

SUPREME COURT OF COLORADO 2 East 14th Ave. Denver, CO 80203		DATE FILED: March 27, 2024
Original Proceeding Pursuant to CRS § 1-40-107(2) Appeal from the Ballot Title Board		
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2023-2024 #197 (“Elections to Fill Vacancies in the General Assembly”)	RECEIVED IN THE SUPREME COURT MAR 27 2024 OF THE STATE OF COLORADO Cheryl L. Stevens, Clerk ▲ COURT USE ONLY ▲	
Petitioner: Linda Good f/k/a Linda Bissett, v. Respondents: Jason Bertolacci and Owen Alexander Clough, And Title Board: Theresa Conley, Christy Chase, Jennifer Sullivan		
Pro Se Petitioner: Linda Good 916 E Costilla Way Centennial, CO 80122 720-219-3053 LindaLaughs@ProtonMail.com	24SA93	
PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #197 (“ELECTIONS TO FILL VACANCIES IN THE GENERAL ASSEMBLY”)		

Linda Good f/k/a Linda Bissett (“Petitioner”), registered elector of the County of Arapahoe and the State of Colorado, pro se, respectfully petitions this Court pursuant to C.R.S. § 1-40-107(2), to review the actions of the Title Setting Board with respect to the title, ballot title, and submission clause set for Initiative 2023-2024 #197 (“Elections to Fill Vacancies in the General Assembly”).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative 2023-2024 #197.

Jason Bertolacci and Owen Alexander Clough (hereafter “Proponents”) proposed Initiative 2023-2024 #197 (the “Proposed Initiative”). Review and comment hearings were held before representatives of the Offices of Legislative Council and Legislative Legal Services. Thereafter, the Proponents submitted final versions of the Proposed Initiative to the Secretary of State for purposes of submission to the Title Board, of which the Secretary or her designee is a member.

A Title Board hearing was held on March 6, 2024, at which time titles were set for 2023-2024 #197. On March 13, 2024, Petitioner filed a Motion for Rehearing, alleging that Initiative #197 contained multiple subjects, contrary to Colo. Const. art. V, sec. 1(5.5). The Board lacks jurisdiction to set titles with multiple subjects, and that the Title Board set titles which are misleading and incomplete as they do not fairly communicate the true intent and meaning of the measure and will mislead voters.

The rehearing was held on Rehearing March 20, 2024, at which time the Title Board denied the Motion for rehearing in its entirety and set titles.

B. Jurisdiction

Petitioner is entitled to a review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board. See C.R.S. § 1-40-107(1). Additionally, Petitioner timely filed this Petition for Review within seven days from the date of the hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) the final version of the initiative filed by the Proponents; (2) the original ballot title set for this measure; (3) the ruling on the Motion for Rehearing as reflected by the title and ballot title and submission clause set by the Board; (4) the Motion for Rehearing filed by the Petitioner; and (5) Fiscal Summary. Petitioner believes that the Title Board did not have jurisdiction to set title due to multiple subjects. The matter is properly before this Court.

GROUND FOR APPEAL

The titles set by the Title Board violate the legal requirements imposed on the Board because it lacked jurisdiction to set titles for the Initiative. The following is an advisory list of issues to be addressed in Petitioner's brief:

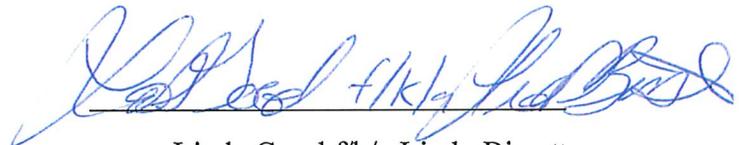
1. Whether Initiative #197 violates the single subject requirement by changing the current method of filling vacancies in the Colorado legislature from an appointment to an election and changing the conduct of the election to elect Colorado legislators.
2. Whether changing the conduct of the election from a plurality of votes, as is currently prescribed in the Colorado Constitution Article IV § 3 "The joint candidates having the highest number of votes cast for governor and lieutenant governor, and the person having the highest number of votes for any other office, shall be declared duly elected," which has been the mechanism of conducting elections in the United States of America for 248 years and in the state of Colorado for 148 years, to Ranked Voting Method where the duly elected is determined by the majority of votes after several rounds of voting is a subject unto itself in any initiative brought before the Title Board.

