

SUPREME COURT OF COLORADO  
2 East 14<sup>th</sup> Avenue  
Denver, CO 80203

DATE FILED: February 24, 2016 3:32 PM

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 Initiative 2015-  
2016 #78 (“Mandatory Setback for Oil and Gas  
Development”)

**Petitioners: SHAWN MARTINI and  
SCOTT PRESTIDGE**

v.

**Respondents: BRUCE MASON and KAREN  
DIKE**

and

**Title Board: SUZANNE STAIERT;  
FREDERICK YARGER; and JASON  
GELENDER**

▲ COURT USE ONLY ▲

Attorneys for Petitioners:

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Case No. \_\_\_\_\_

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE  
SETTING BOARD CONCERNING PROPOSED INITIATIVE 2015-  
2016 #78 (“MANDATORY SETBACK FOR OIL AND GAS  
DEVELOPMENT”)**

Shawn Martini and Scott Prestidge (“Petitioners”), registered electors of the State of Colorado, through their undersigned counsel, respectfully petition the Court pursuant to C.R.S. § 1-40-107(2), to review the actions of the Title Setting Board (“Title Board”) with respect to the title, ballot title, and submission clause set for Initiative 2015-2016 #78 (“Mandatory Setback for Oil and Gas Development”) (hereinafter “Proposed Initiative”).

## **STATEMENT OF THE CASE**

### **A. Procedural History of Proposed Initiative 2015-2016 #78**

Bruce Mason and Karen Dike (collectively “Proponents”) are the designated proponents of the Proposed Initiative. Proponents submitted the Proposed Initiative to the Offices of Legislative Council and Legislative Legal Services on January 8, 2016. Pursuant to C.R.S. §1-40-105(2), the Offices of Legislative Council and Legislative Legal Services waived the review and comment hearing required by C.R.S. § 1-40-105(1) on January 11, 2016. Proponents thereafter submitted a final version of the Proposed Initiative to the Secretary of State on January 21, 2016, for purposes of having the Title Board set title. The Secretary of State or his designee is a member of the Title Board.

The Title Board considered and set title for the Proposed Initiative at its February 3, 2016 meeting. On February 10, 2016, Petitioners timely filed a Motion for Rehearing pursuant to C.R.S. § 1-40-107(1)(a), alleging that the Board

lacked jurisdiction to set title because the Proposed Initiative violated the single-subject requirement. In the alternative, Petitioners argued that the title was misleading because it failed to describe important aspects of the measure. The Title Board considered Petitioners' Motion at its February 17, 2016 meeting, and it denied the Motion except to the extent that the Title Board made changes to the title.

### **B. Jurisdiction**

Petitioners submit this matter to the Colorado Supreme Court for review pursuant to C.R.S. § 1-40-107(2). Petitioners timely filed a Motion for Rehearing with the Title Board pursuant to C.R.S. § 1-40-107(1) and timely filed this Petition for Review within seven days from the date of rehearing as required by C.R.S. § 1-40-107(2). Consistent with the requirements set forth in section 1-40-107(2), Petitioners have attached the following, certified by the Secretary of State: (1) the final version of the Proposed Initiative filed by the Proponents;<sup>1</sup> (2) the original and amended ballot title set for this measure; (3) the Petitioners' Motion for Rehearing; and (4) the Title Board's ruling on Petitioners' Motion. Petitioners respectfully submit that the Title Board erred in denying their Motion for Rehearing and, therefore, this matter is properly before this Court.

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<sup>1</sup> The final version reflects the original version. Proponents did not amend the original text of the Proposed Initiative.

## **GROUNDNS FOR APPEAL**

In violation of Colo. Const. art. V., § 1(5.5) and C.R.S. § 1-40-106.5, the Title Board set title for the Proposed Initiative despite the fact that it contains multiple, distinct and separate purposes that are not dependent upon or connected with each other. Moreover, in violation of Colo. Const. art. V., § 1(5.5) and C.R.S. §§ 1-40-106 and 107, the title and submission clause for the Proposed Initiative are misleading and confusing because they fail to describe important aspects of the measure.

