

IN THE SUPREME COURT OF THE STATE OF OREGON

GAIL RASMUSSEN and BETHANNE DARBY,)	
)	Supreme Court Case No. 61470
)	
Petitioners,)	PETITION TO REVIEW BALLOT
)	TITLE CERTIFIED BY THE
v.)	ATTORNEY GENERAL
)	
ELLEN ROSENBLUM, Attorney)	Initiative Petition 12 (2014)
General, State of Oregon,)	
)	
Respondent.)	

Initiative Petition 12 (2012)
Ballot Title Certified June 20, 2013

Chief Petitioners:

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Attorneys for Respondent

PETITION

Pursuant to ORS 250.085(2) and ORAP 11.30, petitioners ask the Court to review the ballot title for Initiative Petition 12 (2014) (Ex. A), certified by the Attorney General on June 20, 2013 (Exs. D & E), and to refer the ballot title back to the Attorney General for modification.

PETITIONERS' INTEREST

Petitioners Gail Rasmussen and Bethanne Darby are Oregon electors who seek review of this ballot title in their individual capacities. They are also respectively the immediate past President and the Associate Executive Director of the Oregon Education Association. The Oregon Education Association has members throughout the State of Oregon. Thus, petitioners have a keen interest in ensuring that this initiative has an accurate and informative ballot title. Petitioners submitted comments (Ex. C) on the draft ballot title (Ex. B), and therefore, have standing under ORS 250.085(2) to seek review of the certified ballot title in this matter.

ARGUMENTS AND AUTHORITIES

I. Introduction.

Initiative Petition 12 (2014) (“IP 12”) is the most recent iteration in a series of tax initiatives filed by Gerald Freeman, Robert Zielenski, Jr., and Marie Bowers/Wayne Brady designed to nullify the existing inheritance tax on estates valued at greater than \$1 million and to prohibit the State and its subdivisions from taxing income-producing property transfers between family members. *See generally Rasmussen v. Kroger*, 350 Or 533, 258 P3d 1224 (2011)(IP 14 (2012)); *Rasmussen v. Kroger*, 351 Or 195, 262 P3d 777 (2011)(IP 15 (2012)); *Rasmussen v. Kroger*, 351 Or 358, 266 P3d 87 (2011) and *Rasmussen v. Kroger*, 351 Or 542, 270 P3d 250 (2012)(IP 18 (2012)). Although IP 12 references “gifts of family” and “family giving,” Oregon does not currently have a gift tax. Similarly, while IP 12 references property which passes as a result of the death of a person, Oregon does not currently tax estates valued at less than \$1 million. *See* ORS 118.010; ORS 118.160 (State estate tax). Accordingly, like Initiative Petitions 13, 14, 15, and 18 before

it, the practical effect of IP 12 is the same as that of its predecessors, albeit for a different category of people, *i.e.*, “family members.”

The initiative defines “family member” broadly to cover relationship by “blood, marriage, domestic partnership, adoption, or by other laws recognizing family relationships between a giver and a recipient within the third degree of relationship to the giver.” Section 4. It also defines “property” broadly to include “any legal or equitable interest in anything of value, including the whole of any lot or tract of land and tangible or intangible personal property.” Section 5. The initiative’s prohibition on taxation covers all “family giving”—defined as “to give without compensation any property, by voluntary act or operation of law”—made “during the family member’s lifetime” or “relating to the death of a person.” The only exception to this broad prohibition is “ordinary property taxes that are imposed based upon ownership of an interest in property.” Section 6. To the extent IP 12 conflicts with any other Oregon law, the initiative provides that its terms supersede. Section 8.

As a result, IP 12 would exempt from taxation not just family estates of \$1 million or more, but all income produced from property transferred between a broad category of “family members,” including potentially rental income and capital gains. For example, under the terms of IP 12 “family members” could shield from taxation rental income by transferring property ownership to each other and then receiving the rental income back as a gift. Similarly, “family members” could shield from taxation capital gains made on the sale of stock or other investment income by transferring stock to “family members” and receiving the gains back as gifts. Nothing in IP 12 would limit the right of the “family member” to re-gift the underlying property. Simply put, IP 12 would allow a broad category of “family members” with large estates and income-producing property to transfer such property among themselves in an effort to shield such property from capital gains or income taxation, resulting in significant loss of revenue for the State and local jurisdictions.

As discussed further below, these practical effects of IP 12 in relation to current law are not apparent from the certified ballot title and for this reason the court should order the ballot title to be modified.