3. Whether setting titles for Initiative #197 violates C.R.S. 1-40-106.5 (II) “To prevent surreptitious measures and apprise the people of the subject of each measure by the title, that is, to prevent surprise and fraud from being practiced upon voters.” Without an explanation of the drastic changes ranked voting method would entail, the voters can foreseeably vote for the special vacancy election only to be surprised that they also voted for ranked voting method which they may not favor.

PRAYER FOR RELIEF

Petitioner respectfully requests that, after consideration of the parties’ briefs, this Court determine that the titles are legally flawed as containing multiple subjects and misleading and incomplete language, and direct the Title Board to deny setting titles until the issues presented in Petitioner’s brief are cured.

Respectfully submitted this 27th day of March, 2024.



Linda Good f/k/a Linda Bissett

916 E Costilla Way
Centennial, CO 80122
Phone: 720-219-3053
LindaLaughs@ProtonMail.com
PETITIONER

AFFIDAVIT OF SERVICE

I, Linda Good, hereby affirm that a true and accurate copy of the PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #197 ("ELECTIONS TO FILL VACANCIES IN THE GENERAL ASSEMBLY") was personally delivered this day, March 27, 2024, to the following:

Counsel for the Title Board

MATTHEW SERBAN at:
Michael Kotlarczyk
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203
c/o
1525 Sherman
Denver, CO

I now affix my signature to this affirmation on this 27th day of March, 2024.


Signature
Linda Good f/k/a Linda Bissett

AFFIDAVIT OF SERVICE

I, Linda Good, hereby affirm that a true and accurate copy of the PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #197 ("ELECTIONS TO FILL VACANCIES IN THE GENERAL ASSEMBLY") was personally delivered this day, March 27, 2024, to the following:

Counsel for Proponents Owen Alexander Clough and Jason Bertolacci

Genie L. Passow at:
c/o Brownstein Hyatt Farber Schreck, LLP
675 15th Street, Suite 2900
Denver, CO 80202

I now affix my signature to this affirmation on this 27th day of March, 2024.



Signature

Linda Good f/k/a Linda Bissett

INDEX OF ATTACHED DOCUMENTS

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DATE FILED: March 27, 2024

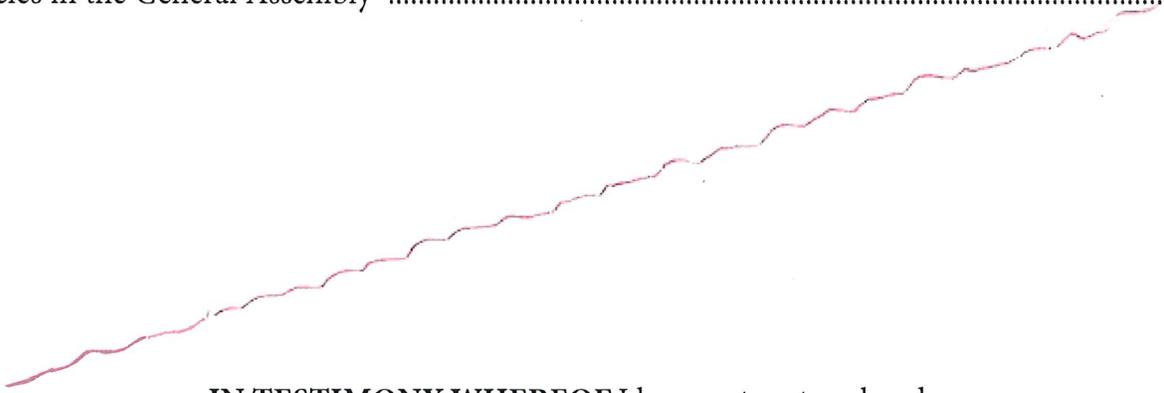
STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **JENA GRISWOLD**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, fiscal summary, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2023-2024 #197 'Elections to Fill Vacancies in the General Assembly'"



.....IN TESTIMONY WHEREOF I have unto set my hand
and affixed the Great Seal of the State of Colorado,
at the City of Denver this 25th day of March, 2024.