The following is an advisory list of issues which will be fully discussed in Petitioners' brief:

1. The Title Board lacked jurisdiction to set title because the Proposed Initiative contains the following multiple, distinct and not interdependent subjects under a single umbrella category of creating a uniform statewide setback requirement for oil and gas development facilities, which include:
  - a. Imposing an increased, non-waivable, minimum setback requirement of 2,500 feet for any new "oil and gas development facility" from occupied structures;
  - b. Imposing a new, minimum setback requirement of 2,500 feet for new oil and gas development facilities from "areas of special concern," which include public and community drinking water sources, lakes,

ivers, perennial or intermittent streams, creeks, irrigation canals, riparian areas, playgrounds, permanent sports fields, amphitheaters, public parks, and public open space;

- c. Authorizing state or local governments to impose setback distances greater than 2,500 feet, and without limitation, for new “oil and gas development facilities” from occupied structures; and
- d. Creating a new classification of property called “areas of special concern.”

2. Contrary to the constitutional and statutory requirements for ballot titles as set forth in Colo. Const. art. V, § 1 and C.R.S. §§ 1-40-106 and 107, the title and submission clause for the Proposed Initiative are misleading and confusing insofar as they:

- a. Fail to reflect that the measure increases the current setback requirement for new oil and gas wells, production and processing facilities;
- b. Fail to reflect the measure’s declaration, by the people of Colorado, that oil and gas development has detrimental impacts on public health, safety, welfare, and the environment;
- c. Improperly utilize a vague reference to “oil and gas development facilities,” a term that has no common meaning and fails to provide

notice that the measure's definition of oil and gas development facilities applies to oil and gas associated wells, production, and processing facilities;

- d. Fail to provide notice of the property types included within the term "areas of special concern," and instead stating that the setbacks are in relation to any "other specified or locally designated area," which does not put the voters on notice of anything ; and
- e. Fail to make clear that the measure authorizes state and local governments to impose setback requirements in excess of 2,500 feet and without limitation for new oil and gas development facilities from occupied structures.

### **PRAYER FOR RELIEF**

Petitioners respectfully request that after consideration of the parties' briefs, this Court determine that the Title Board lacked jurisdiction to set title and order that title setting be denied. Alternatively, Petitioners request that the Court determine that the title as set is confusing, misleading, and not clearly reflective of measure's intent and remand the Proposed Initiative to the Title Board with instructions to redraft the title to accurately and fairly represent the text of the Proposed Initiative.

Respectfully submitted this 24th day of February, 2016 by:

HOGAN LOVELLS US LLP

s/ Elizabeth H. Titus

Seth R. Belzley, No. 36661

Elizabeth H. Titus, No. 38070

Katy L. Bonesio, No. 48891

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**Attorneys for Petitioners**

## CERTIFICATE OF SERVICE

I certify that on February 24, 2016, a true and correct copy of the above and foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2015-2016 #78 (“Mandatory Setback for Oil and Gas Development”)** was electronically filed with the Court and served via ICCES upon:

Martha Tierney, Esq.  
Tierney Lawrence LLC  
225 E. 16th Street,  
Suite 350  
Denver, Colorado 80202  
Email: [mtierney@tierneylawrence.com](mailto:mtierney@tierneylawrence.com)  
**Attorneys for Respondents**

and served via and U.S. Mail, postage prepaid, addressed to the following:

Suzanne Staiert  
Colorado Department of State  
1700 Broadway, Suite 200  
Denver, CO 80203

Jason Gelender  
Office of Legislative Legal Svs.  
200 E. Colfax, Rm 091  
Denver, CO 80203

Frederick R. Yarger  
Solicitor General  
1300 Broadway  
Denver, CO 80203

s/ D J McKune





DATE FILED: February 24, 2016 3:32 PM

# 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, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2015-2016 #78 'Mandatory Setback for Oil and Gas Development'" .....

.....

