

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203</p>	
<p>Original Proceeding Pursuant to C.R.S. § 1-40-102(2) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Ballot Title of proposed Initiative 2023-2024 #219</p> <p>MARK CHILSON, Petitioner,</p> <p>v.</p> <p>JASON BERTOLACCI and OWEN ALEXANDER CLOUGH,</p> <p>And</p> <p>COLORADO BALLOT TITLE SETTING BOARD: Theresa Conley, Christy Chase, and Jennifer Sullivan Respondents.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Petitioner:</i> Scott E. Gessler (28944), sgessler@gesslerblue.com Geoffrey N. Blue (32684), gblue@gesslerblue.com Gessler Blue LLC 7350 E. Progress Place, Suite 100 Greenwood Village, CO 80111 Tel. (303) 906-1050 or (720) 839-6637</p>	<p>Case Number:</p> <p>Division:</p>
<p style="text-align: center;">PETITION FOR REVIEW OF FINAL ACTION OF THE BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #219</p>	

Mark Chilson (“Petitioner” or “Chilson”), registered elector of the State of Colorado through counsel Gessler Blue, LLC, 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 cause set for Initiative 2023-2024 #219.

STATEMENT OF THE CASE

A. Procedural History

Following Review and Comment hearing before Legislative Council Staff and Office of Legislative Legal Services at the General Assembly, on March 8, 2024, Proponents Bertolacci and Clough filed their initiative text with the Title Board and subsequently appeared before the Title Board on March 20. At that time, the Board approved of single subject and set a title.

Petitioner Chilson filed a Motion for Rehearing on March 27, 2024, which the Title Board considered on April 4, 2024. The Title Board dismissed the Motion for Rehearing without making any changes. This Petition followed on April 11, 2024.

B. Jurisdiction

The Petitioner is entitled to review before the Supreme Court under C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board under C.R.S. § 1-40-107(1). Additionally, Petitioner has timely filed this Petition for Review

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 text of the initiative filed by the Proponents;
- (2) the original ballot title set for this measure;
- (3) the Motion for Rehearing filed by the Petitioner;
- (4) the ruling on the Motion for Rehearing as reflected by the title and ballot title and submission clause set by the Board. Petitioner believes that the Title Board erred in denying certain aspects of the Motion for Rehearing; and,
- (5) Fiscal Summary for Initiative 219.

ADVISORY ISSUES ON APPEAL

Petitioner Chilson raises two advisory issues. First, the proposed initiative contains two separate subject matters. First is a new method of voting – ranked choice voting – in vacancy elections. Second is a new method of calling the vacancy election. It falls upon the governor to call a vacancy election. But the governor is not required to call an election if he or she determines there is not meaningful time to conduct an election prior to a regularly scheduled general election, or that the

legislative seat will remain vacant only when the general assembly is not in session. In those instances, the vacancy election “shall” take place at the next general election.

Second, even if this Court were to determine that the disparate method of voting is not a separate subject from the radical new way of calling a vacancy election, the title and submission clause is incomplete and misleading. Specifically, it claims that the measure requires a vacancy election to be held as soon as possible after the vacancy occurs. The measure does not require a vacancy to be held as soon as possible after the vacancy occurs, and in some instances that vacancy election will not be held for a full two years after the vacancy occurs.

Respectfully submitted this 11th day of April 2024,

GESSLER BLUE LLC

s/ Scott E. Gessler
Scott E. Gessler

Certificate of Service

I certify that on this 11th day of April 2024, the foregoing was electronically served via e-mail or CCES on all parties and their counsel of record:

