



Overview of Colorado Supreme Court TABOR Repeal Ruling

Monday's [Supreme Court ruling](#) gives Colorado voters a powerful tool to help build and maintain great communities all across the state by allowing them to repeal TABOR with a single statewide vote.

For some, this might seem not seem like news. After all, it's common sense that voters should be able to take something out of the constitution with one vote what they put in with one vote. But conventional wisdom, based on legal interpretations of various court rulings and existing laws, said otherwise.

Background

In 1992, voters added Article X Section 20 (TABOR) to the Colorado Constitution. In 1994, voters added Article V section 1(5.5) (single subject rule) that requires "every constitutional amendment or law proposed by initiative be limited to a single subject, which shall be clearly expressed in its title." Proponents of the single subject rule argued that it was needed to keep misleading measures covering multiple topics off the ballot. TABOR was often cited as an example of the kind of measure that contained multiple subjects and would be prohibited if the measure was adopted.

In 1996, the Colorado Supreme Court upheld a decision of the Title Board not to set a title for a measure that repealed Art X sec 20 and reenacted a portion of its provisions. The court in that case (In re Proposed Initiative 1996-4 916 P.2d), stated that "if, for example, a constitutional provision contains multiple subjects and an initiative proposes to repeal the entire underlying provision, then the initiative contains multiple subjects." This sentence was repeated in multiple Supreme Court decisions since 1996 and, for many years, was considered a statement of definitive law.

What this opinion says

It rejects the assumption that an initiative contains multiple subjects just because it repeals a constitutional provision that contains more than one subject. This means, contrary to prior speculation, TABOR can be repealed by voters approving a single measure.

The Court, in "In re Ballot Title #3" (the name of Monday's ruling), was clear that its decision did not change the law on what constitutes a single subject for a ballot measure. The opinion reiterated that in order to be a single subject, an initiative's subject matter "must be necessarily and property connected rather than disconnected or incongruous..." and that the single subject requirement has the purpose of preventing surreptitious measures and apprise the people of the subject of the measure by the title." Further, the Court stated that this ruling does not mean that repeal measures have a different standard for single subject. Each measure, whether a repeal of a section or an addition of a constitutional provision, must meet the single subject test they outlined.

Why this is a big deal

Since 1996, it has been assumed that the only way to repeal TABOR was through multiple ballot measures. That assumption has provided comfort to TABOR proponents as they felt it would be too expensive and too complicated for opponents to mount a successful campaign within those constraints. As of June 17, that source of comfort has been replaced with the possibility that TABOR could be undone in the same way it was enacted: by a single initiative.

What this opinion does not do

This opinion does not start a campaign for a TABOR repeal. It does not even set a title for a repeal measure. The Title Board will do that on July 17.

What this opinion does do

This opinion provides voters with an additional option to address the challenges presented by TABOR. With this ruling, Coloradans who are thinking about ways to improve public investments in valuable public services can now add a complete repeal of TABOR to their toolbox.