

COLORADO SUPREME COURT

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Denver, CO 80203

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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
2024-2025 #240 (“Congressional Redistricting”)

▲ COURT USE ONLY ▲

Petitioner:

Wayne Williams

v.

Respondents:

Tanya Nathan and Lindsey Rasmussen,
Designated Representatives

and

Colorado Ballot Title Setting Board:
Michael Dohr, Theresa Conley, and Kurt
Morrison

Attorney for Petitioner:

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Case Number: 26SA126

PETITIONER’S OPENING BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all the 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).

Choose one:

It contains xxxx words.

It does not exceed 30 pages.

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

It contains under a separate heading a concise statement of the applicable standard of appellate review with citation to authority.

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

/s/ Wayne Williams
Wayne Williams
Attorney for the Petitioner

TABLE OF CONTENTS

CERTIFICATE OF COMPLIANCE..... ii

TABLE OF CONTENTS..... iii

TABLE OF AUTHORITIES iv

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW1

STATEMENT OF THE CASE AND PRESERVATION OF ISSUES.....1

 A. Procedural History of Proposed Initiative 2025-2026 #2401

SUMMARY OF THE ARGUMENT2

 A. Initiative #240 does not contain a single subject.2

ARGUMENT2

 A. Initiative #240 does not contain a single subject.2

 1. Standard of Review2

 2. Argument.....5

 B. The title for Initiative #240 does not adequately describe the measure.
 8

 1. Standard of Review8

 2. Argument.....10

CONCLUSION.....14

TABLE OF AUTHORITIES

Cases

<i>Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014 #90)</i> , 328 P.3d 155 (Colo. 2014)	8, 9, 10, 11
<i>Garcia v. Montero (In re Ballot Titles 2001-2002 #21 & #22)</i> , 44 P.3d 213 (Colo. 2002).....	10
<i>Hayes v. Spalding (In re Title, Ballot Title & Submission Clause for 2015-2016 #73)</i> , 369 P.3d 565 (Colo. 2016)	4, 9, 10
<i>Haynes v. Vondruska (In re Title, Ballot Title & Submission Clause for 2019–2020 #315)</i> , 500 P.3d 363 (Colo. 2020).....	4
<i>Howes v. Brown</i> , 235 P.3d 1071 (Colo. 2010)	4
<i>In re Proposed Initiative "Public Rights in Waters II"</i> , 898 P.2d 1076 (Colo. 1995)	3, 4
<i>In re Proposed Initiative for 1999-2000 No. 29</i> , 972 P.2d 257 (Colo. 1999)	8
<i>In re Proposed Initiative for an Amendment to the Constitution of the State of Colorado Adding Section 2 to Article VII (Petitions)</i> , 907 P.2d 586 (Colo. 1995)	3
<i>In re Proposed Initiative on Sch. Pilot Program</i> , 874 P.2d 1066 (Colo. 1994)	4
<i>In re Title, Ballot Title & Submission Clause for 2005-2006 #74</i> , 136 P.3d 237 (Colo. 2006).....	4
<i>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.)</i> , 900 P.2d 104 (Colo. 1995)	5
<i>Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #3)</i> , 274 P.3d 562 (Colo. 2012).....	3, 6

Statutes

§ 1-40-106(3)(b), C.R.S. (2025)8, 9

§ 1-40-106.5(1)(e)(II), C.R.S. (2025)4

Constitutional Provisions

Colo. Const. Art. V, § 1 (5.5).....3, 8

Wayne Williams (“Petitioner”) respectfully submits this Opening Brief regarding Proposed Initiative 2025-2026 #240 (“Congressional Redistricting”).

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

1. Whether the Proposed Initiative constitutes a single subject.
2. Whether the Title Board set a clear title that reflects the central purpose of each of the initiative.

STATEMENT OF THE CASE AND PRESERVATION OF ISSUES

A. Procedural History of Proposed Initiative 2025-2026 #240

Proposed Initiative 2025-2026 #240 was filed by its Proponents with the Title Board, and an initial hearing was on March 18, 2026, where the Board determined that the measure constitutes a single subject and set the following ballot title:

“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.”

Two opponents filed separate Motions for Rehearing. Petitioner Williams filed his timely Motion for Rehearing with the Title Board on March 25, 2026. A

rehearing was held on April 1, 2026. The Board denied all Motions for Rehearing in their entirety.

SUMMARY OF THE ARGUMENT

A. Initiative #240 does not contain a single subject.

The measure does not constitute a single subject. The measure contains multiple subjects that are not necessary or connected to the measure's single subject of gerrymandering congressional districts including: 1) Disenfranchising voters of their representation on the State Board of Education and University of Colorado regents; 2) Adoption of 8 hyper partisan maps; and 3) Granting authority for the independent redistricting commission to continue to engage in congressional redistricting in 2031 and every 10 years thereafter.

The title fails to apprise voters of its stated purpose to gerrymander Colorado congressional district lines and so lacking in detail voters could confuse it for a clean up measure. The title fails to apprise voters that the new lines will also be redrawn for the State Board of Education and the University of Colorado Board of Regents.