By: s/ Joanna Bila
Joanna Bila, Paralegal

DATE FILED: April 11, 2024 4:00 PM



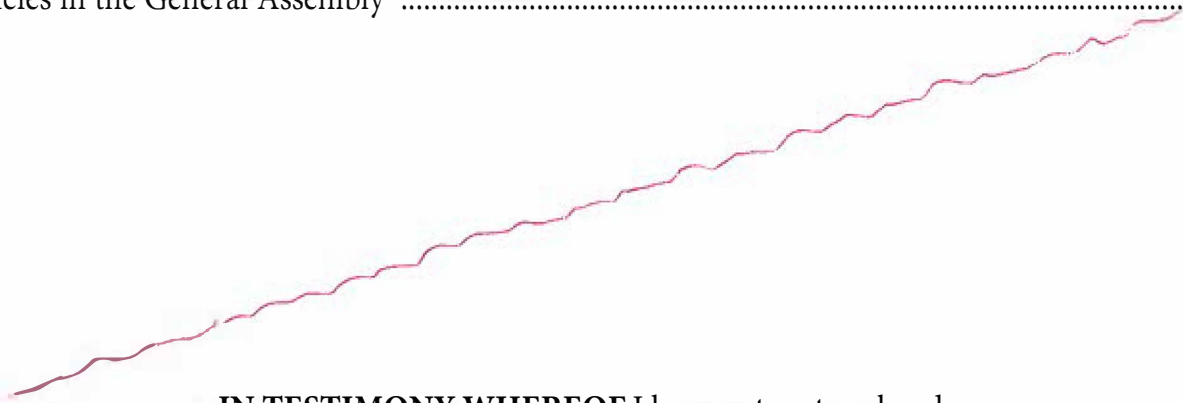
STATE OF COLORADO

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 #219 '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 5th day of April, 2024.

Jena Griswold

SECRETARY OF STATE



2023-2024 #219 (Final)

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

SECTION 1. In the constitution of the state of Colorado, **repeal** section 2(3) of article V as follows:

Section 2. Election of members – oath – vacancies. ~~(3) Any vacancy occurring in either house by death, resignation, or otherwise shall be filled in the manner prescribed by law. The person appointed to fill the vacancy shall be a member of the same political party, if any, as the person whose termination of membership in the general assembly created the vacancy.~~

SECTION 2. In Colorado Revised Statutes, 1-12-203, **amend** (1) and (4); and **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 ELECT A PERSON TO FILL ANY SUCH VACANCY AS SOON AS PRACTICABLE AFTER THE VACANCY OCCURS. 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 FILL A VACANT GENERAL ASSEMBLY SEAT SHALL BE CONDUCTED USING A RANKED VOTING METHOD.

(b) THE SECRETARY OF STATE SHALL PROMULGATE RULES 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 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 3. 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 #219¹

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

An amendment to the Colorado constitution and 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, repealing the requirement that a vacancy be filled by a member of the same political party as the vacating legislator; requiring the vacancy election to be held as soon as possible after the vacancy has occurred and to be conducted by ranked voting; and requiring candidates to 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 an amendment to the Colorado constitution and 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, repealing the requirement that a vacancy be filled by a member of the same political party as the vacating legislator; requiring the vacancy election to be held as soon as possible after the vacancy has occurred and to be conducted by ranked voting; and requiring candidates to petition onto the vacancy election ballot?

Hearing March 20, 2024:

Single subject approved; staff draft amended; titles set.

Board members: Theresa Conley, Christy Chase, Jen Sullivan

Hearing adjourned 4:45 P.M.

¹ Unofficially captioned “**Concerning the Conduct of Elections**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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Hearing March 20, 2024:

Single subject approved; staff draft amended; titles set.

Board members: Theresa Conley, Christy Chase, Jen Sullivan

Hearing adjourned 4:45 P.M.

Rehearing April 4, 2024:

Motions for Rehearing (Good, Chilson) were denied in their entirety.

Board Members: Theresa Conley, Christy Chase, Jennifer Sullivan

Hearing adjourned 11:28 A.M.

¹ Unofficially captioned “**Concerning the Conduct of Elections**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR PROPOSED INITIATIVE
2023-2024 #219

MOTION FOR REHEARING ON PROPOSED INITIATIVE 2023-2024 #219

I, Linda Good, a registered elector of the State of Colorado, submits to the Title Board this Motion for Rehearing on Proposed Initiative 2023-2024 #219 "Concerning the Conduct of Elections" ("Initiative #219") and as grounds therefore state as follows:

I. THE TITLE SET BY TITLE BOARD AT March 20, 2024 HEARING

On March 20, 2024, the Title Board set the following ballot title and submission clause for Initiative #219:

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

An amendment to the Colorado constitution and 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, repealing the requirement that a vacancy be filled by a member of the same political party as the vacating legislator; requiring the vacancy election to be held as soon as possible after the vacancy has occurred and to be conducted by ranked voting; and requiring candidates to petition onto the vacancy election ballot.

