

<p><b>SUPREME COURT, STATE OF COLORADO</b> 2 East 14<sup>th</sup> 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 #188</p> <p><b>MARK CHILSON,</b> Petitioner,</p> <p>v.</p> <p><b>JASON BERTOLACCI and OWEN ALEXANDER CLOUGH,</b></p> <p>and</p> <p><b>COLORADO BALLOT TITLE SETTING BOARD:</b> Theresa Conley, Christy Chase, and Jennifer Sullivan <b>Respondents.</b></p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p><i>Attorneys for Petitioner:</i> Scott E. Gessler (28944), <a href="mailto:sgessler@gesslerblue.com">sgessler@gesslerblue.com</a> Geoffrey N. Blue (32684), <a href="mailto:gblue@gesslerblue.com">gblue@gesslerblue.com</a> 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;"><b>PETITION FOR REVIEW OF FINAL ACTION OF THE BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #188</b></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, Proponents Bertolacci and Clough filed their initiative text with the Title Board and subsequently appeared before the Title Board on March 7. At that time, the Board approved of single subject and set a title.

Two electors filed motions for rehearing before the Title Board, which reconsidered the Proposed Initiative on March 20, 2024. The Board granted the motions for rehearing, concluding that it did not have jurisdiction to set a title because the proposed measure contained more than one subject.

On March 22, the proponents resubmitted Proposed Initiative #188 to the Title Board. In their resubmission, the proponents sought to excise portions of the proposal that caused the Board to conclude the proposal had more than one subject. On April 4, 2024, the Board considered the Proposed Initiative and set a title.

Petitioner Chilson (among others) filed a Motion for Rehearing, which the Board denied on April 18, 2024. This Petition followed on April 25, 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 188.

## ADVISORY ISSUES ON APPEAL

Petitioner Chilson raises one issue. The Title Board had no jurisdiction to set a title, because the resubmitted measure did meet the explicit requirements of Colo Const. Art V, Section 1(5.5). That section allows proponents to resubmit an initiative that earlier was found to contain more than a single subject. Specifically,

the measure may be revised and resubmitted for the fixing of a proper title without the necessity of review and comment on the revised measure in accordance with subsection (5) of this section, unless the revisions involve more than the elimination of provisions to achieve a single subject<sup>1</sup>

The standard is a simple one: the revisions may not “involve more” than the “elimination of provisions” to achieve a single subject. Resubmitted Proposal 188 fails this test, because in their resubmission the Proponents removed language that involved far more than the elimination of provisions necessary to achieve a single subject.

Respectfully submitted this 25<sup>th</sup> day of April 2024,

GESSLER BLUE LLC

s/ *Scott E. Gessler*  
Scott E. Gessler

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<sup>1</sup> Colo. Const. Art V., § 1(5.5).

## Certificate of Service

I certify that on this 25<sup>th</sup> day of April 2024, the foregoing was electronically served via e-mail or CCES on all parties and their counsel of record.

Title Board

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