**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 18<sup>th</sup> day of February, 2016.

  
SECRETARY OF STATE



RECEIVED

JAN 21 2016

S. WARD  
9:12 A.M.

Clean  
Initiative 2015-2016 #78

Colorado Secretary of State

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

**SECTION 1.** In the constitution of the state of Colorado, **add** article XXX as follows:

### ARTICLE XXX

#### Mandatory Setback from Oil and Gas Development

**Section 1. Purposes and findings.** THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT:

(a) OIL AND GAS DEVELOPMENT, INCLUDING THE USE OF HYDRAULIC FRACTURING, HAS DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT;

(b) SUCH IMPACTS ARE REDUCED BY LOCATING OIL AND GAS DEVELOPMENT FACILITIES AWAY FROM OCCUPIED STRUCTURES AND AREAS OF SPECIAL CONCERN; AND

(c) TO PRESERVE PUBLIC HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT, THE PEOPLE DESIRE TO ESTABLISH A SETBACK REQUIRING ALL NEW OIL AND GAS DEVELOPMENT FACILITIES IN THE STATE OF COLORADO TO BE LOCATED AWAY FROM OCCUPIED STRUCTURES, INCLUDING HOMES, SCHOOLS AND HOSPITALS, AS WELL AS AREAS OF SPECIAL CONCERN.

**Section 2. Definitions.** FOR PURPOSES OF THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "OIL AND GAS DEVELOPMENT" MEANS EXPLORATION FOR AND DRILLING, PRODUCTION, AND PROCESSING OF OIL, GAS, OTHER GASEOUS AND LIQUID HYDROCARBONS, AS WELL AS THE TREATMENT AND DISPOSAL OF WASTE ASSOCIATED WITH SUCH EXPLORATION, DRILLING, PRODUCTION, AND PROCESSING. "OIL AND GAS DEVELOPMENT" INCLUDES HYDRAULIC FRACTURING.

(2) "OIL AND GAS DEVELOPMENT FACILITY" INCLUDES THE SITE OF OIL AND GAS WELLS, PITS AND WELLS FOR THE DISPOSAL OF ASSOCIATED WASTE PRODUCTS, INCLUDING UNDERGROUND INJECTION WELLS, AND ASSOCIATED PRODUCTION AND PROCESSING FACILITIES.

(3) "OCCUPIED STRUCTURE" MEANS ANY BUILDING OR STRUCTURE THAT REQUIRES A CERTIFICATE OF OCCUPANCY, OR BUILDING OR STRUCTURE INTENDED FOR HUMAN OCCUPANCY, INCLUDING HOMES, SCHOOLS, AND HOSPITALS.

(4) "AREA OF SPECIAL CONCERN" INCLUDES PUBLIC AND COMMUNITY DRINKING WATER SOURCES, LAKES, RIVERS, PERENNIAL OR INTERMITTENT STREAMS, CREEKS, IRRIGATION CANALS, RIPARIAN AREAS, PLAYGROUNDS, PERMANENT SPORTS FIELDS, AMPHITHEATERS, PUBLIC PARKS, AND PUBLIC OPEN SPACE.

(5) "LOCAL GOVERNMENT" MEANS ANY STATUTORY OR HOME RULE COUNTY, CITY AND COUNTY, CITY, OR TOWN, LOCATED IN THE STATE OF COLORADO, NOTWITHSTANDING ANY PROVISION OF ARTICLE XX OR SECTION 16 OF ARTICLE XIV OF THE COLORADO CONSTITUTION.

**Section 3. Grant of authority.** THE PEOPLE OF THE STATE OF COLORADO HEREBY ESTABLISH THAT ALL NEW OIL AND GAS DEVELOPMENT FACILITIES, INCLUDING THOSE THAT USE HYDRAULIC FRACTURING, MUST BE LOCATED AT LEAST TWO THOUSAND FIVE HUNDRED FEET FROM AN OCCUPIED STRUCTURE OR AREA OF SPECIAL CONCERN. FOR PURPOSES OF THIS ARTICLE, RE-

ENTRY OF AN OIL OR GAS WELL PREVIOUSLY PLUGGED OR ABANDONED SHALL BE CONSIDERED A NEW WELL.