II. Caption

ORS 250.035(2)(a) provides that a ballot title contain “a [c]aption of not more than 15 words that reasonably identifies the subject matter of the state measure.” The caption is the “cornerstone for the other portions of the ballot title” and in order to comply with the statute, it must identify the proposal’s subject matter in terms that will not “confuse or mislead potential petition signers and voters.” *Mabon v. Myers*, 332 Or 633, 637, 33 P3d 988 (2001)(internal citations omitted). “In determining whether a caption reasonably identifies the subject matter of a proposed measure, this court examines the text of the proposed measure itself.” *Id.* at 638 citing *Earls v. Myers*, 330 Or 171, 175, 999 P2d 1134 (2000). It also considers “the changes, if any, the measure would enact in the context of existing law.” *Sizemore v. Myers*, 342 Or 578, 583, 157 P3d 188 (2007)(quoting *Phillips v. Myers*, 325 Or 221, 225-26, 936 P2d 964 (1997)). The caption cannot overstate or understate the scope of the legal changes the initiative would enact. *Kain/Waller v. Myers*, 337 Or 36, 93 P3d 62 (2004).

Here, the Attorney General certified the following caption:

**Exempts from state, local taxation "family giving"
(defined) of any "property" (defined), including by
inheritance**

The certified caption is statutorily non-compliant and should be revised for several reasons. First and foremost, it inaccurately and incompletely describes the changes the measure would enact in the context of existing law. In its review of the certified ballot title for IPs 15 and 18 (2012) (i.e., predecessor initiatives to IP 12), this court recognized that, when a proposed measure is explicitly directed at changing the existing statutory scheme and its major effect will be to change that scheme, the particulars of the existing scheme may be an essential element that must be disclosed in the caption in order to inform

the reader of “the scope of the legal changes that the proposed measure would enact.” *Rasmussen*, 351 Or at 200 citing *Kain/Waller v. Myers*, 337 Or 36, 40, 93 P3d 62 (2004). Here, contrary to the court’s instruction, the caption’s use of the term “family giving” from the initiative in quotations followed by the term defined in parentheses gives the voter no real information about the scope of the proposed changes to existing law effected by the initiative.

As explained above, under current law, there is no State gift tax or inheritance tax on estates valued at less than \$1 million. *See* ORS 118.010; ORS 118.160 (State estate tax). However, estates valued at \$1 million or more and income producing property transfers between family members are subject to taxation. “[P]rohibiting the imposition of these current tax measures would represent a significant policy choice that goes to the heart of the proposed measure's effect [***]. Because that effect is part of the subject matter of the proposed measure, it must be acknowledged in the ballot title's caption [***] in order to inform voters of the scope of the proposed change.” *Rasmussen*, 351 Or at 364 (requiring modification of the certified caption for IP 18 to include reference to estates of \$1 million if possible to do so within word limit). Leaving that explanation to the summary is not enough because, the “informational function” of the caption, as this court has recognized, is of “particular importance in light of ORS 254.175(2), which, since 1995, has authorized county clerks to print ballots without displaying the summary of the certified ballot title.” *Caruthers v. Myers*, 346 Or 300, 304, 210 P3d 882 (2009).

To correct these deficiencies, petitioners proposed that the Attorney General certify a caption which tracked the modified ballot title approved by this court for IP 18 (2012). *See* Ex. C, p. 3. The certified caption for IP 18 read as follows: “Nullifies existing inheritance tax on estates of \$1 million, prohibits taxing family property transfers.” *See Rasmussen*, 351 Or at 544. The Attorney General did not disagree with petitioners as to the practical effects of IP 12 and the need to include the same in the caption. *See* Ex. D. In fact, she acknowledged that IP 12 would nullify the existing inheritance tax on estates valued at \$1 million or more with respect to property in an estate that passes from one

family member to another. Ex. D, p. 1. Nevertheless, she refused to accept petitioners' alternative, responding that the caption for IP 18 is overbroad because IP 12 does not nullify the inheritance tax on estates of \$1 million or more if the property is passed to a non-family member. Ex. D, p. 2. That a proposed alternative is overbroad, however, does not excuse the Attorney General from her obligation to provide a certified ballot title for IP 12 which actually makes clear the significant policy choice at the heart of the proposed measure's effect. The Attorney General could have tackled the overbreadth problem in any number of ways, including the following which clearly tracks the language approved by this court for IP 18: "Nullifies inheritance tax on \$1 million estates to family; prohibits taxing family property transfers." The court should require the Attorney General to do so.

The same applies to the Attorney General's refusal to incorporate the latter part of the certified caption for IP 18 (2012). The Attorney General maintained that the subject "prohibits taxing family property transfers" is subsumed in the language of the certified caption. Ex. D, p. 2. Petitioners respond that this is only technically true if a voter takes the time to review the definitions in addition to the caption. Without that reference to the text of the measure, the caption gives the voter very little concrete information about the policy choice effected by proposed measure. More importantly, the certified caption's use of the term "family giving" implies incorrectly that there currently exists a state gift tax. "A ballot title should not misstate existing law, even by implication, and thereby create a spurious argument to support the measure's passage." *Dale v. Kulongoski*, 321 Or 108, 113, 894 P2d 462 (1995). Use of the phrase "family property transfers" certified by this court instead more accurately describes (within the word limitations for the caption) the state of current law which is to tax income producing family property transfers. For these reasons, the court should order the Attorney General to modify the certified caption to track the caption certified by the court for IP 18 (2012).

