

Bond Case Briefs

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BALLOT INITIATIVES - NEBRASKA

Thomas v. Peterson

Supreme Court of Nebraska - September 10, 2020 - N.W.2d - 307 Neb. 89 - 2020 WL 5506411

Challenger, who operated a delayed deposit services business, filed complaint and ballot title challenge against Attorney General and Secretary of State in their official capacities, alleging that explanatory statement and ballot title for initiative petition that sought to amend Delayed Deposit Services Licensing Act by establishing statutory cap on the annual percentage rate that could be charged by delayed deposit services licensees were insufficient and unfair.

After granting complaint in intervention filed by sponsors of initiative petition and following hearing, the District Court found that it lacked jurisdiction to review the explanatory statement and certified the ballot title prepared by the Attorney General. Challenger appealed, case was moved to the docket of the Supreme Court, and expedited review was granted.

The Supreme Court held that:

- District court lacked jurisdiction to review explanatory statement;
- As a matter of first impression, deferential standard was to be applied to ballot title, and dissatisfied person was required to prove by the greater weight of the evidence that the ballot title was insufficient or unfair; and
- Ballot title was not insufficient or unfair due to description of licensees as payday lenders.

District court lacked jurisdiction to review the explanatory statement prepared by the Attorney General for initiative petition that sought to amend Delayed Deposit Services Licensing Act by establishing statutory cap on the annual percentage rate that could be charged by delayed deposit services licensees, since legislature did not provide courts with authority to review anything other than the ballot title.

In proceedings challenging ballot title prepared by Attorney General for initiative petition, deferential standard is to be applied to the ballot title, and a dissatisfied person must prove by the greater weight of the evidence that the ballot title is insufficient or unfair.

Ballot title prepared by the Attorney General for initiative petition that sought to amend Delayed Deposit Services Licensing Act by establishing statutory cap on the annual percentage rate that could be charged by delayed deposit services licensees was not insufficient or unfair due to description of licensees as payday lenders; term “payday lenders” appeared in the objective statement of the draft initiative petition and in Act, there was no indication that “payday lenders” was a slang term that created unfairness or that term would deceive or mislead voters regarding the initiative petition, and term was a commonly used term that supplemented statutory term and clarified the measure.