Jena Griswold

SECRETARY OF STATE



2023-2024 #197 (Final)

Be it Enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 1-12-203, **amend** (1) and (4); **repeal** (2), (3), (5), and (6) (a); and **add** (1.5) and (1.7), as follows:

1-12-203. Vacancies in general assembly. (1) (a) In the event of a vacancy in the general assembly caused by the death or resignation of a member who has been sworn into office, OR caused by the death or resignation of a member who has been elected to a seat but who has not yet been sworn into office, ~~or caused by a person not taking the oath of office as provided in paragraph (b) of subsection (3) of this section, the vacancy shall be filled by the appropriate vacancy committee, if any, as provided in section 1-3-103 (1)(d), of the same political party and of the same representative or senatorial district represented by the former member whose seat is vacant. If the member was affiliated with a minor political party, then the vacancy shall be filled by the vacancy committee designated in the constitution or bylaws of the minor political party. If the member was unaffiliated with a political party, then the vacancy shall be filled by the vacancy committee designated on the petition for nomination pursuant to section 1-4-802 (1)(e). The vacancy shall be filled until the next general election after the vacancy occurs when the vacancy shall be filled by election~~ THE GOVERNOR SHALL SET A DAY TO HOLD A LEGISLATIVE ELECTION TO APPOINT A PERSON TO FILL ANY SUCH VACANCY AS SOON AS PRACTICABLE AFTER THE VACANCY OCCURS, SUBJECT TO SECTION 2 OF ARTICLE V OF THE STATE CONSTITUTION. THE ELECTION SHALL BE HELD IN THE DISTRICT FOR THE VACANT GENERAL ASSEMBLY SEAT AND NO PRECINCT OR PRECINCTS MAY BE EXCLUDED.

(b) LIMITED TO THE EVENT THAT THE GOVERNOR REASONABLY DETERMINES THAT EITHER THERE IS NOT MEANINGFUL TIME TO CONDUCT AN ELECTION PRIOR TO A REGULARLY SCHEDULED GENERAL ELECTION OR THE GENERAL ASSEMBLY SEAT WILL REMAIN VACANT ONLY WHEN THE GENERAL ASSEMBLY IS NOT IN SESSION, THE GOVERNOR MAY DECIDE NOT TO CALL A LEGISLATIVE ELECTION TO FILL THE VACANCY, AND THE VACANCY SHALL BE FILLED AT THE NEXT, REGULARLY SCHEDULED GENERAL ELECTION.

(1.5) (a) ANY LEGISLATIVE ELECTION TO APPOINT A PERSON TO FILL A VACANT GENERAL ASSEMBLY SEAT SHALL BE CONDUCTED USING A RANKED VOTING METHOD.

(b) THE SECRETARY OF STATE SHALL PROMULGATE RULES, SUBJECT TO SECTION 2 OF ARTICLE V OF THE STATE CONSTITUTION, FOR CANDIDATES FOR THE LEGISLATIVE ELECTION TO FILL THE VACANT GENERAL ASSEMBLY SEAT TO PETITION ONTO THE LEGISLATIVE VACANCY ELECTION BALLOT, INCLUDING RULES ADDRESSING PETITION ACCESSIBILITY AND TECHNOLOGICAL ASSISTANCE CONSISTENT WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, 42 U.S.C. SEC. 12101 ET SEQ., AS AMENDED, AND PARTS 6 AND 8 OF ARTICLE 34 OF TITLE 24, AND THE COLORADO UNIFORM MILITARY AND OVERSEAS VOTERS ACT, ARTICLE 8.3 OF THIS TITLE 1. NOTHING IN THIS SUBSECTION (1.5)(b) SHALL LIMIT THE AUTHORITY OF THE GENERAL ASSEMBLY TO PASS LAWS REGARDING SUFFRAGE AND ELECTIONS AS PROVIDED IN ARTICLE VII OF THE STATE CONSTITUTION.

