

# **Bond Case Briefs**

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## **REFERENDA - COLORADO**

### **Ward v. State by and through Polis**

**Supreme Court of Colorado - August 21, 2023 - P.3d - 2023 WL 5340376 - 2023 CO 45**

Residents, local officials, and other plaintiffs brought action against Governor and Secretary of State, in their official capacities, to invalidate legislative bill and its embedded referred measure about limiting property taxes and providing other funding for local government, contending that both violated the Colorado Constitution's single-subject requirement and that the referred measure's title violated the Colorado Constitution's clear-expression requirement.

The District Court concluded that it lacked subject-matter jurisdiction to consider the single-subject claims and denied the requested relief on the clear-expression claims. Plaintiffs appealed.

The Supreme Court held that:

- Unless and until Colorado voters approved referred measure, courts lacked subject-matter jurisdiction to review either the measure or the legislative bill in which it was embedded to determine compliance with the Colorado Constitution's single-subject requirement;
- Failure of referred measure's title to provide detail on the rate or amount of proposed property tax reductions was not a basis to find that the title violated the Colorado Constitution's clear-expression requirement;
- Failure of referred measure's title to mention that measure would authorize an appropriation for rental assistance was not a basis to find that measure's title violated the Colorado Constitution's clear-expression requirement;
- Failure of referred measure's title to refer to separate legislation that concerned refunds under the Taxpayer's Bill of Rights (TABOR) and that would take effect only if the voters approved the referred measure was not a basis to find that measure's title violated the Colorado Constitution's clear-expression requirement;
- That referred measure's title used allegedly confusing and obfuscating language in connection with its modifications to certain provisions in the Taxpayer's Bill of Rights (TABOR) was not a basis to find that measure's title violated the Colorado Constitution's clear-expression requirement; and
- Failure of referred measure's title to mention the new funding for the State Education Fund was not a basis to find that measure's title violated the Colorado Constitution's clear-expression requirement.

Unless and until Colorado voters approved referred measure about limiting property taxes and providing other funding for local government, courts lacked subject-matter jurisdiction to review either the measure or the legislative bill in which it was embedded to determine compliance with the Colorado Constitution's single-subject requirement; despite argument that statute providing for election contests arising out of a ballot issue or ballot question election concerning the order on the ballot or the form or content of any ballot title conferred subject-matter jurisdiction, a single-subject violation, which, by its nature, could not be remedied by judicial reformation, was not the type of challenge contemplated by that statute.

That the title for referred measure did not provide detail on the rate or amount of proposed property

tax reductions was not a basis to find that the title violated the Colorado Constitution's clear-expression requirement; such an alleged failure was nothing more than an assertion that the title could be more specific and expansive, the title did alert voters to the general object to be accomplished, and a title did not have to express all of the act's provisions or the details by which the act's objects were to be accomplished.

Failure of title of referred measure, which concerned limitations on property taxes, to mention that measure would authorize an appropriation for rental assistance was not a basis to find that measure's title violated the Colorado Constitution's clear-expression requirement; such an argument was simply an assertion that the title could provide more detail, but the lack of that level of detail did not render the title unclear.

Failure of title of referred measure, which concerned limitations on property taxes, to refer to separate legislation that concerned refunds under the Taxpayer's Bill of Rights (TABOR) and that would take effect only if the voters approved the referred measure, was not a basis to find that measure's title violated the Colorado Constitution's clear-expression requirement; the referred measure did not concern itself with that separate legislation, and challengers to the referred measure's validity pointed to no authority supporting their contention that a ballot title had to disclose the impact that it may have on the implementation of separate legislation.

That the title of referred measure, which concerned limitations on property taxes, used allegedly confusing and obfuscating language in connection with its modifications to certain provisions in the Taxpayer's Bill of Rights (TABOR) was not a basis to find that measure's title violated the Colorado Constitution's clear-expression requirement; such an argument amounted to nothing more than a quibble with the language of the title, and there was nothing unclear or misleading in the language that the General Assembly chose to employ.

Failure of title of referred measure, which concerned limitations on property taxes, to mention the new funding for the State Education Fund was not a basis to find that measure's title violated the Colorado Constitution's clear-expression requirement; lack of such a mention simply concerned a contention that the title should contain more specificity as to how it will compensate for lost property tax revenues, but such detail was neither necessary nor necessarily desirable.