**Section 4. Ability of the state or a local government to establish larger setbacks.** A STATE OR A LOCAL GOVERNMENT MAY REQUIRE THAT NEW OIL AND GAS DEVELOPMENT FACILITIES BE LOCATED A LARGER DISTANCE AWAY FROM OCCUPIED STRUCTURES THAN GRANTED IN SECTION 3 OF THIS ARTICLE. IN THE EVENT THAT TWO OR MORE LOCAL GOVERNMENTS WITH JURISDICTION OVER THE SAME GEOGRAPHIC AREA ESTABLISH DIFFERENT SETBACK DISTANCES, THE LARGER SETBACK SHALL GOVERN.

**Section 5. Self-executing - severability - conflicting provisions.** ALL PROVISIONS OF THIS ARTICLE ARE SELF-EXECUTING, ARE SEVERABLE, AND SHALL SUPERSEDE CONFLICTING STATE AND LOCAL LAWS AND REGULATIONS. LAWS AND REGULATIONS MAY BE ENACTED TO FACILITATE THE OPERATION OF THIS ARTICLE, BUT CANNOT IN ANY WAY REDUCE THE SETBACK STANDARD OR THE POWERS AND RIGHTS ESTABLISHED IN THIS ARTICLE.

## Ballot Title Setting Board

### Proposed Initiative 2015-2016 #78<sup>1</sup>

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

An amendment to the Colorado constitution concerning a statewide setback requirement for new oil and gas development facilities, and, in connection therewith, changing existing setback requirements to require any new oil and gas development facility to be located at least 2,500 feet from the nearest occupied structure and other specified areas and authorizing the state or a local government to require new oil and gas development facilities to be located more than 2,500 feet from the nearest occupied structure.

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 a statewide setback requirement for new oil and gas development facilities, and, in connection therewith, changing existing setback requirements to require any new oil and gas development facility to be located at least 2,500 feet from the nearest occupied structure and other specified areas and authorizing the state or a local government to require new oil and gas development facilities to be located more than 2,500 feet from the nearest occupied structure?

*Hearing February 3, 2016:  
Single subject approved; staff draft amended; titles set.  
Hearing adjourned 1:47 p.m.*

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<sup>1</sup> Unofficially captioned “**Mandatory Setback for Oil and Gas Development**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

FEB 10 2016

S. WARD  
2:52 P.M.

Colorado Secretary of State

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR INITIATIVE  
2015-2016 #78

MOTION FOR REHEARING

Registered electors, Shawn Martini and Scott Prestidge, through their legal counsel, Hogan Lovells US LLP, request a rehearing of the Title Board for Initiative 2015-2016 #78. As set forth below, Mr. Martini and Mr. Prestidge respectfully object to the Title Board's setting of title and the ballot title and submission clause on the following grounds:

TITLE AND SUBMISSION CLAUSE

On February 3, 2016, the Board set the title as follows:

An amendment to the Colorado constitution concerning a statewide setback requirement for new oil and gas development facilities, and, in connection therewith, changing existing setback requirements to require any new oil and gas development facility to be located at least 2,500 feet from the nearest occupied structure and other specified areas and authorizing the state or a local government to require new oil and gas development facilities to be located more than 2,500 feet from the nearest occupied structure.

The Board set the ballot title and submission clause as follows:

Shall there be an amendment to the Colorado constitution concerning a statewide setback requirement for new oil and gas development facilities, and, in connection therewith, changing existing setback requirements to require any new oil and gas development facility to be located at least 2,500 feet from the nearest occupied structure and other specified areas and authorizing the state or a local government to require new oil and gas development facilities to be located more than 2,500 feet from the nearest occupied structure?

