

SUPREME COURT, STATE OF COLORADO
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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 2025-
2026 #241

Petitioner: ROBERT BALINK

v.

Respondents: TANYA NATHAN AND
LINDSEY RASMUSSEN

and

Title Board: THERESA CONLEY; KURT
MORRISON; and MICHAEL DOHR

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Case No.: 2026SA122

**ANSWER BRIEF OF RESPONDENTS TANYA NATHAN AND
LINDSEY RASMUSSEN IN SUPPORT OF
PROPOSED INITIATIVE 2025-2026 #241**

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all 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 the applicable word limits set forth in C.A.R. 28(g) because it contains 1,927 words.

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A), because it contains under a separate heading before the discussion of the issue, as applicable, 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 and C.A.R. 32.

By: /s/ Martha M. Tierney

TABLE OF CONTENTS

	Page(s)
SUMMARY OF ARGUMENT	1
ARGUMENT	2
I. The Title Board Correctly Concluded the Initiative Has a Single Subject	2
A. This Court Should Evaluate Initiative #241 on Its Own Merits ..	3
B. The Effective Date Clause Is Not Logrolling and Does Not Violate the Single Subject Requirement	4
C. The Effective Date Clause Does Not Amend the Constitution Initiative #241 Has a Single Subject	6
II. The Title Board Set a Clear Title	7
A. The Title Need Not Explain the Judicial Review Process	8
B. The Title Board Used Its Discretion to Describe the Commission.	8
CONCLUSION	9

TABLE OF AUTHORITIES

Page(s)

CASES

<i>In re Title, Ballot Title & Submission Clause for 2011-2012 #3,</i> 2012 CO 25	3
<i>In re Title, Ballot Title & Submission Clause for 2015-2016 #132</i> 2016 CO 55	4
<i>In re Title, Ballot Title & Submission Clause for 2017-2018 #4,</i> 2017 CO 57	4, 5
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #90</i> 2014 CO 63	6, 8
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #76,</i> 2014 CO 52	7
<i>In re Title, Ballot Title & Submission Clause for 2009-2010 #45,</i> 234 P.3d 642, 646 (Colo. 2010).....	7
<i>In re Title, Ballot Title & Submission Clause for 2013-2014 #89,</i> 2014 CO 66.....	7
<i>In re Title, Ballot Title & Submission Clause for 2015-2016 #73,</i> 2016 CO 24.....	8
<i>People v. Carter,</i> 527 P.2d 875 (Colo. 1974).....	8
<i>In re Title, Ballot Title & Submission Clause for 2007-2008 #62,</i> 184 P.3d 52 (Colo. 2008).....	8
<i>In re Title, Ballot Title & Submission Clause for 1999-2000 #256,</i> 12 P.3d 246 (Colo. 2000).....	9

STATUTES

§ 1-40-106(3)(b), C.R.S.8

CONSTITUTIONS

Colo. Const. Art. V, §1(4)(a)6

Colo. Const. Art. V, §1(4)(b).....6

OTHER AUTHORITIES

C.A.R. 35 (a).....4

Respondents Lindsey Rasmussen and Tanya Nathan, designated representatives of the proponents of Proposed Initiative 2025-2026 #241 (the “Proposed Initiative”), through undersigned counsel, respectfully submit their Answer Brief as follows:

SUMMARY OF THE ARGUMENT

The Title Board properly exercised its broad discretion in setting title on the Proposed Initiative. The Proposed Initiative contains a single subject: repealing the congressional redistricting provisions from the constitution in order that there be a single independent congressional redistricting commission, provided here in Colorado statute. This change allows for mid-decade redistricting by removing the Colorado constitutional requirement that congressional redistricting may only occur once per decade after the decennial census.

Petitioner now raises two single subject objections: that in addition to the single subject the Proposed Initiative amends the constitutional standards that govern how the ballot measure must be approved, and that its effective date constitutes logrolling by trying to garner support for different or even conflicting interests. Concerns about the effects that Initiative #241 could have on other laws, however, are not appropriate for review at this stage, and the Proposed Initiative

does not combine subjects with no necessary or proper connection for the purpose of garnering support for the initiative from various factions.

Petitioner objects to the title on the basis that it does not inform voters of the judicial review process for approving district maps, and that the title states that the statutory commission is identical to the former constitutionally-authorized commission. These concerns do not override the discretion of the Title Board to draft a brief title that captures the major features of the measure.

There is no basis to set aside the Title, and the decision of the Title Board should be affirmed.

