

SUPREME COURT OF COLORADO

In the Matter of the Title, Ballot Title, and Submission Clause for 2007-2008 No. 62, Joseph B. Blake v. Joanne King and Larry Ellingson

184 P.3d 52 (Colo. 2008) · No. No. 08SA90 · Decided May 16, 2008

SUMMARY

The Colorado Supreme Court reviewed the Title Board’s action setting titles for proposed Initiative 2007-2008 No. 62, which would establish a just-cause requirement for employee discharge or suspension and provide for mediation. The court held that the initiative contained a single subject, that its titles were clear and did not include impermissible catch phrases, and that amendments made in response to legislative staff comments did not require resubmission. The court affirmed the Title Board, with Justice Hobbs dissenting.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Rice; Justice Hobbs
JURISDICTION	Colorado
DECIDED	May 16, 2008
DOCKET	No. 08SA90
DISPOSITION	affirmed
PROCEDURAL POSTURE	Original proceeding under section 1-40-107(2), C.R.S. (2007), seeking review of the Colorado Title Board's action fixing the title, ballot title, and submission clause for proposed Initiative 2007-2008 No. 62.
STANDARD OF REVIEW	The Supreme Court reviews Title Board action narrowly and presumes the propriety of the Board's actions. It will reverse only for a material and significant omission, misstatement, or misrepresentation, and gives substantial deference to the Board's drafting authority.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Colorado; precedential.
PARTIES	Joseph B. Blake v. Joanne King, Larry Ellingson

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Initiative 2007-2008 No. 62 contains more than one subject in violation of article V, section 1(5.5) of the Colorado Constitution.
2. Whether the Title Board's titles clearly and fairly express the initiative's subject and true intent and meaning.
3. Whether the terms "just cause" and "mediation" are impermissible catch phrases.
4. Whether amendments made in response to legislative staff comments were substantial amendments requiring resubmission to the directors of the Legislative Council and the Office of Legislative Legal Services.

HOLDINGS

1. Initiative 2007-2008 No. 62 contains only one subject: establishing a just-cause requirement for discharging or suspending employees.
2. The titles set by the Title Board clearly and fairly express the subject and true intent and meaning of the initiative.
3. The terms "just cause" and "mediation" are not impermissible catch phrases.
4. The proponents were not required to resubmit the amended initiative to the legislative directors because the changes were made directly in response to legislative staff comments.

KEY QUOTATIONS

"In determining whether a proposed initiative comports with the single subject requirement, [w]e do not address the merits of a proposed initiative, nor do we interpret its language or predict its application if adopted by the electorate." (59)

"While titles must be fair, clear, accurate and complete, the Title Board is not required to set out every detail of an initiative." (60)

"Catch phrases are words that work to a proposal's favor without contributing to voter understanding." (61)

FACTUAL BACKGROUND

Proposed Initiative 2007-2008 No. 62 would amend the Colorado Constitution to prohibit an employer from discharging or suspending an employee without first establishing just cause. It defines just cause, requires written documentation of the disciplinary action, and permits an employee to seek mediation resulting in possible back pay or reinstatement. The proponents added bankruptcy and large-workforce-layoff provisions

after legislative staff questioned whether the measure allowed layoffs for lack of work or addressed employer bankruptcy.

PROCEDURAL HISTORY

The Title Board fixed titles for the proposed initiative at its February 20, 2008 public meeting. Blake timely moved for rehearing, and the Title Board denied the motion on March 5, 2008. Blake then initiated this original proceeding challenging the initiative's single-subject compliance, the clarity and accuracy of the titles, the alleged use of catch phrases, and the proponents' failure to resubmit amendments to legislative directors.

DISPOSITION

affirmed

CASES CITED

- In re Proposed Initiative for 1999-2000 # 25, 974 P.2d 458 (Colo. 1999)
- In re Breene, 14 Colo. 401, 24 P. 3 (1890)
- In re Proposed Initiative "Petitions", 907 P.2d 586 (Colo. 1995)
- In re Proposed Initiative for 1997-1998 # 64, 960 P.2d 1192 (Colo. 1998)
- In re Proposed Initiative "Amend TABOR 25", 900 P.2d 121 (Colo. 1995)
- People ex rel. Elder v. Sours, 31 Colo. 369, 74 P. 167 (1903)
- In re Proposed Initiative "Public Rights in Waters II", 898 P.2d 1076 (Colo. 1995)
- In re Proposed Initiative for 1999-2000 # 33, 975 P.2d 175 (Colo. 1999)
- In re Proposed Initiative for 1999-2000 # 29, 972 P.2d 257 (Colo. 1999)
- In re Proposed Initiative "Concerning the Fair Treatment of Injured Workers", 873 P.2d 718 (Colo. 1994)
- In re Proposed Initiative for 1997-1998 # 62, 961 P.2d 1077 (Colo. 1998)
- In re Proposed Initiative 1999-2000 # 258(A), 4 P.3d 1094 (Colo. 2000)
- In re Proposed Initiative for 1999-2000 # 256, 12 P.3d 246 (Colo. 2000)
- In re Proposed Initiative 1997-98 # 112, 962 P.2d 255 (Colo. 1998)
- In re Proposed Initiatives 2001-2002 # 21 & # 22, 44 P.3d 213 (Colo. 2002)
- In re Proposed Initiative for 1999-2000 # 246(e), 8 P.3d 1194 (Colo. 2000)
- In re Proposed Initiative 1997-98 # 10, 943 P.2d 897 (Colo. 1997)