



OFFICE OF THE SECRETARY OF STATE

NEWS RELEASE

BILL BRADBURY

For Immediate Release:
July 20, 2007

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 July 19, 2007, for initiative petition #99, proposing a constitutional amendment, for the General Election of November 4, 2008.

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: PROHIBITS LEGISLATORS FROM PARTICIPATING
IN STATE, LOCAL RETIREMENT PROGRAMS BASED ON SERVICE IN
LEGISLATIVE ASSEMBLY**

RESULT OF "YES" VOTE: "Yes" vote prohibits members of the Legislative Assembly from participating in state or local retirement programs by virtue of their service in the Legislative Assembly.

RESULT OF "NO" VOTE: "No" vote retains existing law, which allows persons appointed/elected to Legislature to participate in state, local retirement programs by virtue of Legislative Assembly service.

SUMMARY: Amends constitution. Current law allows persons appointed/elected to Legislature to participate in state/local retirement programs based on service in Legislature. Measure prohibits legislators from participating in "publicly-funded" pension or retirement benefits by virtue of Legislative Assembly service. Defines "publicly-funded pension benefits" as "retirement benefits payable by the Oregon Public Employees retirement System or other program funded in whole or part by the state or local government, but not benefits payable under any federal program." Measure does not affect benefits earned by service in Legislative Assembly prior to measure's effective date. Allows Legislative Assembly members holding office on effective date of measure to accrue benefits for remainder of existing term of office, but not for any subsequent terms in office. Other provisions.

Chief Petitioner(s): Nicholas J. Urhausen, 2858 Warren ST, Eugene, OR 97405.

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 August 2, 2007. The appeal procedures are outlined in ORS 250.085.

The required number of signatures for placement on the 2008 general election ballot is 110,358. These signatures shall be filed in this office not later than July 3, 2008.

#



DEPARTMENT OF JUSTICE
APPELLATE DIVISION

July 19, 2007

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

RECEIVED
2007 JUL 19 PM 3:10
HILL BRADBURY
SECRETARY OF THE STATE

Re: Proposed Initiative Petition — Amends Constitution: Prohibits Legislators From Participating In State, Local Retirement Programs Based On Service In Legislative Assembly
DOJ File #BT-99-07; Elections Division #99

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 for the proposed measure, which differs from the draft ballot title.

This letter summarizes the comments that were received, the reasons why we accepted some of those comments and the reasons why we rejected the remaining comments. ORAP 11.30(7) requires that this letter be included in the record in the event that the Oregon Supreme Court reviews this ballot title.

The caption

The caption for the ballot title of a state measure must reasonably identify the subject matter of the measure and contain no more than 15 words. ORS 250.035(2)(a). “A caption complies substantially with the requirements of ORS 250.035(2)(a) if it identifies the subject matter of the proposed measure in terms that will not confuse or mislead potential petition signers and voters.” *Mabon v. Myers*, 332 Or 633, 637, 33 P3d 988 (2001).

Oregon electors Jerry Caruthers, and Larry Wolf (“commenters Caruthers and Wolf”) comment that the draft caption is misleading because it fails to specify that the proposed measure repeals existing law which allows legislators to participate in state retirement programs. We agree and have modified the caption accordingly.

Commenters Caruthers and Wolf also comment that the use of the term “publicly-funded” in the caption is overbroad, because it appears to encompass federally funded programs and those programs are specifically excluded by the measure. We agree and have modified the caption accordingly.

We therefore certify the following caption:

**AMENDS CONSTITUTION: PROHIBITS LEGISLATORS FROM PARTICIPATING IN
STATE, LOCAL RETIREMENT PROGRAMS BASED ON SERVICE IN
LEGISLATIVE ASSEMBLY**

The result statements

The “yes” and “no” result statements are to be “simple and understandable statement[s] of not more than 25 words” each that describe the results if the state measure is approved or rejected. ORS 250.035(2)(b), (c).

“Yes” statement

Commenters Caruthers and Wolf renew their objections to the caption with regard to the “yes” statement. They comment both that the draft result statement uses the inaccurate term “publicly-funded” and that the result statement fails to inform voters that the proposed measure repeals existing law. For the same reasons explained above, we agree and have modified the “yes” statement accordingly.

