

COLORADO SUPREME COURT

2 East 14th Avenue
Denver, CO 80203

Original Proceeding
Pursuant to Colo. Rev. Stat. § 1-40-107(2)
Appeal from the Ballot Title Setting Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative
2023-2024 #290

▲ COURT USE ONLY ▲

Petitioner:

Jessica Goad

v.

Respondents:

Suzanne Taheri and Steven Ward,
and
Title Board: Theresa Conley, Jeremiah
Barry, and Kurt Morrison

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and Steven Ward:**

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Case Number: 2024SA135

**RESPONDENTS SUZANNE TAHERI AND STEVEN WARD'S
ANSWER BRIEF**

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with the applicable word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).

It contains 746 words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 words).

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).

For each issue raised by the appellant, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 or 28.1, and C.A.R. 32.

/s/ Suzanne Taheri
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INTRODUCTION

Proposed Initiative 2023-2024 #290 is a single subject, and the ballot title set by the Board adequately informs voters of the measure's effects.

REPLY ARGUMENT

I. Initiative #290 has a single subject

In support of her single subject challenge, Petitioner relies upon almost entirely on an argument that is best described as a speculative effect of the measure: “the current NOx rule is not going to be enough to get the state of Colorado out of nonattainment with federal ozone standards, and the state will need to require more of the oil and gas sector to meet federal Clean Air Act requirements.” *See Petitioner’s Opening Brief p.2*

Potential consequences of the measure go to the merits of the measure and do not weigh in favor of rejecting the measure on single-subject grounds. “In determining whether a proposed initiative comports with the single subject requirement, [the Court does] not address the merits of a proposed initiative, nor [does the Court] interpret its language or predict its application if adopted by the electorate.” *Blake v. King (In re Title, Ballot Title, & Submission Clause 2007-2008 # 62)*, 184 P.3d 52, 59 (Colo. 2008) (quotations omitted).

“The effects this measure could have on Colorado law if adopted by voters are irrelevant to [a] review of whether the proposed initiative and its Titles contain a single subject.” *Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014 #90)*, 328 P.3d 155, 160 (Colo. 2014) (quotations and alterations omitted); see also *Hedges v. Schler (In re Title, Ballot Title & Submission Clause for 2019-2020 #3)*, 442 P.3d 867, 870 (Colo. 2019).

Moreover, petitioner’s substantive argument is without merit. It completely discounts all the variables that contribute to the overall NOx measurements and pins all of air quality on a single industry. Arguing that the state will need to require more of the oil and gas industry is a matter that is left to a campaign. It is mere hyperbole and certainly not a basis to deny single subject.

Nor is there any issue “coiled up in the folds” that would mislead voters. The initiative does not seek to gain support from various factions by combining unrelated subjects in a single proposal. The proposal will pass or fail on its own merits and does not run the risk of garnering support from factions with different or conflicting goals.

Initiative #290 does not create voter surprise by effects that are hidden in the body of an initiative or are misleading or overly complex. To the contrary, the initiative is notably brief and straightforward. A review of the plain language does

not reveal any embedded provisions that would lead to voter surprise or fraud. *In re Title v. Respondents: Dennis Polhill & Douglas Campbell, Proponents, & Title*, 46 P.3d 438, 442 (Colo. 2002).

The concern for voter surprise only exists where an initiative, although claiming to have a single subject, in reality has multiple purposes, and as a result, voters would not expect that passing the initiative would lead to one or more of the initiative's outcomes. See *Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #3)*, 274 P.3d 562, 567 (Colo. 2012).

II. The Title Clearly Captures the Central Features of the Initiative

Petitioner asks this Court to insert her personal opinions into the title, “the title the title fails to convey to voters the change in the status quo on the state’s ability to comply with the Clean Air Act, and how the initiative decreases the state’s ability to reduce NOx emissions to bring the Denver metro area into attainment.” (Petitioner Opening Brief, p. 14). The title cannot include speculation on the potential effects of the initiative if enacted. *Amendment Concerning the Fair Treatment of Injured Workers Amendment*, 873 P.2d 718, 720–21 (Colo. 1994).

Even if this was true, titles are not required to explain every possible effect of enacting the initiative. *Paredes v. Corry (In re Title, Ballot Title, & Submission Clause 2007-2008 # 61)*, 184 P.3d 747, 752 (Colo. 2008). Titles need not contain

every feature of the proposed measure. *In re Title, Ballot Title, Submission Clause, & Summary with Regard to a Proposed Petition for an Amendment to the Constitution of the State of Colo. Adding Section 2 to Article VII*, 907 P.2d 586, 592 (Colo. 1995).

CONCLUSION

For all of the foregoing reasons, the Court should affirm the decision of the Title Board regarding Proposed Initiative 2023-2024 #290.

Respectfully submitted this 15th day of May, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2024, a true and correct copy of the **RESPONDENTS SUZANNE TAHERI AND STEVEN WARD'S ANSWER BRIEF** was served via the Colorado Court's E-Filing System to the following:

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