ARGUMENT

A. Initiative #240 does not contain a single subject.

1. Standard of Review

The Colorado Constitution requires that any initiative must comprise a single subject. Colo. Const. Art. V, § 1 (5.5). Where a measure contains multiple subjects, the Board lacks jurisdiction to set a title.

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 competing interests in a single measure “is precisely the logrolling dilemma that the voters intended to avoid when they adopted the [single-subject] requirements.” *Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #3)*, 274 P.3d 562, 571 (Colo. 2012).

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).

The requirement “prevent[s] surprise and fraud from being practiced upon voters.”§ 1-40-106.5(1)(e)(II), C.R.S. (2025). An initiative contains a single subject when its provisions are “necessarily and properly connected rather than disconnected or incongruous.” *Haynes v. Vondruska (In re Title, Ballot Title & Submission Clause for 2019–2020 #315)*, 500 P.3d 363 (Colo. 2020) (quoting *Hayes v. Spalding (In re Title, Ballot Title & Submission Clause for 2015-2016 #73)*, 369 P.3d 565, 568 (Colo. 2016),); accord *Howes v. Brown*, 235 P.3d 1071, 1077 (Colo. 2010) (“[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.”).

Single-subject 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)).

2. Argument

First, Initiative #240 changes the boundaries lines for the congressional districts. It also changes the review process under current law for the adoption of congressional district maps. This is neither connected to nor necessary to the measure. Because it transfers initial review to a district court in a single district, it increases the costs of review and delays the timeframe of review. This delay can impede the necessary changes in SCORE (the statewide voter database) and in election procedures.

Second, Initiative 240 grants authority for the independent redistricting commission to continue to engage in congressional redistricting in 2031 and every 10 years thereafter. The adoption of temporary, partisan maps followed by a requirement that the maps in 2030 will resume under an independent redistricting commission is incongruous. They are in fact inapposite. It is unlikely that voters supporting a hyper partisan map would also support a map drawn by an independent commission using criteria that require competitiveness and keeps communities of interest together.

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.” *Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #3)*, 274 P.3d 562, 571 (Colo. 2012)

Third, the initiative disenfranchises 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. Because members of State Board of Education and the University of Colorado Board of Regents serve six year terms, constitutionally mandated redistricting following each decennial census necessarily disenfranchises a portion of the state by delaying by two or four years the opportunity to vote on the district board of education members and regents, a point acknowledged by the Title Board and counsel for the proponents at the Title Board hearing. (April 1, 2026 Hearing Recording, 3:27:51 (board) and 3:54:41 (counsel for proponents)).

Initiative 240’s secretive disenfranchisement is even worse. Because it occurs mid-cycle, 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 (under the maps now in effect) 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>.

Current District 8 which includes western Adams County was created following the 2020 census and elected its present district regent and board of education member in 2022. These offices are next slated to be voted on in 2028. Initiative 240 moves a large portion of western Adams County from District 8 into District 7. Because District 7 elects both district offices this year for a six year term expiring following the 2032 election, *id.*, the people of western Adams County will not be able to vote for their district board of education member or their regent in either 2028 or 2030. In point of absolute fact, these voters will have no chance to vote for these two offices for at least a decade, and, because 2032 will be

decided under new district maps, it could be as long as 2036 before they would be able to vote.¹ (And this presumes there is not another midcycle redistricting.)

Whole scale disenfranchisement of Colorado voters for these important offices is a separate subject and need to be addressed prior to any changes in district maps.

B. The title for Initiative #240 does not adequately describe the measure.

1. Standard of Review

“No measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title.” Colo. Const. Art. V, § 1 (5.5). “The title for the proposed law or constitutional amendment . . . shall correctly and fairly express the true intent and meaning thereof.” § 1-40-106(3)(b), C.R.S. (2025). The purpose of this title is “to capture, in short form, the proposal in plain, understandable, accurate language enabling informed voter choice.” *In re Proposed Initiative for 1999-2000 No. 29*, 972 P.2d 257, 266 (Colo. 1999).

¹ In addition to western Adams County, voters in all or part of at least nine other counties (Moffat, Rio Blanco, Garfield, Mesa, Eagle, Summit, Clear Creek, Gilpin, and Jefferson) are similarly disenfranchised with respect to either their district regent or district board of education member for the entire duration of the new districts. Numerous other Colorado voters have their opportunity to vote delayed by two or four years.

