

Supreme Court of Colorado

2 East 14th Avenue
Denver, CO 80203

Original Proceeding
Pursuant to Colo. Rev. Stat. § 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 #270 (“Oil and Gas Operations Strict
Liability for Damages”)

Petitioners: Steven Ward and Suzanne Taheri

v.

Respondents: Jessica Goad and Alicia
Ferrufino-Coqueugniot

and

Title Board: Theresa Conley, Jeremiah Barry,
Kurt Morrison

▲ COURT USE ONLY ▲

Attorney for Petitioners:
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Case Number:

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE
SETTING BOARD CONCERNING PROPOSED INITIATIVE
2023-2024 #270 (“OIL AND GAS OPERATIONS STRICT LIABILITY
FOR DAMAGES”)**

Petitioners Steven Ward and Suzanne Taheri, registered electors in Arapahoe County, Colorado, through undersigned counsel, hereby petition 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 #270 (“Oil and Gas Operations Strict Liability for Damages”).

STATEMENT OF THE CASE

A. Procedural history of Proposed Initiative 2023-2024 #270

Jessica Goad and Alicia Ferrufino-Coqueugniot (“Proponents”) submitted proposed Initiative 2023-2024 #270 (“Initiative #270”). A review and comment hearing was held before representatives of the Offices of Legislative Council and Legislative Legal Services on April 4, 2024. Thereafter, Proponents submitted final versions of the Initiative #270 to the Secretary of State for purposes of submission to the Title Board.

A Title Board hearing was held on April 17, 2024, at which time titles were set for Initiative #270. On April 23, 2024, Petitioners filed a Motion for Rehearing, alleging that Initiative #270 contained multiple subjects, contrary to Colo. Const. art. V, sec. 1(5.5), the Board lacks jurisdiction to set a title, and that the Title Board set a title which is unclear and misleading because it omits important features of Initiative #270.

The rehearing was held on April 26, 2024, at which time the Motion for Rehearing was granted only to the extent the Title Board made changes to the title.

B. Jurisdiction

Petitioners are entitled to review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioners timely filed the Motion for Rehearing with the Title Board. See C.R.S. § 1-40-107(1). Additionally, Petitioners 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 draft, amended, and final version of the initiative filed by the Proponents; (2) the original ballot title set for this measure; (3) the Motion for Rehearing filed by the Petitioners; and (4) the ruling on the Motion for Rehearing as reflected by the title and ballot title and submission clause set by the Board. Petitioners believe that the Title Board erred in denying certain aspects of the Motion for Rehearing. The matter is properly before this Court.

GROUND FOR APPEAL

The Title Board's single subject determination is inconsistent with the Board's decision for a similar initiative (Proposed Initiative 2023-2024 #289 "Strict Liability for Damages from Oil and Gas Operations") filed by Petitioners.

Both Proposed Initiative #270 and Proposed Initiative #289 modify the definition of strict liability as it applies to oil and gas operations in opposite manners. If Proposed Initiative #289 is not a single subject, then Proposed Initiative 2023-2024 #270 also cannot be a single subject.

Further, Proposed Initiative #270 is much broader than #289, as #270 modifies the long-standing negligence standard to eliminate contributory negligence and other common tort defenses.

The titles set by the Title Board violate the legal requirements imposed on the Board because the title set by the Board violate the “clear ballot title” requirement by omitting critical elements of the measure and will mislead voters. The following is an advisory list of issues to be addressed in Petitioners’ brief:

1. Whether the Title Board erred by finding that Proposed Initiative 2023-2024 #270 is a single subject.
2. Whether the Title Board erred in setting titles that are incomplete by failing to explain inform voters that Proposed Initiative 2023-2024 #270 imposes strict liability regardless of the exercise of reasonable care, adherence to industry best practices, or the intentional or negligent-conduct of a plaintiff.

PRAYER FOR RELIEF

Petitioners respectfully request that, after consideration of the parties' briefs, this Court determine that Proposed Initiative 2023-2024 #270 does not constitute a single subject.

Petitioners further request that the Court find that the title set by the Board is legally flawed and direct the Title Board to correct the title to address the deficiencies outlined in Petitioners' briefs.

Respectfully submitted this 1st day of May, 2024

s/Suzanne Taheri
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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of May, 2024, a true and correct copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #270 (“OIL AND GAS OPERATIONS STRICT LIABILITY FOR DAMAGES”)** was served via the Colorado Court’s E-Filing System to the following:

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Duly signed original on file at West Group