(1.7) UNLESS OTHERWISE PROVIDED, ANY LEGISLATIVE ELECTION TO APPOINT A PERSON TO FILL A VACANT GENERAL ASSEMBLY SEAT SHALL BE CONDUCTED, INCLUDING FOR PURPOSES OF NOTICE, PUBLISHING, AND REPORTING REQUIREMENTS, ACCORDING TO THE PROVISIONS OF ARTICLE 1 THROUGH ARTICLE 13 OF THIS TITLE 1.

~~(2) No vacancy committee may select a person to fill a vacancy at a meeting held pursuant to this section unless a written notice announcing the time and location of the vacancy committee meeting was mailed to each of the committee members at least ten days prior to the meeting by the chairperson of the central committee that selected the members. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid.~~

~~(3) (a) The vacancy committee, by a majority vote of its members present and voting at a meeting called for that purpose and open to the public, shall select a person who possesses the constitutional qualifications for a member of the general assembly and who is affiliated with the same political party or minor political party, if any, shown in the statewide voter registration system as the former member whose seat is vacant. No vacancy committee meeting shall be held until a quorum is present consisting of not less than one half of the voting membership of the vacancy committee. No member of the vacancy committee may vote by proxy. The committee shall certify the selection to the secretary of state within thirty days from the date the vacancy occurs; except that, in the case of a vacancy filled pursuant to section 1-4-1006, the committee shall certify the selection within thirty days after the date of the general election affected by the vacancy. If the vacancy committee fails to certify a selection within thirty days in accordance with this subsection (3), the governor, within five days, shall fill the vacancy by appointing a person having the qualifications set forth in this subsection (3). The name of the person selected or appointed must be certified to the secretary of state.~~

~~(b) No sooner than two days after receiving the certification from the vacancy committee, the secretary of state shall certify the name of the person selected or appointed to the appropriate house of the general assembly. The oath of office shall be administered to the person within thirty days of the receipt of such certification by the appropriate house or on the convening date of the general assembly, whichever occurs first; except that the president of the senate or the speaker of the house of representatives, as appropriate, shall extend the time to take the oath upon a finding that extenuating circumstances prevented the person from taking the oath within the initial thirty-day period. In the event the person does not take the oath of office in accordance with this paragraph (b), the office shall be deemed vacant and shall be filled by the appropriate vacancy committee pursuant to the provisions of this section. The person, after having qualified and taken the oath of office, shall immediately assume the duties of office and shall serve until the next convening of the general assembly following the election certification and qualification of a successor. Nothing in this subsection (3) shall be construed to reduce the number of consecutive terms that a person appointed to fill a vacancy in the general assembly may serve in accordance with section 3 of article V of the state constitution.~~

(4) For purposes of this section, a vacancy caused by the resignation of a member of the general assembly occurs on the effective date of the member's letter of resignation to the chief clerk of the house of representatives or the secretary of the senate. If the letter of resignation gives an

~~effective date of resignation that is later than the date the letter of resignation is submitted, the vacancy committee may meet no more than twenty days prior to the effective date of the resignation for the purposes of nominating a person to fill the vacancy. The certification of the nominee of the vacancy committee to the secretary of state may not be made prior to the effective date of the resignation; further, should the member of the general assembly withdraw the letter of resignation prior to the effective date, the person nominated by the vacancy committee may not be certified to the secretary of state.~~

~~(5) If the vacancy is caused by the death of a member elect of the general assembly who has been elected to office but who has not yet been sworn in, the vacancy committee shall meet no more than thirty days after the death of the general assembly member elect to fill the vacancy. The certification of the nomination of the vacancy committee to the secretary of state may be made prior to the convening of the general assembly but shall not take effect until the effective date of the vacancy, which is the first day the general assembly convenes.~~

~~(6) (a) Notwithstanding any provision to the contrary, a member of a vacancy committee filling a vacancy pursuant to this section may participate in a vacancy committee meeting remotely, including casting the member's vote by e-mail, mail, telephone, or through an internet-based application if allowed by the party's rules.~~

SECTION 2. Effective date.

This initiative shall apply to elections held on or after the earlier of the official declaration of the vote hereon by proclamation of the governor or thirty days after the vote has been canvassed, pursuant to section 1 (4) of article V of the state constitution.

