voters required from a longstanding majority to 55% or, in other words, allows 46% of voters to deny an amendment desired by 54% of voters; and
- (2) Does not allow a majority vote to change a provision currently in the constitution that was adopted by a majority vote.

To say the initiative makes it "more difficult to amend the constitution" is inaccurate and is an impermissible catch phrase. The measure increases the consensus of voters from a longstanding majority (50%) to 55%.

Respectfully submitted this 9th day of March, 2016, by:



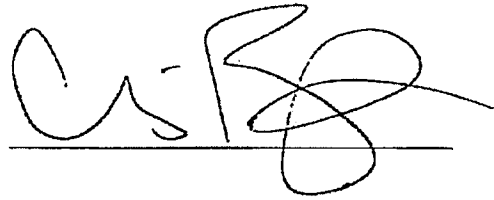
Chris Forsyth
3155 Ingalls St.
Wheat Ridge, CO 80214
Phone: 303-238-8864
Email: forsythlaw@hotmail.com

CERTIFICATE OF SERVICE

I hereby affirm that a true and correct copy of this Motion for Rehearing was sent this day, March 9, 2016, via first-class, postage-prepaid, United States mail to the designated representatives at:

Greg Brophy
8061 South Williams Circle
Centennial, CO

Dan Gibbs
PO Box 5635
Breckenridge, CO

A handwritten signature in black ink, appearing to be 'C. Brophy', written over a horizontal line.

RECEIVED

MAR 02 2016

March 2, 2016

ELECTIONS
SECRETARY OF STATE
Attention: Colorado Secretary of State
C/O Ballot title setting Board

I am a Registered Elector in Golden. Issues #93, 94,95, 96 and 97 all contain multiple subjects and the titles as drafted fail to express with clarity the subject of the measures for voters. The titles are insufficient and inadequate. A rehearing of these titles is hereby requested.

Thank you.

Dennis Polhill

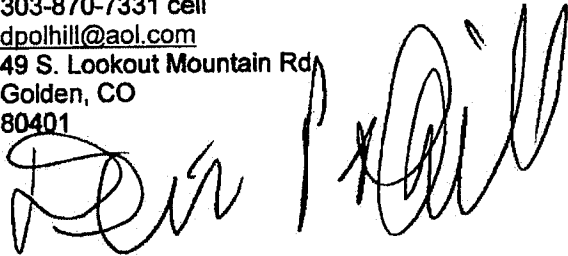
303-870-7331 cell

dpolhill@aol.com

49 S. Lookout Mountain Rd

Golden, CO

80401

A handwritten signature in black ink, appearing to read "Dennis Polhill", written over the printed contact information.

Ballot Title Setting Board

Proposed Initiative 2015 2016 #93¹

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

An amendment to the Colorado constitution making it more difficult to amend the Colorado constitution by increasing the percentage of votes needed to pass a proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only repeals, in whole or in part, any provision of the constitution.

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 making it more difficult to amend the Colorado constitution by increasing the percentage of votes needed to pass a proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only repeals, in whole or in part, any provision of the constitution?

Hearing March 2, 2016:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 9:52 a.m.

Rehearing March 16, 2016:

Motions for Rehearing granted only to the extent that the Board made changes to the titles; denied in all other respects.

Hearing adjourned 1:57 p.m.

¹ Unofficially captioned “**Threshold for Voter Approval of Initiated Constitutional Amendments**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.