

Challenge to a Ballot-Initiative Financial Impact Estimate

Oregonians for Accountability v. Bradbury
(*Garr M. King, D. Or. 3:04-cv-1170*)

The district judge dismissed a complaint alleging that a financial impact estimate accompanying a ballot initiative was misleading, because the measure text, summary, and explanatory text would make clear to the voters what the measure would do.

Subject: Ballot measures. *Topics:* Ballot language; ballot measure; laches.

Supporters of a ballot initiative filed a federal complaint in the District of Oregon on August 23, 2004, challenging as misleading the financial impact estimate to accompany the ballot question in the November 2 election.¹ With their complaint, the plaintiffs filed a motion for a preliminary injunction.²

On August 24, Judge Garr M. King scheduled a telephone conference for August 25.³ On the day after the September 1 oral argument,⁴ Judge King dismissed the complaint.⁵

He acknowledged a strong argument for laches.⁶ The federal complaint followed a state-court action filed on August 9 and voluntarily dismissed on August 23.⁷

The only practical relief available to the court at this point would be to strike the Estimate from the ballot and voters' pamphlet and, accordingly, deprive voters of any financial impact estimate and create a void that would render already-submitted voters' pamphlet arguments (that refer to the Estimate) nonsensical.⁸

Judge King dismissed the complaint on the merits.⁹ "The summary of the measure and the explanatory statement (not to mention the full text of the

1. Complaint, *Oregonians for Accountability v. Bradbury*, No. 3:04-cv-1170 (D. Or. Aug. 23, 2004), D.E. 1.

2. Docket Sheet, *id.* (Aug. 23, 2004) [hereinafter D. Or. Docket Sheet] (D.E. 3).

3. *Id.* (D.E. 4, 5).

Judge King died on February 5, 2019. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

4. D. Or. Docket Sheet, *supra* note 2 (D.E. 21).

5. Opinion, *Oregonians for Accountability*, No. 3:04-cv-1170 (D. Or. Sept. 2, 2004), D.E. 25, 2004 WL 1969405 (noting that the opinion was issued on the due date for delivery of the financial impact statement to county clerks); see Dan Hortsch, *Ruling Leaves Financial Impacts in SAIF Ballot Title*, *Oregonian*, Sept. 3, 2004, at D9; Michael Rose, *SAIF Foes Suffer a Setback*, *Salem Statesman J.*, Sept. 3, 2004, at 1B.

6. Opinion, *supra* note 5, at 6–7.

7. *Id.* at 6 (noting that the case should have been brought in Oregon's supreme court instead of a county circuit court and that Oregon's supreme court did not have jurisdiction to review the amount of the estimate).

8. *Id.* at 7.

9. *Id.* at 7–10.

measure), which accompany the Estimate, make abundantly clear what [the measure] will do.”¹⁰

The court of appeals denied the plaintiffs an injunction pending appeal and denied them expedited briefing.¹¹ On October 27, the parties stipulated dismissal of the appeal.¹²

10. *Id.* at 9.

11. Docket Sheet, *Oregonians for Accountability v. Bradbury*, No. 04-35780 (9th Cir. Sept. 9, 2004) (D.E. 5).

12. Order, *id.* (Oct. 27, 2004), D.E. 6, *filed as* Order, *Oregonians for Accountability v. Bradbury*, No. 3:04-cv-1170 (D. Or. Oct. 27, 2004), D.E. 28.