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Parrish v. Rosenblum

Supreme Court of Oregon, En Banc - October 10, 2019 - P.3d - 365 Or. 597 - 2019 WL 5078283

Elector challenged certified ballot title for initiative petition to add constitutional provision regarding public pensions.

The Supreme Court held that:

- Prohibition on borrowing was an actual major effect of proposed measure, and thus belonged in caption;
- Phrase “effects unclear” in caption was unhelpful and failed to describe initiative’s subject matter;
- Phrase “unfunded actuarial liability” did not need to be placed in quotation marks in caption;
- Ballot title’s “yes” result statement did not substantially comply with requirement that it describe most significant and immediate effects; and
- Ballot title’s “no” result statement did not substantially comply with requirement that it inform voters about status quo.

Prohibition on borrowing to finance unfunded actuarial liability was an actual major effect of proposed state measure to amend constitution to be initiated, and thus prohibition belonged in ballot title’s caption, if word limit permitted it, despite contention that prohibition was subsumed within phrase “effects unclear;” regardless of uncertainty as to meaning of “accrue,” proposed measure on its face would have restricted use of borrowing to finance unfunded pension liabilities, and that restriction was significant change that proposed measure would have enacted in context of existing law.

Phrase “effects unclear” in caption of ballot title to amend constitution was unhelpful and failed to describe initiative’s subject matter, as statutorily required; even though proposed measure’s failure to define “accrue” was a source of ambiguity that should have been noted in caption, caption could have placed word in quotation marks followed by “undefined,” and lack of clarity as to how proposed measure would have applied to government bodies was in nature of secondary effects.

Phrase “unfunded actuarial liability” did not need to be placed in quotation marks in ballot title’s caption, for proposed state measure to add constitutional provision regarding public pensions, despite contention that phrase was ambiguous; phrase had accepted meaning under state statute, and proposed measure’s text was consistent with that meaning.

Ballot title’s “yes” result statement, which included phrase “effect unclear,” did not substantially comply with statutory requirement that it describe most significant and immediate effects of proposed measure, which would add constitutional provision regarding public pensions; ambiguity regarding term “accrue” was adequately addressed by putting that word in quotation marks, followed by word “undefined,” and lack of clarity in initiative petition concerning how governmental entity would have complied with new constitutional provision or consequences that would have flowed from failure to comply was not a change that would have effect on existing law.

Ballot title's "no" result statement, which included statement that treasurer was "not required to calculate unfunded actuarial liability," did not substantially comply with statutory requirement that it inform the voters about the status quo; statement, without more, could have left voters with incorrect impression that, under existing law, unfunded pension liabilities were not calculated by anyone, and therefore, the "no" result statement did not summarize current law accurately or advise voters of choice they were being asked to make on initiative petition to add constitutional provision regarding public pensions.