



OFFICE OF THE SECRETARY OF STATE

NEWS RELEASE

BILL BRADBURY

For Immediate Release:
July 5, 2005

Contact: Summer Davis
Elections Division
(503) 986-1518

The Office of the Secretary of State received a certified ballot title from the Attorney General on July 5, 2005, for initiative petition #40, 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: REQUIRES ACCESS TO HEALTH CARE AS
FUNDAMENTAL RIGHT; LEGISLATURE MUST ADOPT PLAN EXPANDING HEALTH
CARE**

RESULT OF "YES" VOTE: "Yes" vote requires state to ensure access to health care as fundamental right, and legislature to adopt plan expanding health care coverage, for Oregon residents.

RESULT OF "NO" VOTE: "No" vote retains current law, which does not require access to health care as fundamental right or require legislature to adopt plan expanding health care.

SUMMARY: Amends constitution. Currently, state statutes establish goals for universal health care; state constitution does not require legislature to adopt health care plan. Measure requires state to provide access to health care as fundamental right for every Oregon resident; legislature must adopt plan that incrementally expands health care coverage so residents can regularly obtain effective, affordable health care. In developing plan, legislature must consider ways to: conserve, strengthen existing health care system; conserve, strengthen system of providing health insurance as employment benefit; encourage individual responsibility for health care; maximize use of federal programs; encourage efficient, effective use of expenditures; improve health of every Oregon resident. Plan must be adopted not later than July 1, 2009; repeals requirement to adopt plan on December 31, 2012. Other provisions.

Chief Petitioner(s): Mitch Greenlick, 712 NW Spring Ave., Portland, OR 97229, Alan Bates, 465 Williamson Way, Ashland, OR 97520 and Ben Westlund, 20590 Arrowhead Dr., Bend, OR 97520.

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 July 19, 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

July 5, 2005

BILL BRADBURY
SECRETARY OF THE STATE

2005 JUL -5 PM 2:39

RECEIVED

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

Re: Proposed Initiative Petition — Amends Constitution: Requires Access To Health Care
As Fundamental Right; Legislature Must Adopt Plan Expanding Health Care
DOJ File #BT-40-05; Elections Division #40

Dear Mr. Lindback:

We have reviewed the comment letters from Olga L. Melendez and Representative Mitch Greenlick about the draft ballot title for the above-referenced proposed measure. This letter summarizes those comments, our responses to the comments, and the reasons why we changed, or declined to change, the ballot title in response to the comments and upon our further review of the proposed measure. This letter should be included in the record if the Oregon Supreme Court is asked to review the ballot title.

The Caption

Commenter Melendez first contends that the caption in the draft ballot title is deficient because it is too narrow to convey the full scope of the proposed measure. Specifically, she asserts that the caption must inform voters “that the measure requires that the State of Oregon ensure that every Oregon resident has” access to health care. (Underlining in original). In a related vein, she argues that the caption should not contain the term “fundamental right” because it is undefined and “appears to be secondary to the requirement that the state ensure that every Oregon resident has access to health care.”

We reject Melendez’s comment. As an initial matter, we disagree that the phrase “fundamental right” must be defined to appear in the caption. Moreover, we disagree with Melendez that the “fundamental right” appearing in the proposed measure is secondary to the requirement that the state ensure access to health care. Fundamental rights are, relatively speaking, rare and few. Thus, when a proposed measure enshrines a new fundamental right in the state constitution, that effect must be considered part of the “subject matter” of the measure.

Consequently, we certify the following caption:

**AMENDS CONSTITUTION: REQUIRES ACCESS TO HEALTH CARE
AS FUNDAMENTAL RIGHT; LEGISLATURE MUST ADOPT PLAN
EXPANDING HEALTH CARE**

The “Yes” Statement

Commenter Melendez contends that the “yes” statement in the draft ballot title is misleading because the phrase “for Oregon residents” is attributed only to the requirement that the legislature adopt a plan for health-care coverage, even though the measure contemplates that the phrase also applies to the legislature’s obligation to ensure access to health care as a fundamental right. We agree, and we adopt a variant of Melendez’s proposed “yes” statement. The variant “yes” statement also accommodates Melendez’s separate comment that the conjunction “and” should be included in the “yes” statement to separate the two sections of the proposed measure.