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Shall there be an amendment to the Colorado constitution and 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, repealing the requirement that a vacancy be filled by a member of the same political party as the vacating legislator; requiring the vacancy election to be held as soon as possible after the vacancy has occurred and to be conducted by ranked voting; and requiring candidates to petition onto the vacancy election ballot?

II. GROUNDS FOR REHEARING

The Initiative Impermissibly Contains Several Separate and Distinct Subjects in Violation of the Single Subject Requirement.

Pursuant to Colo. Const. art. V, §1(5.5),

“no measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the polls.”

See also 1-40-106.5, C.R.S. "When a proposed initiative comprises multiple subjects, the [Title] Board lacks jurisdiction to set its title.”

Initiative #219 has four distinct subjects;

1. A change in how vacancies are filled. “filling a vacancy in the Colorado legislature through a vacancy election instead of a political party vacancy committee appointment”
2. Violating the trust of the people of a political party who voted for a representative to be in office for a set period of time and opening up the new special vacancy election to allow candidates who may not represent their political ideology. “repealing the requirement that a vacancy be filled by a member of the same political party as the vacating legislator; “
3. 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. “requiring the vacancy election to be held as soon as possible after the vacancy has occurred and to be conducted by ranked voting;”
4. Requiring access to the ballot by petition only. “and requiring candidates to petition onto the vacancy election ballot.”

III. CONCLUSION

Based on the foregoing, Objector requests a rehearing of the Title Board for Initiative 2023-2024 #219 because the initiative contains multiple subjects. As a result, the Title Board lacks jurisdiction to set a title and should reject the measure in its entirety.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Mark Chilson,
Objector,

v.

Jason Bertolacci and Owen Alexander Clough,
Designated Representatives of Initiative 2023-2024 #219

**MOTION FOR REHEARING ON
PROPOSED INITIATIVE 2023-2024 #219**

Mark Chilson, a Colorado registered elector, seeks a rehearing on Proposed Initiative 2023-2024 #219, on two grounds. First, the Title Board has no jurisdiction to det a title, because the measure contains two separate subjects. Second, the title and submission clause is incomplete and misleading, because it does not describe the measure’s second subject.

The proposed measure contains two provisions, each of which constitutes a separate subject. The measure first implements ranked-choice voting (also referred to as instant runoff voting), for legislative special elections, by adding subsection 1-12-203(1.5)(a) as follows:

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

But the proposed initiative also contains a second, critically important subject. It establishes a new timeline for holding a vacancy election, by modifying subsection 1-12-203(1)(a) as follows:

THE GOVERNOR SHALL SET A DAY TO HOLD A LEGISLATIVE ELECTION TO ELECT A PERSON TO FILL ANY SUCH VACANCY AS SOON AS PRACTICABLE AFTER THE VACANCY OCCURS.

Connectedly, it adds a new subsection (b), which states:

(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.

When reviewing the language of a proposed initiative, courts “employ the general rules of statutory construction, giving words and phrases their plain and ordinary meanings.”¹ Under this approach, the plain language of the initiative makes it possible – indeed, likely – that the residents of a legislative district in which a vacancy occurs will go without representation in the general assembly for months or *years*. Specifically, if the governor decides that there is not “meaningful” time to conduct an election prior to a regularly scheduled election, then “the vacancy *shall* be filled at the next, regularly scheduled *general* election.” (emphasis supplied).

Two concrete examples suffice to show how the vacancy announcement works. First, if a state senate vacancy occurs in September of 2016, there will be inadequate, “meaningful” time to identify nominees and print ballots that must be sent out in late September (or 45

¹ *VanWinkle v. Sage (In re Title, Ballot Title & Submission Clause for 2021-2022 #1)*, 2021 CO 55, ¶ 10.

days before the general election) to military and overseas voters. In this instance, according to the terms of the initiative the vacancy election “shall” be held at the 2028 general election. That means approximately 165,000 Colorado residents² will be denied representation in the Colorado Senate for over two years.