III. Result Statements.

ORS 250.035(2)(b)-(c) require that a ballot title contain a simple understandable statement of not more than 25 words that describes the result if the state measure is approved or rejected. Typically, the “yes” vote result statement builds on the caption. The purpose of the “yes” vote result statement is to “notify petition signers and voters of the result or results of enactment that would have the greatest importance to the people of Oregon.” *Novick v. Myers*, 337 Or 568, 574, 100 P3d 1064 (2004). In contrast, the “no” vote result statement must explain to voters “the state of affairs” that will exist if this initiative is rejected, that is, the *status quo*. It is also essential that the law described in the “no” vote result statement concern the subject matter of the proposal. Otherwise, the description could mislead voters about the effect of their vote. *Nesbitt v. Myers*, 335 Or 219, 223, 64 P3d 1133 (2003). *See also, Nesbitt v. Myers*, 335 Or 424, 431, 71 P3d 530 (2003)(review of modified ballot title). “[T]o comply with [***] statutory requirements, the Attorney General may have to go beyond the words of a measure in order to give the voters accurate and neutral information about a proposed measure.” *Caruthers v. Myers*, 344 Or 596, 601, 189 P3d 1 (2008).

Here, the Attorney General certified the following “yes” and “no” vote result statements:

Result of "Yes" Vote: "Yes" vote exempts "family giving" (defined) of "property" (defined)- including inheritance received from a "family member" (defined)-from state or local taxation; reduces state revenue.

Result of "No" Vote: "No" vote retains law taxing certain estates and making those to whom estate property passes-even if related to decedent-liable for unpaid estate tax.

Although the “yes” vote result statement correctly notifies voters about the loss of revenue effected by the initiative, both result statements still suffer from the same deficiencies outlined above with regard to the caption. They fail to provide the voter sufficient substantive information about the scope of current law to understand the policy choice proposed by the initiative’s operative terms. The “no” vote result statement

vaguely references “certain” estates and wastes precious words discussing the effect of “unpaid” estate taxes at the expense of providing concrete information about current taxation of income producing family property transfers. Like the draft caption, the draft “yes” vote result statement simply lists defined terms of the initiative without providing any substantive information about the nature of the changes effected by the initiative, *i.e.*, to nullify the existing inheritance tax on estates of \$1 million and to prohibit taxation of income producing family property transfers. This is the information which voters need to assess the extent of the loss of revenue and the policy choice.

To correct these deficiencies, petitioners proposed alternatives which tracked those also approved by this court for IP 18 (2012). Ex. C, p. 4. For the same reasons it declined to adopt petitioners’ alternatives for the caption, the Attorney General also declined to adopt them for the “yes” vote result statement. Ex. D, p. 2. Therefore, petitioners adopt herein by this reference, their arguments outlined above for the caption.

In addition, with regard the “no” vote result statement, the Attorney General maintained that the alternative proposed by petitioners would inaccurately reflect the state of current law. Ex. D, p. 3. However, the language with which the Attorney General took issue is language which this court has already certified as an accurate statement of the current law. *See Rasmussen*, 351 Or at 544. More importantly, the alternative proposed by petitioners and approved by this court for IP 18 (2012) does not waste precious words discussing the effect of “unpaid” estate taxes at the expense of providing concrete information about current taxation of income producing family property transfers. For these reasons, the court should order the result statements modified.

IV. Summary.

ORS 250.035(2)(d) requires that the ballot title contain a 125 word statement which accurately summarizes the measure and its major effects in a concise and impartial manner. The goal is to provide voters with enough information to understand what will

happen if the measure is approved and the “breadth of its impact.” *Fred Meyer, Inc. v. Roberts*, 308 Or 169, 175, 777 P2d 406 (1989).

The summary certified by the Attorney General reads as follows:

Summary: Current law imposes one-time tax on estate of person who dies when value of estate-as determined by federal law-is \$1 million or more; if estate does not pay tax, those to whom estate property passes are liable; does not otherwise tax property received as gifts or inheritance. Measure precludes state, local tax on property-defined as including any legal or equitable interest in anything of value- given from one "family member" (defined) to another family member; includes property passed by will, inheritance, or other operation of law; exempts all "family giving" (defined) from taxation. Measure does not prohibit or restrict ordinary property taxes imposed based on ownership of an interest in property. Measure reduces state revenues; provides no replacement. Other provisions.

