

**COLORADO SUPREME COURT**

2 East 14<sup>th</sup> Avenue  
Denver, CO 80203

Original Proceeding  
Pursuant to Colo. Rev. Stat. § 1-40-107(2)  
Appeal from the Ballot Title Setting Board

In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative  
2023-2024 #284 (“Transportation Fees”)

**Petitioner:**

Jessica Goad

v.

**Respondents:**

Michele Haedrich and Steven Ward,  
and  
Title Board: Theresa Conley, Jason  
Gelender, and Kurt Morrison

**Attorney for Respondents Michele Haedrich  
and Steven Ward:**

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Case Number: 2024SA134

**RESPONDENTS MICHELE HAEDRICH AND STEVEN WARD’S  
ANSWER 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, the undersigned certifies that:

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

It contains 838 words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 words).

**The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).**

For each issue raised by the appellant, the brief contains under a separate heading before the discussion of the issue, 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 or 28.1, and C.A.R. 32.

/s/ Suzanne Taheri  
Suzanne M. Taheri, #23411  
*Attorney for Petitioners*

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## INTRODUCTION

Proposed Initiative #284 is a single subject, and the title set by the Board adequately describes the purpose and effects of the initiative.

## REPLY ARGUMENT

### **I. Initiative #284 is a single subject.**

Petitioner raises two issues related to single subject. First, she argues that because the initiative does not define “fee” it presents a logrolling risk and reaches beyond what Proponents intend. (*Petitioner’s opening brief* p.6) However, it not necessary to define terms in an initiative and the electorate “must be presumed to know the existing law at the time [it] amend[s] or clarify[ies] that law.” *Colo. Ethics Watch v. Senate Majority Fund, LLC*, 269 P.3d 1248, 1254 (Colo. 2012) (brackets in original) (quoting *Common Sense All v. Davidson*, 995 P.2d 748, 754 (Colo. 2000)). (electorate was aware of the legal significance of the term “expressly advocated”). The term “fee” is a commonly used and understood term, and the electorate is aware of its legal significance. Voters will not be confused by this plain language.

Much of Petitioner’s complaints go to the effects of the measure. “The effects this measure could have on Colorado law if adopted by voters are irrelevant to [a] review of whether the proposed initiative and its Titles contain a single

subject.” *Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014 #90)*, 328 P.3d 155, 160 (Colo. 2014) (quotations and alterations omitted); see also *Hedges v. Schler (In re Title, Ballot Title & Submission Clause for 2019-2020 #3)*, 442 P.3d 867, 870 (Colo. 2019).

Even considering the effects, there is no voter surprise by effects that are hidden in the body of an initiative or are misleading or overly complex. To the contrary, the proposed initiative is notably brief and straightforward. A review of the language does not reveal any embedded provisions that would lead to voter surprise or fraud. *In re Title v. Respondents: Dennis Polhill & Douglas Campbell, Proponents, & Title*, 46 P.3d 438, 442 (Colo. 2002) The concern for voter surprise only exists where an initiative, although claiming to have a single subject, in reality has multiple purposes, and as a result, voters would not expect that passing the initiative would lead to one or more of the initiative's outcomes. See *Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #3)*, 274 P.3d 562, 567 (Colo. 2012).

There is also nothing surreptitious about not including a definition of fee. The initiative does not seek to gain support from various factions by combining unrelated subjects in a single proposal. The proposal will pass or fail on its own

merits and does not run the risk of garnering support from factions with different or conflicting goals.

Petitioner also argues that the initiative contains a second subject because it is retroactive. This is not true. A retroactive clause would allow a person to go back and recover fees that had been previously assessed. This measure only applies to fees yet to be assessed. Each fee assessment is a new act. This is an implementation detail. Proponent could choose to exempt any fees enacted, as they did in initiative #283, or they could apply it to any fee assessed, as they did here. Implementation details that are directly tied to the initiative's central focus do not constitute a separate subject. See *Steadman v. Hindman (In re Ballot Title 1999-2000 #200A)*, 992 P.2d 27, 30 (Colo. 2000).

## **II. The title set on Initiative #284 is Clear and Captures the Central Features of the Measure.**

Petitioner again raises the two issues above in her clear title argument. She again raises the definition of “fee” and argues that the title should apprise voters of the types of things that fall under a “fee”. Titles are not required to include definitions of terms unless the terms adopt a new or controversial legal standard that would be of significance to all concerned with the initiative. *Herpin v. Head (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 485, 497 (Colo. 2000)

She also includes the retroactive argument and asserts that voters won't understand that mass transit will "cease to operate". *Petitioner's opening brief*, p. 16. There is no support for this assertion in the record. Mass transit funded on tax dollars will not be affected by the measure, nor will existing transit services that are paid for by customer fares. How the funding is determined is a downstream impact of the measure that cannot be described in the title. The title itself adequately describes how the measure operates in the single subject, "Shall there be an amendment to the Colorado constitution prohibiting the collection of existing and new fees that fund mass transit unless certain conditions are met..." This statement informs voters that new and existing fees will be prohibited. Voters will understand that this means they will not be collected unless the conditions are met.

### **CONCLUSION**

For the foregoing reasons, the Court should affirm the actions of the Title Board with respect to Proposed Initiative 2023-2024 #284.

Respectfully submitted this 15th day of May, 2024

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of May, 2024, a true and correct copy of the **RESPONDENTS MICHELE HAEDRICH AND STEVEN WARD'S OPENING BRIEF** was served via the Colorado Court's E-Filing System to the following:

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