GROUND FOR RECONSIDERATION

**I. The Initiative Impermissibly Contains Multiple Subjects.**

The Colorado Constitution requires that a citizen initiated measure contain only a single subject, which shall be clearly expressed in its title. Colo. Const. art. V., § 1(5.5); see also C.R.S. § 1-40-106.5. The single-subject requirement prevents proponents from combining multiple subjects to attract a "yes" vote from voters who might otherwise vote "no" on one or more of the subjects if proposed separately. *Matter of Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 333 P.3d 76, 79 (Colo. 2014). Accordingly, an initiative's subject matter "must be

necessarily and properly connected rather than disconnected or incongruous.” *Id.* (citing *In re Proposed Initiative for 2011–2012 # 45*, 274 P.3d 576, 579 (Colo.2012)). Titles containing general “umbrella proposals” to unite separate subject are unconstitutional. *Id.* (citing *In re Proposed Initiative for 2011–2012 # 45*, 274 P.3d 576, 579 (Colo. 2012)).

Contrary to the requirement that every constitutional amendment proposed by initiative be limited to a single subject, which shall be clearly expressed in its title, the Board set title for initiative #78 despite the fact that it contains multiple, distinct and separate purposes that are not dependent upon or connected with each other. Specifically, under the umbrella of a creating a uniform “statewide setback requirement for oil and gas development facilities” the initiative actually includes the following several, unrelated subjects:

- (1) Imposing an increased, non-waivable, minimum setback requirement of 2,500 feet for new oil and gas development facilities from occupied structures (#78 § 3);
- (2) Imposing a new, minimum setback requirement of 2,500 feet for new oil and gas development facilities from “areas of special concern,” which includes public and community drinking water sources, lakes, rivers, perennial or intermittent streams, creeks, irrigation canals, riparian areas, playgrounds, permanent sports fields, amphitheaters, public parks, and public open space (#78 § 3);
- (3) Authorizing state or local governments to impose setback distances greater than 2,500 feet and without limitation for new oil and gas development facilities from occupied structures and, thus, authorizing local government to ban oil and gas activities within their boundaries (#78 § 4); and
- (4) Creating a new classification of property called “areas of special concern,” which includes unrelated and disjointed types of property, including public and community drinking water sources, lakes, rivers, perennial or intermittent streams, creeks, irrigation canals, riparian areas, playgrounds, permanent sports fields, amphitheaters, public parks, and public open space (#78 § 2(4)).

Each of these subjects is not interdependent or connected to the other. The Title Board therefore lacks jurisdiction to set title and title setting should be denied.

## **II. The Title and Submission Clause as Drafted Fail to Describe Important Aspects of the Measure.**

A measure’s title and submission clause must “correctly and fairly express the true intent and meaning” of the measure. C.R.S. § 1-40-106(3)(b). The title and submission clause should enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal. *In re Title, Ballot Title & Submission Clause for 2009–2010 No. 45*, 234 P.3d 642, 648 (Colo. 2010) “[A]

material omission can create misleading titles.” *In re Title, Ballot and Submission Clause 1999-2000 #258A*, 4 P.3d 1094, 1098 (Colo. 2000).

The title and submission clause for measure #78 are misleading and confusing because they fail to describe important aspects of the measure. Among other defects, the title and submission clause:

- (1) Fail to reflect that the measure increases the current setback requirements for new oil and gas wells, production and processing facilities;
- (2) Fail to reflect the measure’s declaration, by the people of Colorado, that oil and gas development has detrimental impacts on public health, safety, welfare, and the environment (#78 § 1(a));
- (3) Improperly utilize a vague reference to “oil and gas development facilities,” a term that has no common meaning and fails to provide notice that the measure’s definition of oil and gas development facilities applies to oil and gas associated wells, production, and processing facilities (#78 § 2(2));
- (4) Fail to inform the voters of distinctions between measure 2015-2016 #78 and measure 2015-2016 #82, by failing to describe the difference between “oil and gas development facilities” and “wells associated with oil and gas development”;
- (5) Fail to provide notice of the property types included within the term “areas of special concern,” and instead stating that the setbacks are in relation to “other specified areas,” which does not put the voters on notice of anything (#78 § 2(4)); and
- (6) Fail to make clear that the measure authorizes state and local governments to impose setback requirements in excess of 2,500 feet and without limitation for new oil and gas development facilities from occupied structures (#78 § 4).