ARGUMENT

I. The Title Board Correctly Concluded the Initiative Has a Single Subject.

The Title Board properly found that the proposed initiative contained a single subject - moving the independent congressional redistricting commission from the constitution to statute. Petitioner Balink contends that Initiative #241 contains multiple subjects: (a) moving the independent congressional redistricting commission from the constitution to statute, and (b) making the measure's effective date contingent on the passage of Initiative #242 (creating a new congressional district map). Petitioner Balink claims this violates Colo. Const. art.

V, §1(4), and is a form of “logrolling” in violation of the single subject requirement. These arguments fail.

The single subject rule is intended to prevent the combination of unrelated subjects that could force voters to accept provisions they might otherwise reject. Logrolling is the "combining [of] subjects with no necessary or proper connection for the purpose of garnering support for the initiative from various factions — that may have different or even conflicting interests — [in order to] lead to the enactment of measures that would fail on their own merits." *In re Title, Ballot Title & Submission Clause for 2011-2012 #3*, 2012 CO 25, ¶ 11.

A. This Court Should Evaluate Initiative #241 on Its Own Merits.

At the outset, Petitioner Balink argues that this Court must write an opinion because the Title Board determined that it had jurisdiction and set title on a two-one vote, and because there was another similar measure before the Title Board at a later Title Board hearing upon which it reached a different single subject decision. This Court should not be persuaded by these arguments. First, a two-one vote at the Title Board is very common and is not grounds to write an opinion. Second, given that this issue comes before the Court at the very end of the Title Board cycle, Proponents request that even if this Court determines that a written opinion is appropriate on an affirmance, it should announce its decision and then a

written opinion can follow. C.A.R. 35 (a) (“The appellate court may dismiss an appeal or affirm a lower court judgment without opinion, but it must issue a written opinion when vacating, modifying, reversing, setting aside, or remanding any portion of the lower court judgment”).

Third, whatever the Title Board’s decision on other measures, this Court should evaluate each measure on its own merits. The single subject requirement “is intended to ensure that each proposal depends upon its own merits for passage,” and to “prevent surprise and fraud from being practiced upon the voters.” *In re Title, Ballot Title & Submission Clause for 2015-2016 #132*, 2016 CO 55, ¶¶ 13, 14 (quotations and citations omitted). The Proposed Initiative triggers neither concern here.

B. The Effective Date Clause Is Not Logrolling and Does Not Violate the Single Subject Requirement.

The effective date clause in #241 is directly related to the central purpose of the initiative: moving the independent congressional redistricting commission from the constitution to statute to allow for mid-decade redistricting. The logrolling concern is not implicated here, as both the commission restructuring and the effective date provisions point in the same direction. *In re Title, Ballot Title & Submission Clause for 2017-2018 #4*, 2017 CO 57, 14. Voters who favor mid-decade redistricting will be inclined to vote to move the redistricting process to

statute to allow for it, and to adopt a new map for the 2028 and 2030 election cycles. And voters will still be able to choose whether to support or oppose the Proposed Initiative based on its merits alone. The effective date clause does not influence whether the Proposed Initiative passes or fails but rather specifies how and when the measure will become effective. Petitioner suggests that the effective date clause is designed to draw support for another ballot measure, Proposed Initiative 2025-2026 #242, but the contrary is true: the Proponents' goal is to engage in mid-cycle redistricting and if that goal cannot be achieved, then there is no reason to move the Commission into statute. The Declaration of the People of the State of Colorado in section 2-1-100.5 of the Proposed Initiative makes this clear. The effective date clause works to keep the Commission in the constitution if Initiative #242 fails to pass.

Finally, the Proposed Initiative and Initiative #242 are two separate initiatives. Petitioner Balink's logrolling argument assumes that the single subject requirement applies across two separate measures, but this Court has never held that the single subject requirement applies across multiple measures. An initiative violates the single-subject requirement if it "relates to more than one subject and has at least two distinct and separate purposes." *In re 2017-2018 #4*, 2017 CO 57, ¶ 7. The Proposed Initiative passes the single subject test.