Therefore, we certify the following “yes” statement:

RESULT OF “YES” VOTE: “Yes” vote requires state to ensure access to health care as fundamental right, and legislature to adopt plan expanding health care coverage, for Oregon residents.

The “No” Statement

Commenter Melendez asserts that the “no” statement in the draft ballot title is misleading because it “fails to recognize the existence of state laws and programs referenced in the text of Initiative 40 and which will remain in place in the event of a ‘no’ vote.” Although Melendez is correct that the proposed measure mentions other programs that pertain to health care, it does so only to explain what factors the legislature must consider when developing a health-care plan. A reference in the “no” statement to existing programs, with no reference to the other considerations, would give the impression that some considerations are more important than others. Thus, we reject that comment.

We certify the following “no” statement:

RESULT OF “NO” VOTE: “No” vote retains current law, which does not require access to health care as fundamental right or require legislature to adopt plan expanding health care.

The Summary Statement

Commenter Melendez contends that the summary is misleading, first, because “its description of current law is incomplete.” Specifically, Melendez asserts that the summary should “acknowledge the existence of current programs and laws” that “provide access to health care.” We reject that comment. First, the commenter has not identified what specific programs

and laws she believes the summary should discuss. More importantly, a description of existing programs and laws is unnecessary when the major effect of the proposed measure is to create a fundamental right of access to health care for all Oregon residents, and to direct the legislature to create a health-care plan for all Oregon residents.

Melendez next contends that the summary is misleading because it recites each of the considerations that the measure directs the legislature to consider when adopting a plan for health-care coverage. According to Melendez, the reference to each consideration “unduly emphasizes provisions that are mere considerations over language that better explains the major effect of the proposed changes to the Oregon Constitution.” We reject that comment because we believe that the considerations that the proposed measure directs the legislature to consider are a part of the measure’s “major effect.”

Finally, Melendez contends that the draft summary should make it clear that the existing statutes that establish goals for universal health care are *state* statutes. We accept that comment, and insert the word “state” before “statutes” in the second sentence. To accommodate that additional word, we remove the second reference to “Oregon” in the third sentence, which does not detract from the clarity of the summary.

Commenter Representative Greenlick contends that the summary is erroneous because “[t]here is no statute that * * * establish[es] goals for universal health care nor is there a requirement for any statute to do so.” We reject that comment. At least two statutes establish legislative goals for “universal access” to health care. *See* ORS 414.018(1) (“It is the intention of the Legislative Assembly to achieve the goals of universal access to an adequate level of high quality health care at an affordable cost.”); ORS 676.400(1) (establishing goal of “universal access” to health care for all Oregonians, regardless of ethnic or cultural background).

Therefore, we certify the following summary:


SUMMARY: Amends constitution. Currently, state statutes establish goals for universal health care; state constitution does not require legislature to adopt health care plan. Measure requires state to provide access to health care as fundamental right for every Oregon resident; legislature must adopt plan that incrementally expands health care coverage so residents can regularly obtain effective, affordable health care. In developing plan, legislature must consider ways to: conserve, strengthen existing health care system; conserve, strengthen system of providing health insurance as employment benefit; encourage individual responsibility for health care; maximize use of federal programs; encourage efficient, effective use of expenditures; improve health of every Oregon resident. Plan must be adopted not later than July 1, 2009; repeals requirement to adopt plan on December 31, 2012. Other provisions.

Constitutional Comments

In a separate letter, Commenter Melendez contends that the proposed measure violates Article XVII, section 1, and Article IV, sections 1 and 20, of the Oregon Constitution. Those issues are beyond the scope of the ballot-title drafting process. *See* OAR 165-14-0028 (providing for separate review process by Secretary of State to determine whether measure complies with constitutional procedural requirements for proposed initiative measures).

For the reasons stated above, we certify the attached ballot title pursuant to ORS 250.067(2).

Sincerely,


Assistant Attorney General

RPK:mlk/APP81110

Enclosure

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

Representative Mitch Greenlick
712 NW Spring Avenue
Portland, Oregon 97229

Senator Alan Bates
465 Williamson Way
Ashland, Oregon 97520

Senator Ben Westlund
20590 Arrowhead Drive
Bend, Oregon 97701

James E. Mountain Jr.
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BALLOT TITLE

**AMENDS CONSTITUTION: REQUIRES ACCESS TO HEALTH CARE
AS FUNDAMENTAL RIGHT; LEGISLATURE MUST ADOPT PLAN
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