

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.

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).