



OFFICE OF THE SECRETARY OF STATE

NEWS RELEASE

BILL BRADBURY

For Immediate Release:
March 22, 2005

Contact: Carla Corbin
Elections Division
(503) 986-1518

The Office of the Secretary of State received a certified ballot title from the Attorney General on March 21, 2005, for initiative petition #26, proposing a constitutional amendment, for the General Election of November 7, 2006.

In addition, Secretary of State Bill Bradbury determined that the proposed initiative petition was in compliance with the procedural requirements established in the Oregon Constitution for initiative petitions.

The certified ballot title is as follows:

**AMENDS CONSTITUTION: LIMITS COURTS' AUTHORITY TO CONSTRUE
CONSTITUTION AND STATUTORY PROVISIONS; SETS STANDARDS FOR
INTERPRETING OREGON LAW**

RESULT OF "YES" VOTE: "Yes" vote limits courts' authority to construe Oregon law; requires law be construed consistently with framers' intent; prohibits departure from law's text without specific findings.

RESULT OF "NO" VOTE: "No" vote retains existing constitutional separation of powers provisions; retains current requirements that courts construe laws consistently with framers' intent and adhere to law's text.

SUMMARY: Amends constitution. Currently, the Oregon Constitution vests the judicial power of the state in the state supreme court and lower courts; it also contains a separation of powers provision prohibiting judicial officials from exercising legislative functions not expressly provided for by the constitution. Oregon courts currently construe laws to give effect to the intent of the framers who adopted the provision by examining its specific wording, the case law associated with it, and the historical circumstances surrounding its adoption. This measure makes that standard for construing laws a constitutional requirement. Measure also prohibits courts from departing from the text of a law without specifically finding by clear and convincing evidence that the framers of the law intended the result ensuing from any departure. Other provisions.

Chief Petitioner(s): Bill Sizemore, PO Box 343, Beavercreek, OR 97004.

Copies of the text of this initiative are available at Room 141 State Capitol, for \$.25. Written requests for copies with your remittance of \$1.00 prepaid, should be addressed to: Elections Division, Room 141 State Capitol, Salem, OR 97310-0722.

There now follows an appeal period of 10 business days. Any elector dissatisfied with the ballot title certified by the Attorney General, who also submitted in a timely manner written comments which addressed the specific legal standards a ballot title must meet, may petition the Supreme Court for a different title. The appeal period ends at 5:00 p.m. on April 4, 2005. The appeal procedures are outlined in ORS 250.085.

The required number of signatures for placement on the 2006 general election ballot is 100,840. These signatures must be filed in this office not later than July 7, 2006.

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DEPARTMENT OF JUSTICE
APPELLATE DIVISION

March 21, 2005

John Lindback
Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

BILL BRADBURY
SECRETARY OF THE STATE

2005 MAR 21 PM 1:40

RECEIVED

Re: Proposed Initiative Petition — Amends Constitution: Limits Courts' Authority To
Construe Constitution And Statutory Provisions; Sets Standards For Interpreting Oregon
Law
DOJ File #BT-26-05; Elections Division #26

Dear Mr. Lindback:

We have reviewed the comments submitted in response to the draft ballot title for the above-referenced prospective initiative petition. We provide the enclosed certified ballot title. We have changed the caption, the result statements, and the summary in response to the comments.

This letter summarizes the comments we received, our response to those comments, and the reasons why we declined to make some of the changes to the ballot title proposed by the commenter. Under ORAP 11.30(7), this letter must be included in the record in the event the Oregon Supreme Court is asked to review this ballot title.

Monica Smith (on behalf of Kris Kain and Chip Terhune) submitted comments concerning this ballot title. Specifically, the commenter objected to the sufficiency of the ballot title on the grounds that it did not adequately describe the proposed amendment as a limitation on judicial authority and that it did not adequately describe the proposed methodology set out in this initiative.

Caption

The commenter objects that the draft caption "creates a misimpression about the measure's purpose and effect" and does not sufficiently emphasize that the measure is a limitation on the construction of statutory and constitutional provisions.