The summary does a better job of explaining the policy choice proposed by the initiative. The explanation of current law correctly includes the \$1 million trigger for estate tax and notifies the voter that there is no gift tax. However, the statement still fails to notify the voter that income-producing property transfers between family members are taxed under current law. In addition, although the explanation of the changes effected by the measure correctly points out that the measure reduces state revenues and provides no replacement, it still fails to clue the voter into the broad definition of “family member” or “family giving” so that the voter understands the extent of the potential loss of revenue suffered by the State. As noted above, IP 12 is broad enough to potentially exempt from taxation not just large estates, but all income produced from property transferred between family members, including rental income and capital gains. It would allow “family members” with large estates and income-producing property to transfer such property back

and forth in an effort to shield such property from taxation, resulting in significant loss of revenue for the State and local jurisdictions.

Other than commenting that petitioners' alternative was overbroad for the reasons discussed above for the caption, the Attorney General did not respond to or otherwise address any of the other arguments raised by petitioners. Ex. D, p. 4. As noted above, this does not excuse the Attorney General from her obligation to certify a summary which actually makes clear the significant policy choice at the heart of the proposed measure's effect. For the reasons outlined above, the summary certified by the Attorney General does not do this, and therefore should be ordered modified.

CONCLUSION

For the foregoing reasons, the certified ballot title fails to substantially comply with the statute. Thus, the court should refer the ballot title back to the Attorney General for modification which tracks the certified ballot title approved by this court for IP 18 (2012).

DATED: July 5, 2013.

Respectfully Submitted,

BENNETT, HARTMAN, MORRIS & KAPLAN, LLP

s/Aruna A. Masih

Aruna A. Masih, OSB #973241
of Attorneys for Petitioners

KATE BROWN
SECRETARY OF STATE



ELECTIONS DIVISION

STEPHEN N. TROUT
DIRECTOR

255 CAPITOL STREET NE, SUITE 501
SALEM, OREGON 97310-0722
(503) 986-1518

May 14, 2013

To All Interested Parties:

Secretary of State Kate Brown is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#12), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #12 was filed in our office on May 13, 2013, by Marie Bowers, Robert Zielinski and Gerald Freeman, for the General Election of November 4, 2014.

A copy of the text of this proposed initiative petition is on the second page of the letter. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division. Your comments, if any, must be received by the Elections Division no later than June 5, 2013, in order for them to be considered in the review.

KATE BROWN
Secretary of State

BY:

Lydia Plukchi
Compliance Specialist

The People of the State of Oregon enact the following statute:

Section 1. This 2014 Act shall be known as the Protect Family Giving from Taxes Act.

Section 2. Current laws do not fully represent broad definitions of family and the importance of giving among family members and across generations. Some forms of family giving are penalized. This 2014 Act is intended to allow family members at any time to give to other family members without taxes or penalties. The People believe that there should be no penalties or taxes imposed by the State of Oregon or any other unit of government as to giving between family members. The People intend to allow gifts of family belongings, possessions, and any other kind of property between family members, within a generation or across generations, to encourage families to help family members as to education, home ownership and maintenance, business start-ups and maintenance, or any other endeavor. This includes giving family property which has special emotional significance, such as a family home, family heirloom, family business, or any other kind of property owned within a family.

Section 3. The State of Oregon and all other units of government in Oregon, including but not limited to counties and cities, shall not impose any tax on property to the extent that the property is transferred as family giving. All family giving is exempt from taxation.

Section 4. For purposes of this 2014 Act, "family member" means a relationship by blood, marriage, domestic partnership, adoption or by other laws recognizing family relationships, between a giver and a recipient within the third degree of relationship to the giver. "Family member" includes, by example, but is not limited to, relationships within the range of spouses, domestic partners, great grandparents, grandparents, parents, children, grandchildren, great grandchildren, great uncles, great aunts, uncles, aunts, nephews, nieces, great nephews, great nieces, siblings and cousins.

Section 5. For purposes of this Act, "property" includes, but is not limited to, any legal or equitable interest in anything of value, including the whole of any lot or tract of land and tangible and intangible personal property.

Section 6. For purposes of this Act, "family giving" means to give without compensation any form of property, by voluntary act or operation of law, from one family member to another family member or from one family member to a trust for the benefit of another family member.

Section 7. This 2014 Act precludes taxation imposed on any property that is given from one family member to another family member during the family members' lifetimes, and any property designated to be passed or is passed from a family member to another family member by way of a will or testate or intestate succession or other operation of law relating to the death of a person. This 2014 Act also precludes taxation of any inheritance received by a family member from another family member. This 2014 Act does not cover or restrict ordinary property taxes that are imposed based upon ownership of an interest in property.