“No” statement

Commenters Caruthers and Wolf comment that the “no” result statement fails to inform voters that “under current law, legislators are not treated any differently than other public officials or employees.” Commenters Caruthers and Wolf therefore suggest that the “no” statement specify that, under existing law, legislators are eligible to receive retirement benefits “in the same manner as other public employees and elected officials.” We reject this suggestion as an inaccurate statement of current law.

Although we declined to modify the “no” statement based on the above suggestion, we have modified the “no” statement to delete reference to the term “publicly-funded” to maintain consistency within the ballot title and have made other changes to specify that legislators currently are allowed to participate in state or local retirement programs based on their service in the Legislature.

We therefore certify the following “yes” and “no” result statements:

RESULT OF “YES” VOTE: “Yes” vote prohibits members of the Legislative Assembly from participating in state or local retirement programs by virtue of their service in the Legislative Assembly.

RESULT OF "NO" VOTE: "No" vote retains existing law, which allows persons appointed/elected to Legislature to participate in state, local retirement programs by virtue of Legislative Assembly service.

The summary

The summary is to be a "concise and impartial statement of not more than 125 words summarizing the state measure and its major effect." ORS 250.035(2)(d). The purpose of a summary is to "help voters understand what will happen if the measure is approved" and "the breadth of its impact." *Mabon*, 332 Or at 640, quoting *Fred Meyer, Inc. v. Roberts*, 308 Or 169, 175, 777 P2d 406 (1989).

Commenters Caruthers and Wolf renew their objection to the "no" statement with regard to the summary. They comment that the description of current law in the summary fails to inform voters that legislators are treated the same as other public employees. For the same reasons explained above, we decline to modify the summary based on that suggestion.

Commenters Caruthers and Wolf also comment that the summary fails to inform voters that the proposed measure repeals existing law. We agree and have modified the summary accordingly.

We therefore certify the following summary:

SUMMARY: Amends constitution. Current law allows persons appointed/elected to Legislature to participate in state/local retirement programs based on service in Legislature. Measure prohibits legislators from participating in "publicly-funded" pension or retirement benefits by virtue of Legislative Assembly service. Defines "publicly-funded pension benefits" as "retirement benefits payable by the Oregon Public Employees retirement System or other program funded in whole or part by the state or local government, but not benefits payable under any federal program." Measure does not affect benefits earned by service in Legislative Assembly prior to measure's effective date. Allows Legislative Assembly members holding office on effective date of measure to accrue benefits for remainder of existing term of office, but not for any subsequent terms in office. Other provisions.

Sincerely,

Stacey RJ Guise
Assistant Attorney General

John Lindback
July 19, 2007
Page 4

Enclosure

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

Nicholas J. Urhausen
2858 Warren Street
Eugene, Oregon 97405

Margaret S. Olney
Smith, Diamond & Olney
1500 NE Irving Street, Suite 370
Portland, OR 97232

[Signature] Assistant Attorney General

BALLOT TITLE

AMENDS CONSTITUTION: PROHIBITS LEGISLATORS FROM PARTICIPATING IN STATE, LOCAL RETIREMENT PROGRAMS BASED ON SERVICE IN LEGISLATIVE ASSEMBLY

RESULT OF "YES" VOTE: "Yes" vote prohibits members of the Legislative Assembly from participating in state or local retirement programs by virtue of their service in the Legislative Assembly.

RESULT OF "NO" VOTE: "No" vote retains existing law, which allows persons appointed/elected to Legislature to participate in state, local retirement programs by virtue of Legislative Assembly service.

SUMMARY: Amends constitution. Current law allows persons appointed/elected to Legislature to participate in state/local retirement programs based on service in Legislature. Measure prohibits legislators from participating in "publicly-funded" pension or retirement benefits by virtue of Legislative Assembly service. Defines "publicly-funded pension benefits" as "retirement benefits payable by the Oregon Public Employees retirement System or other program funded in whole or part by the state or local government, but not benefits payable under any federal program." Measure does not affect benefits earned by service in Legislative Assembly prior to measure's effective date. Allows Legislative Assembly members holding office on effective date of measure to accrue benefits for remainder of existing term of office, but not for any subsequent terms in office. Other provisions.

SECRETARY OF THE STATE
BILL BANDRENY
2007 JUL 19 PM 3
REC