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REFERENDA - OREGON

Wasson v. Fagan

Court of Appeals of Oregon - November 1, 2023 - P.3d - 328 Or.App. 813 - 2023 WL 7173557

Elector filed petition challenging the validity of a provision in the Secretary of State's "County, City, and District Initiative and Referendum Manual," which had been adopted by rule, that set forth higher signature requirements in certain areas.

The Court of Appeals held that:

- Statute authorizing the Secretary of State to enact election rules authorized the Secretary to promulgate the challenged provision;
- Rational-basis review applied to claim that the provision violated the Oregon Constitution's Equal Privileges Clause; and
- A rational basis existed for the provision, i.e., the signature requirement distinction could serve the legitimate state goal of managing the volume of initiatives or referendums by requiring higher signature percentage thresholds in districts with fewer voters.

Statute authorizing the Secretary of State to enact election rules authorized the Secretary to promulgate by rule provision in the Secretary of State's "County, City, and District Initiative and Referendum Manual" that set forth the statutorily mandated signature requirements for certain areas, despite argument that the higher signature requirements, which were based on percentages of votes cast for Governor in the most recent general election, for districts than the requirements for a particular city, particular metropolitan service districts, particular school districts, or particular mass-transit districts were neither correct or impartial.

Rational-basis review applied to claim that the Oregon Constitution's Equal Privileges Clause was violated by provision in the Secretary of State's "County, City, and District Initiative and Referendum Manual," which had been adopted by rule, that set forth higher signature requirements, which were based on percentages of votes cast for Governor in the most recent general election, in districts than in a particular city, particular metropolitan service districts, particular school districts, or particular mass-transit districts; any classes at issue were distinguished by geographical location and were not "suspect classes."

Rational basis existed for provision in the Secretary of State's "County, City, and District Initiative and Referendum Manual," which had been adopted by rule, that set forth higher signature requirements, which were based on percentages of votes cast for Governor in the most recent general election, in certain districts than in a particular city, particular metropolitan service districts, particular school districts, or particular mass-transit districts, and thus the provision did not violate the Oregon Constitution's Equal Privileges Clause; the signature requirement distinction could serve the legitimate state goal of managing the volume of initiatives or referendums by requiring higher signature percentage thresholds in districts with fewer voters.

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