Ballot Title Setting Board

Proposed Initiative 2023-2024 #197¹

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes concerning filling a vacancy in the Colorado legislature through a vacancy election instead of a political party vacancy committee appointment, and, in connection therewith, requiring the vacancy election to be held as soon as possible after the vacancy has occurred or during a November even-year election and to be conducted by ranked voting; requiring that the candidates for the vacant position be members of the same political party as the vacating legislator and allowing any eligible voter to participate in the vacancy election; and requiring the Colorado secretary of state to develop rules on how candidates petition onto the vacancy election ballot.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes concerning filling a vacancy in the Colorado legislature through a vacancy election instead of a political party vacancy committee appointment, and, in connection therewith, requiring the vacancy election to be held as soon as possible after the vacancy has occurred or during a November even-year election and to be conducted by ranked voting; requiring that the candidates for the vacant position be members of the same political party as the vacating legislator and allowing any eligible voter to participate in the vacancy election; and requiring the Colorado secretary of state to develop rules on how candidates petition onto the vacancy election ballot?

Hearing March 6, 2024:

Single subject approved; staff draft amended; titles set.

Board members: Theresa Conley, Christy Chase, Jennifer Sullivan

Hearing adjourned 4:18 P.M.

¹ Unofficially captioned “Elections to Fill Vacancies in the General Assembly” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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Hearing March 6, 2024:

Single subject approved; staff draft amended; titles set.

Board members: Theresa Conley, Christy Chase, Jennifer Sullivan

Hearing adjourned 4:18 P.M.

Rehearing March 20, 2024:

Motion for rehearing was denied in its entirety. (3-0)

Board members: Theresa Conley, Christy Chase, Jennifer Sullivan

Rehearing adjourned 9:25 A.M.

¹ Unofficially captioned “Elections to Fill Vacancies in the General Assembly” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

From: [Linda Opines](#)
To: [Statewide Initiatives](#)
Subject: [EXTERNAL] Motion for Rehearing on Initiative 2023-2024 #197 Elections to Fill Vacancys in the General Assembly
Date: Wednesday, March 13, 2024 4:29:31 PM

Please accept this as my Motion for Rehearing on Initiative 2023-2024 #197 Elections to Fill Vacancies in the General Assembly on the grounds that it is multiple subject as follows:

Creates the requirement of a special election to fill vacancies and requires that those elections be conducted with Ranked voting method which is not the current election method to elect members o the General Assembly.

Thank you,

[Linda Good](#)
[720-219-3053](#)



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Summary

Date: March 4, 2024

Fiscal Analyst: Hamza Syed (303-866-4976)

LCS TITLE: ELECTIONS TO FILL VACANCIES IN THE GENERAL ASSEMBLY

Fiscal Summary of Initiative 197

This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at leg.colorado.gov/bluebook. This fiscal summary identifies the following impact.

State expenditures. Preliminarily, the measure is estimated to increase state expenditures in the Department of State (DOS) to implement several changes to elections systems and processes in order to hold legislative vacancy elections, rather than fill vacancies using party vacancy committees. Specifically, the DOS must modify election software and information technology systems, and conduct public awareness campaigns to inform voters about the changes to voting in Colorado vacancy elections. Costs will also increase in FY 2026-27 and future years, primarily related to increased cost reimbursement to counties provided by the state to conduct these elections (see local government impacts below). This potential increase will depend on eligible local costs and has not been estimated.

Local government impact. The measure increases costs for county clerks and other local election officials in several ways. Requiring ranked choice voting for vacancy elections increases the size and complexity of printed ballots, which will require that clerks educate voters, and revise processes for the operation of polling places and ballot counting. For some counties, this will require new election system software and equipment. Other counties will have costs to modify existing voting systems. Finally, the elimination of vacancy committee appointments will increase the number of special elections conducted to fill future vacancies in the state legislature and increase costs for affected counties where vacancies occur. A portion of local costs under the bill will be reimbursed by the state under current law.

Economic impacts. The measure has no direct impact on the state economy. Changes to elections may result in different leadership and different policies, which could have an economic effect. However, these effects depend on voter choices and future decision making.