The title and submission clause should allow voters, whether or not they are familiar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal. *Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014 #90)*, 328 P.3d 155, 162 (Colo. 2014). Thus, "[i]n setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a 'yes/for' or 'no/against' vote will be unclear." § 1-40-106(3)(b), C.R.S. (2025). In addition, the title must "correctly and fairly express the true intent and meaning" of the initiative. *Id.*

In determining whether a title is clear, the Court does not consider whether the Title Board set the best possible title. *Hayes v. Spalding (In re Title, Ballot Title & Submission Clause for 2015-2016 #73)*, 369 P.3d 565, 569 (Colo. 2016). But 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 employed by the Title Board. *Id.*

The Title Board is afforded discretion in resolving problems of length, complexity, and clarity in designating a title and ballot title and submission clause. *Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014*

#90), 328 P.3d 155, 162 (Colo. 2014). The Board's duty is to summarize the central features of a proposed initiative. *Id.*

A title so general that it does not allow a voter to understand the effect of a "yes/for" or "no/against" vote does not satisfy the clear title requirement. See § 1-40-106(3)(b), C.R.S. (2025). *Hayes v. Spalding (In re Title, Ballot Title & Submission Clause for 2015-2016 #73)*, 369 P.3d 565, 568-71 (Colo. 2016). For example, the Supreme Court has ruled that generally stating in a title that an initiative specifies recall and successor election procedures without in any way describing those procedures does not provide sufficient information to allow voters to determine intelligently whether to support or oppose the proposal. See *Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014 #90)*, 328 P.3d 155, 162 (Colo. 2014).

2. Argument

The title does not adequately describe the measure. While the title is not inconsistent with the initiative, it is so general that it does not contain sufficient information to enable voters to determine intelligently whether to support or oppose the initiative. See also *Garcia v. Montero (In re Ballot Titles 2001-2002 #21 & #22)*, 44 P.3d 213, 222 (Colo. 2002) ("The titles, standing alone, should be

capable of being read and understood, and capable of informing the voter of the major import of the proposal, but need not include every detail.)

First, this title standing alone sounds like a simple clean-up measure. Its description is far afield from advising voters of the major import of the proposal, the adoption of drastically different boundaries for partisan purposes, absent any public input that would never survive under the current criteria. Yet, voters won't know any of this. Just as a ballot question that merely advised voters of recall and successor election procedures without description was inadequate, so too is advising voters of new maps without any description. *See Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014 #90)*, 328 P.3d 155, 162 (Colo. 2014).

In setting title, the Board failed to recognize, unlike the proponents of Initiative #240 admitted, that the purpose of Initiative #240 is to draw maps for congressional districts that favor a single political party. The text of the initiative itself proves this goal. Section 1 of the initiative declares: "President Trump and Republicans are attempting to gain enough seats through redistricting to rig the outcome of future congressional elections regardless of how the people vote." Also, "It is the intent of the people that Colorado's temporary map be designed to

neutralize the partisan gerrymandering being undertaken by Republican-led states without eroding fair representation for all communities.”

Second, there are a number of proposed ballot measures proposing changes to districts, and this title does nothing to distinguish it from other measures.

Third, Initiative #240 not only prescribes new boundaries for each of Colorado’s eight congressional district elections, the changing the boundaries of a congressional district affects other offices in addition to Colorado’s congressional seats. The State Board of Education and the University of Colorado Board of Regents are elected based upon the same boundaries used for Colorado’s congressional seats, and as set forth above, the effect of these midcycle changes is to disenfranchise many voters for at least a decade and potentially for as long as 14 years.

The title adopted by the Title Board states that the amendment is:

[C]oncerning **congressional** redistricting . . . adopting a new temporary **congressional** map . . . to be used in **congressional** elections that replaces the current **congressional** district map drawn by the independent **congressional** redistricting commission and requiring . . . [new] **congressional** district maps in 2031. . .

Title for Initiative 240 (emphasis added). The word “congressional” appears six times. But nothing in the title informs voters that it affects members of the

Board of Regents and the State Board of Education which is a major import of the proposal.

Fourth, as set forth above, the change to the boundary lines for the State Board of Education and for the Board of Regents is particularly important because the change will mean that thousands of voters would be disenfranchised and never be allowed to vote for the board of education member and/or regent that represents them. Unlike members of the United States House of Representatives, Members of the State Board of Education and University of Colorado regents serve six-year terms. With changes to the boundary lines taking effect following the November 2026 election and the next redistricting process taking place in 2031, voters moved into new districts would be represented for numerous years by a regent they did not elect.

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 voters in the ballot title of this egregious disenfranchisement is both surreptitious and reprehensible.

CONCLUSION

Initiative #240 was purposefully crafted to redraw Colorado's congressional district lines in a manner that benefits one political party.

The initiative contains multiple subjects because it short-circuits the current redistricting process, prescribes court procedure, and secretly disenfranchises voters for members of the State Board of Education and the University of Colorado Board of Regents.

The ballot title must disclose how the changes to the congressional district lines will affect voters. The ballot title failed to notify voters of any necessary details of the maps and does not disclose how the new boundary lines will favor the interests of one political party despite the initiative's text which plainly indicates that very intent, as well as explaining that the proposed changes affect three different offices and cause unnecessary disenfranchisement of Colorado voters – in many cases for a decade and potentially longer.

Respectfully submitted April 22, 2026.

s/ Wayne Williams
Wayne Williams #22723

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April 2026, a true and correct copy of the **PETITIONER'S OPENING BRIEF** was served via the Colorado Court's E-Filing System to the following:

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