

COLORADO TITLE SETTING BOARD

Wayne W. Williams, Objector

MOTION FOR REHEARING ON INITIATIVE 2025-2026 # 239-242

Pursuant to CRS § 1-40-107(1)(a) and ¶ 11 of the Title Board Policies and Procedures, Wayne W. Williams, a registered elector of the State of Colorado objects to the determination of the Title Board regarding single subject for Proposed Initiatives 2025-2026 #239-242. Objector maintains that the measures do not constitute a single subject and that the Board should not have set title. Objector additionally challenges the titles set by the Board.

In addition to being a registered elector in the State of Colorado, the undersigned has worked to ensure the voting rights of Coloradans since first serving on a Canvass Board in 1997 and subsequently serving as counsel in election matters, the Clerk and Recorder for Colorado's most populous county, and Colorado's 38th Secretary of State, and the designated election official for multiple elections in El Paso and Mesa Counties.

On March 18, 2026, the Title Board considered the initiatives. The Board found that the measures constitute a single subject and proceeded to set title.

The undersigned brings this Motion for Rehearing because the initiatives and proposed titles conceal the disenfranchisement of hundreds of thousands of Coloradans and do not plainly state the overturning of a constitutionally mandated nonpartisan process with hyperpartisan maps and the stripping of protections against gerrymandering from the Colorado Constitution, inter alia, as set forth below.

1. Initiatives 239, 240, 241, and 242 do not contain a single subject

Each proposed measure contains multiple subjects. Objector asserts the central feature of Initiatives 239, 240, and 242 is the creation of hyperpartisan congressional maps. Proponents admit this is their findings:

(11) IT IS THE INTENT OF THE PEOPLE THAT COLORADO'S TEMPORARY MAPS BE DESIGNED TO HELP NEUTRALIZE THE PARTISAN GERRYMANDERING BEING UNDERTAKEN BY REPUBLICAN-LED STATES WITHOUT ERODING FAIR REPRESENTATION FOR ALL COMMUNITIES.

Notably, there is no mention of the creation or re-creation of an independent redistricting commission in the Declarations. The creation of the commission is an unrelated and unconnected subject.

In addition, Initiatives 239, 241, and 242 change the venue for review, which is a separate subject.

Finally, as set forth in Section 2E below, the effect of Initiatives 239, 240, and 242 is to disenfranchise hundreds of thousands – if not millions -- of Colorado voters, many of whom will never be allowed to vote for the State Board of Education Member and/or Regent who will “represent” them. Wholesale disenfranchisement of Colorado voters for these important offices is a separate subject.

One purpose of the single-subject requirement is that it “precludes the joining together of multiple subjects into a single initiative in the hope of attracting support from various factions which may have different or even conflicting interest.” *In re Proposed Initiative "Public Rights in Waters II"*, 898 P.2d 1076, 1079 (Colo. 1995).

The inclusion of both a hyperpartisan map for two elections and then the creation or recreation of an independent commission for elections six years later “is precisely the logrolling dilemma that the voters intended to avoid when they adopted the [single-subject] requirements.” *In re Title, Ballot Title, & Submission Clause for 2011-2012 #3*, 2012 CO 25, ¶ 31, 274 P.3d 562, 571.

The single-subject requirement is designed to protect voters against fraud and surprise and to eliminate the practice of combining several unrelated subjects in a single measure for the purpose of enlisting support from advocates of each subject and thus securing the enactment of measures which might not otherwise be approved by voters on the basis of the merits of those discrete measures. *In re Proposed Initiative for an Amendment to the Constitution of the State of Colorado Adding Section 2 to Article VII (Petitions)*, 907 P.2d 586, 589 (Colo. 1995) *In re Proposed Initiative "Public Rights in Waters II"*, 898 P.2d 1076, 1078 (Colo. 1995) *In re Proposed Initiative on Sch. Pilot Program*, 874 P.2d 1066, 1069 (Colo. 1994).

