

SUPREME COURT
STATE OF COLORADO

2 East 14th Avenue
Denver, CO 80203

Original Proceeding Pursuant to
§ 1-40-107(2), C.R.S. (2024)
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative
2025-2026 # 313

Petitioners: Lynn Granger and Carly West

v.

Respondents: Sidra Aghababian and
Jessica Arhontoulis,

And

Title Board: Theresa Conley, Christy
Chase, and Kurt Morrison.

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Case No. 2026SA155

THE TITLE BOARD'S OPENING 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, I certify that:

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

It contains 1,956 words.

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In response to each issue raised, the appellee must provide under a separate heading before the discussion of the issue, a statement indicating whether appellee agrees with appellant's statements concerning the standard of review and preservation for appeal and, if not, why not.

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/s/ Emily Buckley

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

1) Whether the Title Board lacked jurisdiction to set a title for Initiative #313 because the measure impermissibly contains multiple subjects that are not necessarily or properly connected.

2) Whether the Title Board erred by adopting a title for Initiative #313 that misleads voters and fails to accurately describe the measure.

STATEMENT OF THE CASE AND FACTS

Initiative #313 proposes imposing strict liability on oil and gas operators, owners or producers for any damages, including personal injury, property damage, or environmental harm, resulting from their oil and gas operations without regard to fault, negligence, or intent. *See* Record, pp 8-9. The Title Board set title, and Petitioners, two Colorado electors, seek review of the Title Board's decision on several grounds.

I. Title language requirements.

The Colorado constitution requires all initiatives to contain "one 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 ("[E]very constitutional

amendment or law proposed by initiative” must be “limited to a single subject, which shall be clearly expressed in its title.”).

Because of these dual requirements, this Court’s review is “limited to two narrow inquiries.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #89*, 2014 CO 66, ¶ 9. First, the Court analyzes the plain language of the initiative to determine whether it comports with the requirement that the proposal only contain a single subject. *Id.* (citation omitted). Second, the Court analyzes the title set by the board to determine if it is clear. *Id.* (citation omitted).

II. Initiative #313

Initiative #313 would impose strict liability on oil and gas operators, owners, and producers for any damages resulting from their oil and gas operations. Record p 9. New subsection 34-60-1114.1, C.R.S. would be titled “Colorado oil and gas operations public health and safety act” and would provide that:

Notwithstanding any provision of law to the contrary, strict liability applies to any operator, owner, or producer for any damages, including personal injury, property damage, and environmental harm, resulting from their oil and gas operations.

Record p 9. The proposed initiative “applies to conduct occurring on or after the effective date of this measure.” *Id.*

At a hearing on April 15, 2026, the Title Board set the title:

A change to the Colorado Revised Statutes holding any oil and gas operator, owner, or producer strictly liable for any damages, including personal injury, property damage, or environmental harm, resulting from their oil and gas operations without regard to fault, negligence, or intent.

Record at 7.

On a motion for rehearing, Petitioners raised two issues: (1) that the Title Board lacked jurisdiction to set title because the measure was so vague, confusing, and unclear that it could not be understood, and (2) that the title as set was unclear because it did not accurately describe the measure and would mislead voters. Record at 2–8.

At a hearing on April 23, 2026, the Title Board denied the motion for rehearing in full. Record at 8.

Petitioners raise the same two arguments here that were raised on the Motion for Rehearing. *See* Pet. for Review at 4–5

SUMMARY OF THE ARGUMENT

Initiative #313 self-evidently contains a single subject related to imposing strict liability on oil and gas operators, owners, and producers for any damages resulting from their oil and gas operations. The title set by the Title Board follows the language of the initiative closely, and thus is a fair, accurate, and clear representation of the initiative. This Court should affirm the Title Board.

ARGUMENT

I. Proposed Initiative #313 contains a single subject.

A. Standard of review and preservation.

In the Court’s “limited review” of the Title Board’s actions, it examines a measure’s “wording” to “determine whether it and its title comport with the constitutional single subject and clear title requirements.” *In re Title, Ballot Title & Submission Clause for 2019-2020 #3*, 2019 CO 107, ¶ 14. The Court overturns the Title Board’s finding that an initiative contains a single subject “[o]nly in a clear case.” *In re Title, Ballot Title, & Submission Clause for Proposed*

Initiative 2025-2026 #158, 2026 CO 13, ¶ 13 (citing *In re Title, Ballot Title & Submission Clause for 2015-2016 #132*, 2016 CO 55, ¶ 10)).

An initiative satisfies the single subject requirement when it tends to effect or carry out one general objective or purpose. *In re Title, Ballot Title & Submission Clause for Proposed Initiative 2025-2026 # 158*, 2026 CO 13, ¶ 18 (citing *In re Title, Ballot Title & Submission Clause for 2015–2016 #132*, 2016 CO 55, ¶ 15). Even an “initiative proposing a comprehensive framework” contains a single subject if all of its provisions “relate directly to its single subject.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #89*, 2014 CO 66, ¶ 15 (quoting *In re Title, Ballot Title, & Submission Clause for 2009–2010 No. 91*, 235 P.3d 1071, 1076 (Colo. 2010)).

Conversely, an initiative violates the single subject requirement when it “relates to more than one subject and has at least two distinct and separate purposes.” *In re 2025-2026 # 158*, ¶ 19 (quoting *In re 2015–2016 #132*, ¶ 16). It does not matter if the initiative’s purposes relate to the same general concept or subject, or if its provisions can be grouped under an overarching theme; an initiative that is susceptible to

log rolling or that risks misleading voters will not satisfy the single subject requirement. *Id.* (citing *In re 2015–2016 #132*, ¶ 16).