Second, if a senate vacancy occurs in June of 2026, when the General Assembly is not in session, and the governor decides not to call a vacancy, then the vacancy election “shall” be held at the 2028 general election. Again, this means approximately 165,000 residents will not have representation for over one and a half years.

The provision that determines when to schedule a vacancy election violates the single subject requirements in three ways. First, voters will be surprised to learn that a new, ranked choice voting method in a vacancy election also brings with it the strong possibility that Coloradans will lose their representation in the General Assembly for months, and possibly years. This is, by definition, a “surreptitious measure[]” which will cause “surprise and fraud [to be] practiced upon voters.”³

²https://redistricting.colorado.gov/rails/active_storage/disk/eyJfcmFpbHMiOnsibWVzc2FnZSI6IkJBaDdDRG9JYTJWNVNNTSWhZbUZtZFdveGIycHdObUpuWVdob2JqbHhpOamh6YkhNM05ESjRid1k2QmtWVU9oQmthWE53YjNOcGRHbHZia2tpV1dsdWJHbHVhVHNnWm1sc1pXNWwhiV1U5SWxCdmNIVnNZWFJwYjI0Z1UzVnRiV0Z5ZVM1d1pHWWIPeUJtYVd4bGJtRnRaU285VIZSR0xUZ25KMUJ2Y0hWc1lYUnBiMjRsTWpCVGRXMXRZWEo1TG5Ca1pnWTdCbFE2RVdOdmJuUmxiblJmZEhsd1pVa2lGR0Z3Y0d4cFkyRjBhVzI1TDNCa1pnWTdCbFE9IiwiZXhwIjoiaWoiMjAyNC0wMy0yM1QxOTowOTozM041OTRaIiwicHVyIjoiaWxvYi9rZXkifX0=-c9cc42091bf1d3ee5f0b468ad7e473711e3b13cd/Population%20Summary.pdf?content_type=application%2Fpdf&disposition=inline%3B+filename%3D%22Population+Summary.pdf%22%3B+filename%2A%3DUTF-8%27%27Population%2520Summary.pdf

³ C.R.S. § 1-40-106.5(1)(e)(II).

Second, the method for scheduling an election (in some instances over two years following the vacancy) is not “necessarily *and* properly connected” to the ranked choice voting method, but “rather [] disconnected or incongruous.”⁴ A ballot initiative can certainly enact ranked choice voting for a legislative vacancy election, without giving the governor discretion to prevent an election from taking place for over two years.

Third, the gubernatorial declaration provision violates “the anti-logrolling and anti-fraud purposes of the single-subject requirement.”⁵ Here, it is possible – and certainly likely – that voters who approve of ranked choice voting will nonetheless reject a measure that creates a mechanism that results in eliminating democratic representation in the General Assembly for tens of thousands of Coloradans, for months or years.

Lastly, a general, broad title of “vacancy elections” cannot save the measure. The Colorado Supreme Court rejected a subject of “recall of government officers” as far too broad.⁶ That provision created “a new constitutional right to recall non-elected officers, in addition to elected officers.”⁷ Under the same reasoning, the broad subject of “vacancy elections” does not rescue the measure from its serious single-subject violations.

⁴ *VanWinkle v. Sage (In re Title, Ballot Title & Submission Clause for 2021-2022 #1)*, 2021 CO 55, ¶ 13.

⁵ *Id.* at ¶ 16.

⁶ *Hayes v. Spalding (In re Title, Ballot Title, & Submission Clause for 2013-2014 #76)*, 2014 CO 52, ¶ 10.

⁷ *Id.* at ¶ 9.



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Initiative 219

Fiscal Summary

Date: March 19, 2024

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

LCS TITLE: ELECTIONS TO FILL VACANCIES IN THE GENERAL ASSEMBLY

Fiscal Summary of Initiative 219

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