

SUPREME COURT OF OREGON

Kain v. Myers

333 Or. 343 (2002) · No. SC S49045 · Decided February 7, 2002

SUMMARY

The Oregon Supreme Court reviewed a challenge to the summary portion of the Attorney General’s certified ballot title for Initiative Petition 127 (2002). The court rejected the petitioners’ arguments and certified a ballot title concerning elimination of teacher seniority as a factor in local school district staffing reductions.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Oregon
DECIDED	February 7, 2002
DOCKET	SC S49045
DISPOSITION	approved
PROCEDURAL POSTURE	Petition to review the summary portion of the Attorney General's certified ballot title for Initiative Petition 127 (2002).
STANDARD OF REVIEW	The court reviewed the ballot-title summary to determine whether it substantially complied with ORS 250.035(2)(d), applying the standard set out in ORS 250.085(5).
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	Kris Kain, Tricia Bosak v. Hardy Myers, Attorney General

TOPICS

- election law
- ballot access
- election administration
- appellate procedure

PRACTICE AREAS

- Election law
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the summary portion of the Attorney General's certified ballot title for Initiative Petition 127 substantially complied with ORS 250.035(2)(d).

HOLDINGS

1. The summary portion of the Attorney General's certified ballot title substantially complied with ORS 250.035(2)(d), and petitioners' challenges were not well taken.

KEY QUOTATIONS

“We have considered each of petitioners' arguments and find none to be well taken.” (333 Or. 343)

“Ballot title certified. This decision shall become effective in accordance with ORAP 11.30(11).” (333 Or. 343)

FACTUAL BACKGROUND

Initiative Petition 127 (2002) proposed eliminating teacher seniority as a factor when a local school district reduces its teaching staff. The Attorney General certified a ballot title explaining that the measure would require teachers to be retained solely on merit and competence, bar the use of seniority, and require collective bargaining agreements to comply. Kris Kain and Tricia Bosak challenged the summary portion of the certified ballot title.

PROCEDURAL HISTORY

The Attorney General certified a ballot title for Initiative Petition 127, a proposed measure concerning the use of teacher seniority in local school district staff reductions. Petitioners sought review of the summary portion of that ballot title in the Oregon Supreme Court. The court rejected petitioners' arguments, certified the ballot title, and ordered that the decision become effective under ORAP 11.30(11).

DISPOSITION

approved

OPINION

PER CURIAM.

Filed: February 7, 2002 IN THE SUPREME COURT OF THE STATE OF OREGON KRIS KAIN and TRICIA BOSAK, Petitioners, v. HARDY MYERS, Attorney General, Respondent. (SC S49045) En Banc On petition to review ballot title. Submitted on the record December 19, 2001. Margaret S. Olney, of Smith, Gamson, Diamond & Olney, Portland, filed the petition for petitioners. Denise G. Fjordbeck, Assistant Attorney General, Salem, filed the answering memorandum for respondent.

With her on the memorandum were Hardy Myers, Attorney General, and Michael D. Reynolds, Solicitor General. PER CURIAM Ballot title certified. This decision shall become effective in

accordance with ORAP 11.30(11). PER CURIAM In this ballot title review proceeding, petitioners challenge the summary portion of the Attorney General's certified ballot title for a proposed initiative measure, which the Secretary of State has denominated as Initiative Petition 127 (2002).

We review the summary to determine whether it substantially complies with the requirements of ORS 250.035(2)(d). See ORS 250.085(5) (setting out standard of review). We have considered each of petitioners' arguments and find none to be well taken.

Accordingly, we certify to the Secretary of State the following ballot title for the proposed measure: **ELIMINATES TEACHER SENIORITY AS A FACTOR WHEN A LOCAL SCHOOL DISTRICT REDUCES TEACHING STAFF** RESULT OF "YES" VOTE: "Yes" vote eliminates the existing system of utilizing teacher seniority as a factor in decisions when a local school district reduces its teaching staff.

RESULT OF "NO" VOTE: "No" vote retains the existing system of utilizing teacher seniority as a factor in decisions when a local school district reduces its teaching staff. SUMMARY: Under current law, when a local school district reduces its teacher staff, seniority is used as a factor in determining which teachers are to be retained. Currently, local school districts must determine the seniority of teachers eligible to be retained; seniority is calculated from the first day of actual service as a teacher with the district, including approved leaves of absence.

If school district desires to retain a teacher who has less seniority than a teacher being released, district must determine that the teacher to be retained has more competence or merit. This measure requires that teachers be retained based solely on merit and competence, and bars the use of seniority as a factor in making these decisions. Collective bargaining agreements must comply.

Other provisions. Ballot title certified. This decision shall become effective in accordance with ORAP 11.30(11).