The single subject requirement serves two functions. First, it “ensures that each proposal depends upon its own merits for passage” by preventing “log rolling” tactics: combining multiple subjects in hopes of attracting support from various faction with different or conflicting interests. *Id.* at ¶ 16 (cleaned up) (quoting *In re 2015–2016 #132*, ¶ 13); *see also* § 1-40-106.5(1)(e)(I) (explaining that the single subject requirement “forbid[s] the treatment of incongruous subjects in the same measure . . . for the purpose of enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits”).

Second, the single subject requirement “prevent[s] surprise and fraud from being practiced upon voters.” § 1-40-106.5(1)(e)(II). It seeks to stop the “inadvertent passage of a surreptitious provision ‘coiled up in the folds’ of a complex initiative.” *In re 2025-2026 #158*, ¶ 17 (quoting *In re 2015–2016 #132*, ¶ 14).

The Title Board agrees this issue is preserved. *See Record*, pp 2–3.

B. The measure’s single subject is imposing strict liability on any oil and gas operator, owner, or producer for any damages resulting from their oil and gas operations.

Initiative #313 would add a new subsection to Article 60 of Title 34, the “Colorado Oil and Gas Operations Public Health and Safety Act.” Initiative #313 proposes a new subsection which makes would “impos[e] strict liability on oil and gas operators, owners or producers for any damages, including personal injury, property damage, or environmental harm, resulting from their oil and gas operations without regard to fault, negligence, or intent.” *See* Record at 8.

On its face, Initiative #313 contains a single subject. The initiative’s use of “strict liability”—which accords with the common usage of that term—does not introduce a second subject. Initiative #313 defines strict liability as “liability without regard to fault, negligence, or intent.” Record p 9. This is consistent with the standard usage of “strict liability,” under which an actor may be held liable without regard to whether they exercised reasonable care or acted with a culpable state of mind. *See, e.g., Camacho v. Honda Motor Co., Ltd.*, 741 P.2d 1240, 1244 (Colo. 1987) (noting the Court’s adoption of the strict liability doctrine

set forth in Restatement (Second) of Torts § 402A (1965) for defective products, pursuant to which a seller is liable “even though he has exercised all possible care in the preparation and sale of the product”); Restatement (Third) of Torts: Phys. & Emot. Harm 4 Scope Note (2010) (“Strict liability is liability imposed without regard to the defendant’s negligence or intent to cause harm.”); LIABILITY, Black’s Law Dictionary (11th ed. 2019) (“[S]trict liability. (1844) Liability that does not depend on proof of negligence or intent to do harm but that is based instead on a duty to compensate the harms proximately caused by the activity or behavior subject to the liability rule. . . . Also termed liability without fault.”). This definition effectuates the initiative’s purpose, and thus #313 comprises a single subject. *See In re 2015-2016 #63*, 2016 CO 34, ¶ 8.

Proposed Initiative #313’s definition of strict liability is “necessarily and properly connected” to the initiative’s purpose. It takes a term central to the initiative’s goals and adopts its standard definition. The Board’s single-subject determination should be upheld.

II. The title is clear.

A. Standard of review and preservation.

In determining whether a title is clear, the Court “ensure[s] that the title fairly reflects 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.” *In re Title, Ballot Title & Submission Clause for 2019-2020 #3*, 2019 CO 107, ¶ 17. In other words, the title should “unambiguously state the principle” of the initiative. § 1-40-106(3)(b). At bottom, the Court will reverse the title set by the Board “only if a title is insufficient, unfair, or misleading.” *In re Title, Ballot Title & Submission Clause for 2015-2016 #156*, 2016 CO 56, ¶ 8; *In re Title, Ballot Title & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 8.

“The Title Board is vested with considerable discretion in setting the title[.]” *In re 2015-2016 #156*, ¶ 8 (citation omitted). That includes “discretion in resolving interrelated problems of length, complexity, and clarity in setting a title and ballot title and submission clause.” *In re 2013-2014 #90*, ¶ 24. Given this discretion, the Court “employ[s] all

legitimate presumptions in favor of the propriety of the Title Board’s actions.” *In re 2015-2016 #156*, ¶ 8 (citation omitted). And the Court does not “consider whether the Title Board set the best possible title.” *In re 2019-2020 #3*, ¶ 17. Finally, in conducting its “limited inquiry,” the Court employs the general rules of statutory construction and gives words and phrases their plain and ordinary meanings. *In re 2019-2020 #3*, ¶ 14.

The Title Board agrees this issue is preserved. *See* Record, pp 3–4.

B. The title is fair, accurate, and not misleading.

The title as set by the Title Board for Initiative #313 is clear and accurate. It “unambiguously state[s] the principle” of the initiative. § 1-40-106(3)(b). In fact, the title takes the key words and phrases from the initiative nearly identically, only reordering them in somewhat more natural language. *Compare* Record p 8 *with* p 9.

Further, the title is not misleading or confusing. A title is not misleading if “the title read as a whole fairly and accurately” describes the initiative. *In re Title, Ballot Title & Submission Clause for 2009-2010 #45*, 234 P.3d 642, 649 n.3 (Colo. 2010). By its plain language, the

title incorporates the important features of the initiative directly, and thus fairly and accurately.

On rehearing, Petitioners argued the title should be clarified in several regards, but proposed no specific suggested edits. See Record at 3–4. But these are minor disagreements that do not rise to the level of making the title “insufficient, unfair, or misleading.” *In re 2015-2016 #156*, ¶ 8.

This Court should conclude that the title is clear.

CONCLUSION

The Title Board asks this Court to affirm the title as set for Proposed Initiative 2025-2026 #313.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **THE TITLE BOARD'S OPENING BRIEF** upon all counsel of record by Colorado Courts E-filing (CCE), this 8th day of May, 2026.

/s/ Xan Serocki