We agree that a greater emphasis on the limitation of judicial construction and interpretation is appropriate. For that reason, we have revised the caption as follows:

AMENDS CONSTITUTION: LIMITS COURTS' AUTHORITY TO
CONSTRUE CONSTITUTION AND STATUTORY PROVISIONS; SETS
STANDARDS FOR INTERPRETING OREGON LAW

Result Statements

Because of our modification of the caption, revision of the "yes" result statement is necessary. These changes address the commenter's objections to the draft "yes" result statement. We have revised the "yes" result statement as follows:

RESULT OF "YES" VOTE: "Yes" vote limits courts' authority to construe Oregon law; requires law be construed consistently with framers' intent; prohibits departure from law's text without specific findings.

The commenter agrees that the "no" result statement "correctly focuses on the retention of current law" but complains that it "fails to explain adequately what the current law is." We have modified the "no" result statement as follows to address that objection:

RESULT OF "NO" VOTE: "No" vote retains existing constitutional separation of powers provisions; retains current requirements that courts construe laws consistently with framers' intent and adhere to law text.

Summary

The commenter agrees that the summary "properly focuses on the current laws and methods of analysis that will be changed by this measure," but complains that its descriptions contain inaccuracies, provides excessive detail in some portions, and omits detail in other portions.

After consideration of the commenter's objections and proposed alternative, we have modified the summary to include mention of the standard (clear and convincing evidence) that the measure would require courts to use when departing from the text of a law, and we have eliminated the reference to the executive power in the description of existing separation of powers provisions. We do not believe the commenter's proposed summary is an improvement in most respects to the draft summary; and it is less detailed than the certified summary, which includes specific mention of the "clear and convincing" standard that is not mentioned in the commenter's proposed summary. We certify the following summary:

Amends constitution. Currently, the Oregon Constitution vests the judicial power of the state in the state supreme court and lower courts; it also contains a separation of powers provision prohibiting judicial officials from exercising legislative functions not expressly provided for by the constitution. Oregon courts currently construe laws to give effect to the intent of the framers who adopted the provision by examining its specific wording, the case law associated with it, and the historical circumstances surrounding its adoption. This measure makes that

standard for construing laws a constitutional requirement. Measure also prohibits courts from departing from the text of a law without specifically finding by clear and convincing evidence that the framers of the law intended the result ensuing from any departure. Other provisions.

For the reasons stated above, we have modified the caption, the result statements, and the summary in response to the comments and as a result of our further review of the proposed measure. We certify the attached ballot title pursuant to ORS 250.067(2).

Sincerely,

Douglas F. Zier
Assistant Attorney General

DFZ:mlk/APP77928

Enclosure

c: Peter Shepherd, Deputy Attorney General
Don Arnold, General Counsel Division
Steve Wolf, General Counsel Division

Bill Sizemore
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Beavercreek, Oregon 97004

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Portland, Oregon 97232-4207

BALLOT TITLE

**AMENDS CONSTITUTION: LIMITS COURTS' AUTHORITY TO
CONSTRUE CONSTITUTION AND STATUTORY PROVISIONS; SETS
STANDARDS FOR INTERPRETING OREGON LAW**

RESULT OF "YES" VOTE: "Yes" vote limits courts' authority to construe Oregon law; requires law be construed consistently with framers' intent; prohibits departure from law's text without specific findings.

RESULT OF "NO" VOTE: "No" vote retains existing constitutional separation of powers provisions; retains current requirements that courts construe laws consistently with framers' intent and adhere to law's text.

SUMMARY: Amends constitution. Currently, the Oregon Constitution vests the judicial power of the state in the state supreme court and lower courts; it also contains a separation of powers provision prohibiting judicial officials from exercising legislative functions not expressly provided for by the constitution. Oregon courts currently construe laws to give effect to the intent of the framers who adopted the provision by examining its specific wording, the case law associated with it, and the historical circumstances surrounding its adoption. This measure makes that standard for construing laws a constitutional requirement. Measure also prohibits courts from departing from the text of a law without specifically finding by clear and convincing evidence that the framers of the law intended the result ensuing from any departure. Other provisions

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