Section 8. This 2014 Act supersedes any Oregon law that is inconsistent with this 2014 Act. The Legislative Assembly shall amend ORS 118.010 and any other provision of law necessary to effectuate the intent of the People in this 2014 Act. This 2014 Act shall be generously construed to effectuate the intent of the People. Where two or more interpretations of this 2014 Act are possible, the interpretation that is the intent of the People is the interpretation that produces the most advantageous tax results for family members.

Section 9. This 2014 Act is effective January 1, 2015.

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SECRETARY OF STATE

ELLEN F. ROSENBLUM
Attorney General



MARY H. WILLIAMS
Deputy Attorney General

DEPARTMENT OF JUSTICE
APPELLATE DIVISION

May 21, 2013

Stephen N. Trout
Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

Re: Proposed Initiative Petition: Exempts from state, local taxation "family giving" (defined)
of any "property" (defined), including by inheritance
DOJ File #BT-12-13; Elections Division #12

Dear Mr. Trout:

We have prepared and hereby provide to you a draft ballot title for the above-referenced prospective initiative petition. The proposed measure relates to exempting family giving from state or local taxation.

Written comments from the public are due to you within ten business days after your receipt of this draft title. A copy of all written comments provided to you should be forwarded to this office immediately thereafter.

A copy of the draft ballot title is enclosed.

Legal Secretary

RCM:mlk/4253199

Enclosure

Marie H. Bowers
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Redmond, Oregon 97756

Robert A. Zielinski Jr.
River Road N.
Gervais, Oregon 97026

Gerald C. Freeman
Oak Grove Road
Rickreall, Oregon 97371

RECEIVED
2013 MAY 21 PM 3 51
KATE BROWN
SECRETARY OF THE STATE

DRAFT BALLOT TITLE

Exempts from state, local taxation “family giving” (defined) of any “property” (defined), including by inheritance

Result of “Yes” Vote: “Yes” vote exempts “family giving” (defined) of “property” (defined)—including inheritance received from a “family member” (defined)—from state or local taxation; reduces state revenue.

Result of “No” Vote: “No” vote retains law taxing certain estates and making those to whom estate property passes—even if related to decedent—liable for unpaid estate tax.

Summary: Current law imposes one-time tax on estate of person who dies when value of estate—as determined by federal law—is \$1 million or more; if estate does not pay tax, those to whom estate property passes are liable; does not otherwise tax property received as gifts or inheritance. Measure precludes state, local tax on property—defined as including any legal or equitable interest in anything of value—given from one “family member” (defined) to another family member; includes property passed by will, inheritance, or other operation of law; exempts all “family giving” (defined) from taxation. Measure does not prohibit or restrict ordinary property taxes imposed based on ownership of an interest in property. Measure reduces state revenues; provides no replacement. Other provisions.

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KATE BROWN
SECRETARY OF THE STATE

KATE BROWN
SECRETARY OF STATE



STEPHEN N. TROUT
DIRECTOR

255 CAPITOL STREET NE, SUITE 501
SALEM, OREGON 97310-0722
(503) 986-1518

For Immediate Release:
May 21, 2013

Contact: Lydia Plukchi
Elections Division
(503) 986-1518

The Office of the Secretary of State received a draft ballot title from the Attorney General on May 21, 2013, for initiative petition #12, proposing a statutory amendment, for the General Election of November 4, 2014.

The draft ballot title is as follows:

**Exempts from state, local taxation "family giving" (defined)
of any "property" (defined), including by inheritance**

Result of "Yes" Vote: "Yes" vote exempts "family giving" (defined) of "property" (defined)—including inheritance received from a "family member" (defined)—from state or local taxation; reduces state revenue.

Result of "No" Vote: "No" vote retains law taxing certain estates and making those to whom estate property passes—even if related to decedent—liable for unpaid estate tax.

Summary: Current law imposes one-time tax on estate of person who dies when value of estate—as determined by federal law—is \$1 million or more; if estate does not pay tax, those to whom estate property passes are liable; does not otherwise tax property received as gifts or inheritance. Measure precludes state, local tax on property—defined as including any legal or equitable interest in anything of value—given from one "family member" (defined) to another family member; includes property passed by will, inheritance, or other operation of law; exempts all "family giving" (defined) from taxation. Measure does not prohibit or restrict ordinary property taxes imposed based on ownership of an interest in property. Measure reduces state revenues; provides no replacement. Other provisions.

Chief Petitioner(s): Marie Bowers, SW Salmon Ct., Redmond, OR 97756, Robert Zielinski,
River Rd. N, Gervais, OR 97026 and Gerald Freeman, Oak Grove Rd., Rickreall, OR 97371.

Copies of the text of this initiative are available at Suite 501, 255 Capital St NE for \$.25. Written requests for copies with your remittance of \$1.00 prepaid, should be addressed to: Elections Division, 255 Capital St NE Ste 501, Salem, OR 97310.

