

SUPREME COURT OF OREGON

Hunnicutt v. Myers

333 Or. 387 (2002) · No. SC S49177 · Decided February 14, 2002

SUMMARY

The Oregon Supreme Court reviewed challenges to the Attorney General's certified ballot title for Initiative Petition 150 (2002). The court rejected the petitioners' arguments and certified a ballot title concerning compensation for property owners affected by health, safety, and environmental laws and regulations.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Oregon
DECIDED	February 14, 2002
DOCKET	SC S49177
DISPOSITION	other
PROCEDURAL POSTURE	Petition to review the Attorney General's certified ballot title for Initiative Petition 150 (2002).
STANDARD OF REVIEW	The court reviews the Attorney General's certified ballot title to determine whether it substantially complies with ORS 250.035(2)(a) to (d), pursuant to ORS 250.085(5).
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; decided en banc.
PARTIES	David J. Hunnicutt, Lawrence B. George v. Hardy Myers, Attorney General, State of Oregon

TOPICS

- ballot access
- election law
- takings clause
- constitutional law

PRACTICE AREAS

- election law
- constitutional law

QUESTIONS PRESENTED

1. Whether the Attorney General's certified ballot title for Initiative Petition 150 substantially complied with the requirements of ORS 250.035(2)(a) to (d).

HOLDINGS

1. The certified ballot title substantially complied with ORS 250.035(2)(a) to (d), and petitioners' challenges were not well taken.

KEY QUOTATIONS

“Ballot title certified. This decision shall become effective in accordance with ORAP 11.30(11).” (333 Or. 387)

FACTUAL BACKGROUND

The proposed initiative, denominated Initiative Petition 150 (2002), would amend the Oregon Constitution concerning compensation for property owners affected by laws and regulations protecting public health, safety, and the environment. The Attorney General certified a ballot title describing the measure's amendment, the results of yes and no votes, and its summary. Petitioners challenged various aspects of that certified ballot title.

PROCEDURAL HISTORY

The Oregon Attorney General certified a ballot title for a proposed initiative measure. Petitioners sought review of various aspects of that certified ballot title in the Oregon Supreme Court. The court rejected petitioners' arguments and certified a ballot title to the Secretary of State.

DISPOSITION

other

OPINION

PER CURIAM.

FILED: FEBRUARY 14, 2002 IN THE SUPREME COURT OF THE STATE OF OREGON
DAVID J. HUNNICUTT and LAWRENCE B. GEORGE, Petitioners, v. HARDY MYERS,
Attorney General, State of Oregon, Respondent. (SC S49177) En Banc On petition to review
ballot title. Submitted on the record February 1, 2002. David J. Hunnicutt, Tigard, argued the
cause and filed the petition for himself and petitioner George.

Janet A. Metcalf, Assistant Attorney General, Salem, filed the answering memorandum for
respondent. With her on the answering 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 various aspects of the Attorney General's certified ballot title for

a proposed initiative measure, which the Secretary of State has denominated as Initiative Petition 150 (2002).

We review the Attorney General's certified ballot title to determine whether it substantially complies with the requirements of ORS 250.035(2)(a) to (d). See ORS 250.085(5) (setting out standard of review). We have considered petitioners' arguments and conclude that they are not well taken.

Accordingly, we certify to the Secretary of State the following ballot title for the proposed measure: AMENDS CONSTITUTION: NO COMPENSATION TO PROPERTY OWNERS FOR HEALTH, SAFETY, ENVIRONMENTAL LAWS, REGULATIONS UNLESS RIGHT PRE-DATED 2000 RESULT OF "YES" VOTE: "Yes" vote provides that property owners are not entitled to compensation due to government laws, regulations protecting health, safety, environment, unless right existed before 2000.

RESULT OF "NO" VOTE: "No" vote rejects proposal providing property owners are not entitled to compensation due to laws, regulations protecting health, safety, environment, unless right existed before 2000. SUMMARY: Amends constitution. Provides that property owners are not entitled to compensation due to adoption, application, enforcement of laws, regulations enacted to protect public health, safety, or environment.

Laws, regulations enacted to protect environment include those: protecting water, air quality, fish, wildlife, preserving farm, forestland, controlling urban sprawl, or promoting community livability. Does not affect, limit compensation right under federal constitution or under state constitution as it existed before 2000.

Before 2000, state constitution provided for compensation when government takes private property, but not when property value only reduced. 2000 measure provided for compensation when some regulations reduce value. That measure was challenged in court; when ballot title prepared, challenge not resolved. This proposal would limit 2000 measure's effect by exempting health, safety, environmental laws, regulations.

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