C. The Effective Date Clause Does Not Amend the Constitution.

Petitioner Balink contends that the “and not otherwise” language in Colo. Const. art. V, §1(4)(a) means that every initiative that gets a majority vote must necessarily be adopted. That language is more appropriately read to mean that a measure only passes if it is “approved by a majority of the votes cast thereon.” *Id.* An initiative does not become law if a majority of voters do not vote for it. But the alternative is not necessarily true. An initiative may not become law even if a majority of voters vote for it, if, for example, it modifies the constitution and requires fifty-five percent of the votes cast. *See* Colo. Const. art. V §1(4)(b). Or if, as here, it contains an effective date setting forth how and when the measure goes into effect. Petitioner Balink’s suggestion that the Proposed Initiative amends the Colorado Constitution is unsupported by the language of the measure, which contains no language amending the constitution. Further, it is not a relevant consideration for this Court, because “the effects this measure could have on Colorado law if adopted by voters are irrelevant to [the Court’s] review of whether the proposed initiative and its Titles contain a single subject.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 17(internal citations omitted).

The single subject requirement is satisfied when the subject matter is “necessarily and properly connected rather than disconnected or incongruous.” *In re Title, Ballot Title, & Submission Clause for 2013-2014* #76, 2014 CO 52, ¶ 8. The Proposed Initiative’s central purpose is to relocate the Commission from the constitution to statute, and the effective date language is an implementing provision directly tied to this central focus. “Implementing provisions that are directly tied to the initiative's central focus are not separate subjects.” *In re Title, Ballot Title and Submission Clause for 2009-2010* # 45, 234 P.3d 642, 646 (Colo. 2010).

When “employing all legitimate presumptions in favor of the propriety of the Title Board’s action,” this Court should affirm the Title Board’s decision that the Proposed initiative contains a single subject. *In re Title, Ballot Title, & Submission Clause for 2013-2014* #89, 2014 CO 66, ¶ 8.

II. The Title Board Set a Clear Title.

Petitioner Balink raises two clear title arguments arguing that the title is misleading or incomplete: (a) the title fails to identify the judicial review process in the Proposed Initiative; and (b) the title misleads by stating that the statutory Commission is identical to the constitutional Commission. “The Title Board’s duty in setting a title is to summarize the central features of a proposed initiative.”

In re 2013-2014 #90, 2014 CO 63, ¶ 24. The Title Board is “afforded discretion in resolving interrelated problems of length, complexity, and clarity in designating a title and ballot title and submission clause.” *In re Title, Ballot Title, & Submission Clause for 2015-2016 #73*, 2016 CO 24, ¶ 23.

A. The Title Need Not Explain the Judicial Review Process.

A clear title does not need to contain every feature contained in the measure. The judicial review process is a minor detail in the broader scope of the Proposed Initiative. Proponents had to alter the judicial review component of the maps to remove the original jurisdiction in this Court and start the process in the district court because a statute cannot expand the original jurisdiction of this Court. *See People v. Carter*, 527 P.2d 875, 877 (Colo. 1974). The Proposed Initiative includes an appellate process to achieve higher court review. “While titles must be fair, clear, accurate and complete, the Title Board is not required to set out every detail of an initiative.” *In re Title, Ballot Title, & Submission Clause for 2007-2008 #62*, 184 P.3d 52, 60 (Colo. 2008).

B. The Title Board Used Its Discretion to Describe the Commission.

The Title Board appropriately referred to the new statutory Commission as identical to the constitutional Commission. Aside from the judicial review component, and some very minor formatting and statutory citing differences, the

statutory Commission is identical to the constitutional Commission. The Title Board determined that noting these differences in the title would not lead to further voter understanding, and instead, alerting voters that the commissions were identical gave voters useful information to determine whether to vote yes or no on the measure.

The Title Board exercised its discretion to craft a title that seeks to avoid “public confusion,” is “brief” and “unambiguously states the principle of the provision sought to be added, amended, or repealed.” §1-40-106(3)(b), C.R.S. This Court should defer to the Title Board’s discretion. *In re Title, Ballot Title, & Submission Clause for 1999-2000 #256*, 12 P.3d 246, 255 (Colo. 2000) (“In reviewing the actions of the Board, we grant great deference to the board’s broad discretion in the exercise of its drafting authority.”) The title for Initiative #241 satisfies this test because the claimed deficiency in this title is a detail rather than a central feature of this initiative.

CONCLUSION

The Proponents respectfully request the Court to uphold the actions of the Title Board regarding Proposed Initiative 2025-2026 #241.

Respectfully submitted this 6th day of May, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **ANSWER BRIEF OF RESPONDENTS TANYA NATHAN AND LINDSEY RASMUSSEN IN SUPPORT OF PROPOSED INITIATIVE 2025-2026 #241** was electronically served via e-mail or via the Colorado Courts E-Filing System on the 6TH day of May, 2026 to the following:

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