There now follows a comment period of 10 business days during which any member of the public may submit written comments which address the specific legal standards a ballot title must meet to the Secretary of State's office. This period ends June 5, 2013. Comments must be addressed to: Elections Division, 255 Capital St NE Ste 501, Salem, OR 97310; fax (503) 373-7414.

The Secretary of State will deliver all written comments to the Attorney General. If comments are received, the Attorney General shall issue the certified ballot title not later than the 10th business day after receiving the comments from the Secretary of State. If no comments are received, the Attorney General shall issue the certified ballot title not later than the 10th business day after the deadline for submitting comments.

In addition, during this ballot title comment period, the Secretary of State will also seek statements from interested persons regarding whether or not a proposed initiative petition complies with procedural constitutional requirements for submission of proposed initiative petitions. The Secretary will consider the information provided in the statements received from interested persons. If you wish to comment, this period ends June 5, 2013. Comments must be addressed to: Elections Division, 255 Capitol St NE, Suite 501, Salem, OR 97310; fax (503) 373-7414.

Any elector who is dissatisfied with the ballot title certified by the Attorney General, and who timely submitted written comments which addressed the specific legal standards a ballot title must meet, may petition the Oregon Supreme Court seeking a different title. This appeal must be filed not later than the 10th business day after the Attorney General certifies a ballot title to the Secretary of State.

The required number of signatures for placement on the 2014 General Election ballot is 87,213. These signatures shall be filed in this office not later than July 3, 2014.

BENNETT, HARTMAN, MORRIS & KAPLAN, LLP

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June 5, 2013

Via Fax No. 1-503-373-7414
The Honorable Kate Brown
Secretary of State
Elections Division
255 Capital Street NE, Suite 501
Salem, Oregon 97310-0722

RECEIVED
2013 JUN 5 PM 8 41
KATE BROWN
SECRETARY OF THE STATE

Re. Initiative Petition 12 (2014) - Draft Ballot Title Comments
Our File No. 4815-1163

Dear Secretary Brown:

This firm represents Gail Rasmussen, an Oregon elector and President of the Oregon Education Association, and BethAnne Darby, an Oregon elector and Associate Executive Director of the Oregon Education Association. We write in response to your May 21, 2013, News Release which invites comments to the draft ballot title for Initiative Petition 12 (2014).

1. INTRODUCTION.

Initiative Petition 12 (2014) ("IP 12") is the most recent iteration in a series of tax initiatives filed by Gerald Freeman, Robert Zielenski, Jr., and Marie Bowers/Wayne Brady designed to nullify the existing inheritance tax on estates valued at greater than \$1 million and to prohibit the State and its subdivisions from taxing income-producing property transfers between family members. *See e.g.* Initiative Petitions 13, 14, 15, and 18 (2012). Although IP 12 references "gifts of family" and "family giving," Oregon does not currently have a gift tax. Similarly, while IP 12 references property which passes as a result of the death of a person, Oregon does not currently tax estates valued at less than \$1 million. *See* ORS 118.010; ORS 118.160 (State estate tax). Accordingly, like Initiative Petitions 13, 14, 15, and 18 before it, the practical effect of IP 12 is the same as that of its predecessors, albeit for a broader category of people.

The initiative defines "family member" broadly to cover relationship by "blood, marriage, domestic partnership, adoption, or by other laws recognizing family relationships between a giver and a recipient within the third degree of relationship to the giver." Section 4. It also defines "property" broadly to include "any legal or equitable interest in anything of value, including the whole of any lot or tract of land and tangible or intangible personal property." Section 5. The initiative's prohibition on taxation covers all "family giving"—defined as "to give without compensation any property, by voluntary act or operation of law"—made "during the family member's lifetime" or "relating to the

Honorable Kate Brown

Re. IP 12 (2014) – Draft Ballot Title Comments

June 5, 2013

Page 2

death of a person.” The only exception to this broad prohibition is “ordinary property taxes that are imposed based upon ownership of an interest in property.” Section 6. To the extent IP 12 conflicts with any other Oregon law, the Initiative provides that its terms supersede. Section 8.

As a result, IP 12 would exempt from taxation not just estates of \$1 million or more, but all income produced from property transferred between a broad category of “family members, including rental income and capital gains. For example, IP 12 would allow “family members” to shield from taxation rental income by transferring property ownership to each other and then receiving the rental income back as a gift. Similarly, “family members” could shield from taxation capital gains made on the sale of stock or other investment income by transferring stock to “family members” and receiving the gains back as gifts. Nothing in IP 12 would limit the right of the “family member” to re-gift the underlying property. Simply put, IP 12 would allow a broad category of “family members” with large estates and income-producing property to transfer such property among themselves in an effort to shield such property from capital gains or income taxation, resulting in significant loss of revenue for the State and local jurisdictions.