An initiative contains a single subject when its provisions are “necessarily and properly connected rather than disconnected or incongruous.” *In re 2019-2020 #315*, ¶ 13 (quoting *In re Title, Ballot Title & Submission Clause for 2015-2016 #73*, 369 P.3d 565, 568, 2016 CO 24, ¶ 14); accord *In re 2009-2010 #91*, 235 P.3d at 1077 (“[W]hen an initiative's provisions seek to achieve purposes that bear no necessary or proper connection to the initiative's subject, the initiative violates the constitutional rule against multiple subjects.”).

The single-subject requirement is violated when the text of the measure “relates to more than one subject and has at least two distinct and separate purposes which are not dependent upon or connected with each other.” *In re Title, Ballot Title & Submission Clause for 2005-2006 #74*, 136 P.3d 237, 239 (Colo. 2006) (quoting *In re Title, Ballot Title & Submission Clause, & Summary with Regard to a Proposed Petition for an Amendment to the Const. of State Adding Section 2 to Article VII (Petition Procs.)*, 900 P.2d 104, 109 (Colo. 1995)).

The two subjects, an independent commission and a partisan map, could not be more disconnected and incongruous. The subjects both stand on their own with no necessary connection. They are incongruous in that they share nothing in common. They are in fact

inapposite. It is unlikely that voters supporting a hyperpartisan map also support a map that factors in competitiveness and communities of interest.

2. The titles do not reflect the central purpose of the initiatives.

Should the Board hold to its determination that the initiatives contain a single subject, Objector further asserts that the titles set by the Board are deceptive, misleading, and inadequate to describe the purpose of the proposed initiatives.

The board is charged with the duty to act with the goal of producing a title which will 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 Proposed Initiative Concerning "State Personnel System"*, 691 P.2d 1121 (Colo. 1984); *Matter of Election Reform Amendment*, 852 P.2d 28 (Colo. 1993). The title must fairly reflect the proposed initiative such that voters will not be misled into supporting or opposing the initiative because of the words that the Title Board employed. *Bruce v. Hedges (In re Title, Ballot Title & Submission Clause for 2019-2020 #3 "State Fiscal Policy")*, 2019 CO 107, ¶ 1, 454 P.3d 1056, 1058.

The Board set the following title for Initiative #239:

An amendment to the Colorado Constitution and a change to the Colorado Revised Statutes concerning congressional redistricting and adopting a new temporary congressional map, and, in connection therewith, replacing the independent congressional redistricting commission in the constitution with an identical commission in statute, creating a temporary congressional district map that replaces the current map and will be used in 2028 and 2030 congressional elections and requiring the new statutory independent congressional redistricting commission to draw a congressional district map after the 2030 census.

The Board set the following title for Initiative #240:

An amendment to the Colorado Constitution and a change to the Colorado Revised Statutes concerning congressional redistricting and adopting a new temporary congressional map, and, in connection therewith, creating a temporary map to be used in 2028 and 2030 congressional elections that replaces the current congressional district map drawn by the independent congressional redistricting commission and requiring the commission to draw congressional district maps in 2031 and every 10 years thereafter.

The Board set the following title for Initiative #241:

An amendment to the Colorado Constitution and a change to the Colorado Revised Statutes replacing the constitutional independent congressional redistricting commission with an identical statutory independent congressional redistricting commission if a ballot measure creating a new temporary congressional district map to be used in 2028 and 2030 congressional elections is approved by a vote of the people.

The Board set the following title for Initiative #242:

A change to the Colorado Revised Statutes creating a new temporary congressional district map to be used in 2028 and 2030 congressional elections if a ballot measure replacing the constitutional independent congressional redistricting commission with an identical statutory independent congressional redistricting commission is approved by a vote of the people.

- A. The ballot titles for Initiatives #239, #240 and #242 purposely conceal that the primary goal of each initiative is to replace the existing nonpartisan maps with gerrymandered hyperpartisan maps purposely designed to skew Colorado’s congressional districts to favor the election of seven members of Congress (and Regents and State Board of Education Members) from a single party which constitutes less than a quarter of Colorado voters. *See <https://www.sos.state.co.us/pubs/elections/VoterRegNumbers/2026/FebruaryStatistics2026.xlsx>, showing “Dem” registration under 24.9% of Colorado’s 4,023,910 active registered voters.*

Moreover, none of these titles do anything to describe the maps to the voters. In looking at these measures (as well as other measures that may appear on the same ballot) the voters would have no idea what the map will look like or even the purpose. Voters should understand the purpose of the map is to engage in hyperpartisan gerrymandering overwhelmingly favoring a single party representing less than a quarter of Colorado’s voters.