Therefore, in the alternative, opponents request a title and submission clause that reflect these important aspects of the measure as set forth in the proposed title and submission clause, attached as Exhibit A.

## **CONCLUSION**

Based on the foregoing, Mr. Martini and Mr. Prestidge request a rehearing of the Title Board for Initiative 2015-2016 #78. The initiative is incapable of being expressed in a single subject that clearly reflects the intent of the proponents, and therefore the Title Board lacks jurisdiction to set a title and should reject the measure. Alternatively, Mr. Martini and Mr. Prestidge respectfully request that the Title Board amend the title and submission clause consistent with the concerns set forth above and as set forth in Exhibit A.

Respectfully submitted this 10<sup>th</sup> day of February, 2016 by:

HOGAN LOVELLS US LLP



Seth R. Belzley, No. 36661

Elizabeth H. Titus, No. 38070

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*Attorneys for Scott Prestidge and Shawn Martini*

Objectors' addresses:

Scott Prestidge  
2885 Quebec Street  
Denver, CO 80207

Shawn Martini  
3043 South Indiana Street  
Lakewood, CO 80228



## Exhibit A

### Ballot Title Setting Board

#### Proposed Initiative 2015-2016 #78

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

An amendment to the Colorado constitution concerning a minimum, non-waivable increase in the statewide setback requirement for new oil and gas development facilities associated wells, production, and processing facilities, and, in connection therewith, declaring that oil and gas development has detrimental impacts on public health, safety, welfare, and the environment; changing the existing setback requirements to require anyall new oil and gas associated wells, production, and processing facilities development facility to be located at least 2,500 feet from the nearest occupied structure and other specified areas, including certain water sources, water bodies, and public places, and authorizing the state or a local government to impose a setback in excess of 2,500 feet for require new oil and gas associated wells, production, and processing facilities development facilities to be located ~~more than 2,500 feet~~ from the nearest occupied structure.

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 a minimum, non-waivable increase in the statewide setback requirement for new oil and gas development facilities associated wells, production, and processing facilities, and, in connection therewith, declaring that oil and gas development has detrimental impacts on public health, safety, welfare, and the environment; changing the existing setback requirements to require anyall new oil and gas associated wells, production, and processing facilities development facility to be located at least 2,500 feet from the nearest occupied structure and other specified areas, including certain water sources, water bodies, and public places, and authorizing the state or a local government to impose a setback in excess of 2,500 feet for require new oil and gas associated wells, production, and processing facilities development facilities to be located ~~more than 2,500 feet~~ from the nearest occupied structure?

**Ballot Title Setting Board**

**Proposed Initiative 2015-2016 #78<sup>1</sup>**

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

An amendment to the Colorado constitution concerning a statewide setback requirement for new oil and gas development facilities, and, in connection therewith, changing setback requirements to require any new oil and gas development facility in the state to be located at least 2,500 feet from the nearest occupied structure or other specified or locally designated area and authorizing the state or a local government to require new oil and gas development facilities to be located more than 2,500 feet from the nearest occupied structure.

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 a statewide setback requirement for new oil and gas development facilities, and, in connection therewith, changing setback requirements to require any new oil and gas development facility in the state to be located at least 2,500 feet from the nearest occupied structure or other specified or locally designated area and authorizing the state or a local government to require new oil and gas development facilities to be located more than 2,500 feet from the nearest occupied structure?

*Hearing February 3, 2016:  
Single subject approved; staff draft amended; titles set.  
Hearing adjourned 1:47 p.m.*

*Rehearing February 17, 2016:  
Motion for Rehearing denied except to the extent that the Board made changes to the titles.  
Hearing adjourned 11:25 a.m.*

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<sup>1</sup> Unofficially captioned “**Mandatory Setback for Oil and Gas Development**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.