As discussed further below, these practical effects of IP 12 in relation to current law are not apparent from the draft ballot title and for this reason the ballot title must be revised.

2. The Caption

ORS 250.035(2)(a) provides that a ballot title contain “a [c]aption of not more than 15 words that reasonably identifies the subject matter of the state measure.” The first step in determining the subject matter of the initiative is “the changes, if any, the measure would enact in the context of existing law.” *Sizemore v. Myers*, 342 Or 578, 583 (2007) (quoting *Phillips v. Myers*, 325 Or 221, 225-226 (1997)). The caption is the “cornerstone for the other portions of the ballot title” and in order to comply with the statute, it must identify the proposal’s subject matter in terms that will not “confuse or mislead potential petition signers and voters.” *Mahon v. Myers*, 332 Or 633, 33 P3d 988 (2001) (citations omitted). It also cannot overstate or understate the scope of the legal changes the initiative would enact.

The Attorney General’s draft caption fails to substantially comply with this mandate. It reads:

**Exempts from state, local taxation “family giving” (defined) of
any “property” (defined), including by inheritance**

The Caption should be revised first and foremost because it inaccurately and incompletely describes the changes the measure would enact in the context of existing law. In its review of the certified ballot title for IPs 15 and 18 (2012) (i.e., predecessor initiatives to IP 12), the Oregon Supreme Court recognized that, when a proposed measure is explicitly directed at changing the existing statutory scheme and its major effect will be to change that scheme, the particulars of the existing scheme may be an essential element that must be disclosed in the caption in order to inform the reader of “the scope of the legal changes that the proposed measure would enact.” *Rasmussen v. Kroger*, 351 Or 195, 200, 262 P3d 777 (2011) citing *Kain/Waller v. Myers*, 337 Or 36, 40, 93 P3d 62 (2004). Here, contrary to the Supreme Court’s instruction, the caption’s use of the term “family

Honorable Kate Brown

Re. IP 12 (2014) - Draft Ballot Title Comments

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giving" from the initiative in quotations followed by the term defined in parentheses gives the voter no real information about the scope of the proposed changes to existing law effected by the initiative.

Under current law, there is no State gift tax or inheritance tax on estates valued at less than \$1 million. See ORS 118.010; ORS 118.160 (State estate tax). However, estates valued at \$1 million or more and income producing property transfers between family members are subject to taxation. "[P]rohibiting the imposition of these current tax measures would represent a significant policy choice that goes to the heart of the proposed measure's effect [***]. Because that effect is part of the subject matter of the proposed measure, it must be acknowledged in the ballot title's caption [***] in order to inform voters of the scope of the proposed change." *Rasmussen v. Kroger*, 351 Or 358, 364, 266 P3d 87, 90 (2011)(requiring modification of the certified caption for IP 18 to include reference to estates of \$1 million if possible to do so within word limit). Leaving that explanation to the summary is not enough because, the "informational function" of the caption is of "particular importance in light of ORS 254.175(2), which, since 1995, has authorized county clerks to print ballots without displaying the summary of the certified ballot title." *Caruthers v. Myers*, 346 Or 300, 304, 210 P3d 882 (2009).

To correct these deficiencies, we propose the Attorney General certify a caption which tracks the modified ballot title approved by the Oregon Supreme Court for IP 18 (2012):

**Nullifies existing inheritance tax on estates of \$1 million,
prohibits taxing family property transfers**

3. The Results Statements

ORS 250.035(2)(b)-(c) require that a ballot title contain a simple understandable statement of not more than 25 words that describes the result if the state measure is approved or rejected. Typically, the "yes" vote result statement builds on the caption. The purpose of the "yes" vote result statement is to "notify petition signers and voters of the result or results of enactment that would have the greatest importance to the people of Oregon." *Novick v. Myers*, 337 Or 568, 574, 100 P3d 1064 (2004). In contrast, the "no" vote result statement must explain to voters "the state of affairs" that will exist if this initiative is rejected, that is, the *status quo*. It is also essential that the law described in the "no" vote result statement concern the subject matter of the proposal. Otherwise, the description could mislead voters about the effect of their vote. *Neshitt v. Myers*, 335 Or 219, 223, 64 P3d 1133 (2003). See also, *Neshitt v. Myers*, 335 Or 424, 431, 71 P3d 530 (2003)(review of modified ballot title). "[T]o comply with [***] statutory requirements, the Attorney General may have to go beyond the words of a measure in order to give the voters accurate and neutral information about a proposed measure." *Caruthers v. Myers*, 344 Or 596, 601, 189 P3d 1 (2008).

Here, the Attorney General's draft ballot title provides the following result statements:

**Result of "Yes" Vote: "Yes" vote exempts "family giving" (defined)
of "property" (defined)- including inheritance received from a
"family member" (defined)-from state or local taxation; reduces state
revenue.**

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Result of "No" Vote: "No" vote retains law taxing certain estates and making those to whom estate property passes-even if related to decedent-liable for unpaid estate tax.

