

SUPREME COURT OF OREGON

Vaandering v. Rosenblum

359 Or. 1 (2016) · No. SC S063820 · Decided April 7, 2016

SUMMARY

The Oregon Supreme Court reviewed challenges to the Attorney General’s certified ballot title for Initiative Petition 69 (2016), which proposed changes to public-sector collective bargaining laws. The court held that the caption, yes and no result statements, and summary did not substantially comply with Oregon law in several respects, and referred the ballot title to the Attorney General for modification.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Kistler, J.
JURISDICTION	Oregon
DECIDED	April 7, 2016
DOCKET	SC S063820
DISPOSITION	remanded
PROCEDURAL POSTURE	Petitioners sought Oregon Supreme Court review of the Attorney General's certified ballot title for Initiative Petition 69 (2016), challenging the caption, yes and no result statements, and summary under ORS 250.085(2).
STANDARD OF REVIEW	The court reviewed the certified ballot title to determine whether it substantially complied with ORS 250.035(2).
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	Hanna Vaandering, Trent Lutz, Heather Conroy, Jill Gibson v. Ellen F. Rosenblum, Attorney General, State of Oregon

TOPICS

- election law
- appellate procedure
- standard of review
- labor law
- collective bargaining

PRACTICE AREAS

- election law
- labor law
- collective bargaining
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Attorney General's 15-word caption reasonably identified the subject matter and major effects of IP 69.
2. Whether the yes result statement adequately described the most significant and immediate effects of approval of IP 69.
3. Whether the no result statement adequately described the status quo if IP 69 were rejected.
4. Whether the summary was concise, impartial, accurate, and sufficiently described IP 69 and its major effects.
5. Whether the ballot-title proceeding was an appropriate forum to resolve disputed legal interpretations of IP 69 or existing unfair-labor-practice law.

HOLDINGS

1. The caption did not substantially comply with ORS 250.035(2)(a) because it focused on only some of IP 69's major effects and failed to convey that the measure would establish different methods for determining employment terms for union and nonunion public employees, while also modifying representation, cost-sharing, and anti-discrimination rules.
2. The yes result statement did not substantially comply with ORS 250.035(2)(b) because it failed to convey that IP 69 would establish different employment terms for union and nonunion public employees and would permit different terms of employment without constituting an unfair labor practice.
3. The no result statement did not substantially comply with ORS 250.035(2)(c) because it inaccurately narrowed the measure's effects to compensation, failed to explain the limited nature of permissible nonmember fees, and omitted that existing law prohibited certain different treatment of union and nonunion employees.
4. The summary did not substantially comply with ORS 250.035(2)(d) because it failed to mention individualized assessments for nonunion employees, improperly narrowed the measure's effects to compensation, inaccurately implied that a union need not represent employees in a recognized bargaining unit, and failed to identify that different employment terms for union and nonunion employees would not constitute an unfair labor practice.

KEY QUOTATIONS

"We review the ballot title to determine whether it substantially complies with ORS 250.035(2)." (359 Or. at 3)

"However, a caption that mentions only those two aspects of the measure fails to convey all the measure's major effects." (359 Or. at 8)

"When confronted with the narrower problem of the meaning of a specific provision in a proposed measure that is subject to two or more plausible interpretations, we ordinarily have declined to choose (or to permit the Attorney General to choose) one of those interpretations for purposes of the ballot title." (359 Or. at 14)

FACTUAL BACKGROUND

Initiative Petition 69 would alter Oregon's Public Employee Collective Bargaining Act by creating separate methods for determining employment terms for union and nonunion public employees. Union employees' terms would be based on collective-bargaining agreements, while nonunion employees' terms would be based on individualized assessments of education, experience, training, skills, and performance. The measure would also affect union representation duties, fair-share payments, and the prohibition against different employment terms based on union membership.

PROCEDURAL HISTORY

The Attorney General certified a ballot title for IP 69, a proposed measure altering public-employee collective-bargaining laws. Petitioners filed petitions for review on January 15, 2016. The Oregon Supreme Court concluded that the caption, both result statements, and the summary did not substantially comply with ORS 250.035(2) in specified respects and referred the ballot title to the Attorney General for modification.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The certified ballot title was referred to the Attorney General for modification of the caption, yes result statement, no result statement, and summary to address the deficiencies identified by the court.

CASES CITED

- Davenport v. Washington Educ. Ass'n, 551 U.S. 177, 181, 127 S. Ct. 2372, 168 L. Ed. 2d 71 (2007)
- Abood v. Detroit Bd. of Educ., 431 U.S. 209, 97 S. Ct. 1782, 52 L. Ed. 2d 261 (1977)
- Friedrichs v. California Teachers Association, 578 U.S. ____ (2016) (per curiam)
- Lavey v. Kroger, 350 Or. 559, 563, 258 P.3d 1194 (2011)
- Rasmussen v. Kroger, 350 Or. 281, 285, 253 P.3d 1031 (2011)
- McCann/Harmon v. Rosenblum, 354 Or. 701, 707, 320 P.3d 548 (2014)
- Greenberg v. Myers, 340 Or. 65, 69, 127 P.3d 1192 (2006)
- Conroy v. Rosenblum, 358 Or. 807, 816-17 (2016)
- Wy'East Education Assoc. v. Oregon Trail School, 244 Or. App. 194, 207-10, 260 P.3d 626 (2011)
- McCann v. Rosenblum, 355 Or. 256, 262, 323 P.3d 955 (2014)
- Wolf v. Myers, 343 Or. 494, 501, 173 P.3d 812 (2007)