- B. Initiatives #239, #241 and #242 state that the statutory redistricting commission will be identical to the current commission. This implies there is no legal change to the process. In fact, the initiative changes the jurisdiction for reviewing the maps from the Colorado Supreme Court to a Denver District Court Judge. This is major change to the traditional redistricting process and must be described in the title. Voters would think it important that no longer will the state’s highest court review the map. Instead, a politically skewed District where the majority of Colorado voters do not reside will hear a matter of statewide importance.

- C. Moreover, none of the ballot titles inform the electorate that moving the commission from the Constitution to statute (as proposed in Initiatives # 239, #241, and #242) means that a partisanly skewed legislature can make any changes it desires in order to ensure partisan outcomes—including every single provision outlined in the measures. The proponents of Initiatives Y and Z purposely chose the more difficult constitutional amendment process, with more challenging signature requirements and a requirement for 55% to be adopted. Stripping the citizens of this protection against legislative whim without even explaining it deprives the voters of the ability to determine intelligently whether to support or oppose the proposals.

- D. The titles for each of the proposed initiatives mislead voters into believing that only congressional elections are affected by the change. None of them provide the voter with the information that changing the districts also determines membership on the State Board of Education and the University of Colorado Board of Regents – neither of which were affected

by other states' congressional district changes. This information is critical for voters to know. Under the current defective titles, a voter whose children attend a state-approved public charter school would have no way of knowing that the approval of the hyperpartisan congressional districts or a legislatively alterable redistricting commission might result in a change in the Board of Education that could revoke the school's charter.

- E. Finally and most importantly, the ballot titles for Initiatives #239, #240 and #242 stealthily disenfranchise millions of Colorado residents. Because members of State Board of Education and the University of Colorado Board of Regents serve six year terms, large portions of the state would be represented by board members for whom they had no opportunity to vote and who in many cases do not live in the same district as the voters they purportedly represent. Under the proposed maps, voters in the newly constituted districts 1 (Bd of Education), 2 (Regent), 3 (Bd of Education), 6 (Regent), and 7 (Bd of Education & Regent) would be completely disenfranchised and never be allowed to vote on the indicated board members because these positions are elected in 2026 and would not be voted on again until new districts are created for the 2032 election. *See* <https://www.coloradosos.gov/pubs/elections/vote/officeUpForElection.html>.

The failure to inform voters in the title deprives them of critical information necessary to make an informed decision. Voters need to know that they will never be allowed to vote for regent or state board of education to represent these partisanly gerrymandered districts. To fail to inform them in the ballot title of this egregious disenfranchisement is reprehensible.

To assist the Board with crafting a more accurate title, the undersigned suggests the following for Initiative #239:

An amendment to the Colorado Constitution and a change to the Colorado Revised Statutes concerning congressional redistricting to disenfranchise hundreds of thousands of Coloradans and prevent them from voting for members of the State Board of Education and Board of Regents and replacing the nonpartisan congressional district map with a new hyperpartisan temporary congressional map gerrymandered to elect seven of Colorado's eight Congressional representatives and district Board of Education and CU Regents from a single party representing less than in one-quarter of Coloradans, and, in connection therewith, replacing the independent congressional redistricting commission in the constitution with a commission in statute that can be changed by the legislature to permit partisan gerrymandering and eliminate its independence without a vote of the people, creating a temporary hyperpartisan congressional district map that replaces the current nonpartisan map and will be used in 2028 and 2030 state board of education, congressional, and regent elections and requiring the new statutory congressional redistricting commission to draw a congressional district map after the 2030 census, with all decisions relating to the legality of any map or process to be decided first by a Denver district judge rather than the Colorado Supreme Court.

The above proposed title accurately informs voters of the effects of the initiatives (similar changes would be necessary as applicable to the other three measures).

Respectfully submitted this 25th day of March 2026.

/s/ Wayne W. Williams