Although the "yes" vote result statement correctly notifies voters about the loss of revenue effected by the initiative, both result statements still suffer from the same deficiency outlined above with regard to the caption. They fail to provide the voter sufficient substantive information about the scope of current law to understand the policy choice proposed by the initiative's operative terms. The "no" vote result statement vaguely references "certain" estates and wastes precious words discussing the effect of "unpaid" estate taxes at the expense of providing concrete information about current taxation of income producing family property transfers. Like the draft caption, the draft "yes" vote result statement simply lists defined terms of the initiative without providing any substantive information about the nature of the changes effected by the initiative, i.e., to nullify the existing inheritance tax on estates of \$1 million and to prohibit taxation of income producing family property transfers. This is the information which voters need to assess the extent of the loss of revenue and policy choice.

To correct these deficiencies, we respectfully propose the following alternatives which track those approved by the Oregon Supreme Court for IP 18 (2012):

Result of "Yes" Vote: "Yes" vote nullifies, prohibits existing inheritance tax on estates of \$1 million or more, other death-related or family property transfers; reduces state revenue.

Result of "No" Vote: "No" vote retains existing inheritance tax on estates of \$1 million or more; retains tax on all income-producing property transfers between family members.

4. Summary

ORS 250.035(2)(d) requires that the ballot title contain a 125 word statement which accurately summarizes the measure and its major effects in a concise and impartial manner. The goal is to provide voters with enough information to understand what will happen if the measure is approved and the "breadth of its impact." *Fred Meyer, Inc. v. Roberts*, 308 Or 169, 175, 777 P2d 406 (1989).

The draft summary proposed by the Attorney General reads as follows:

Summary: Current law imposes one-time tax on estate of person who dies when value of estate-as determined by federal law-is \$1 million or more; if estate does not pay tax, those to whom estate property passes are liable; does not otherwise tax property received as gifts or inheritance. Measure precludes state, local tax on property-defined as including any legal or equitable interest in anything of value- given from one "family member" (defined) to another family member; includes property passed by will, inheritance, or other operation of law; exempts all "family giving" (defined) from

Honorable Kate Brown

Re. IP 12 (2014) - Draft Ballot Title Comments

June 5, 2013

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taxation. Measure does not prohibit or restrict ordinary property taxes imposed based on ownership of an interest in property. Measure reduces state revenues; provides no replacement. Other provisions.

The summary does a better job of explaining the policy choice effected by the initiative. The explanation of current law correctly includes the \$1 million trigger for estate tax and notifies the voter that there is no gift tax. However, the statement still fails to notify the voter that income-producing transfers between family members are taxed under current law. In addition, although the explanation of the changes effected by the measure correctly points out that the measure reduces state revenues and provides no replacement, it still fails to clue the voter into the broad definition of "family member" or "family giving" so that the voter understands the extent of the potential loss of revenue suffered by the State. As noted above, IP 12 is broad enough to exempt from taxation not just large estates, but all income produced from property transferred between family members, including rental income and capital gains. It would allow "family members" with large estates and income-producing property to transfer such property back and forth in an effort to shield such property from taxation, resulting in significant loss of revenue for the State and local jurisdictions.

To correct these deficiencies we propose the following alternative:

Summary: Current law imposes a one-time inheritance tax on estate of person who dies when value of estate--as determined by federal law--is at least \$1 million; taxes income producing property transfer regardless of parties' relationship; does not otherwise tax property received as gifts or inheritance. Measure nullifies existing inheritance tax, prohibits state and local tax on transfer of any "property" (defined) without compensation, by voluntary act or operation of law, from one "family member"--defined to include by marriage, domestic partnership, adoption, or by other laws--to another. Measure allows ordinary property taxes imposed based on ownership of an interest in property. Measure reduces state revenues; provides no replacement. Other provisions.

Thank you for your careful consideration of these comments. Please send a copy of the certified ballot title as soon as it is available.

Sincerely,

BENNETT, HARTMAN, MORRIS & KAPLAN LLP

Aruna A. Masih

AAM

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cc: Clients



DEPARTMENT OF JUSTICE
APPELLATE DIVISION

June 20, 2013

Stephen N. Trout
Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

RECEIVED
2013 JUN 20 PM 1 51
KATE BROWN
SECRETARY OF THE STATE

Re: Proposed Initiative Petition — Exempts From State, Local Taxation "Family Giving" (defined) Of Any "Property" (defined), Including By Inheritance
DOJ File #BT-12-13; Elections Division #12

Dear Mr. Trout:

We have reviewed the comments submitted on the draft ballot title for the above-referenced initiative petition. We provide the enclosed certified ballot title. We have not modified any part of the draft ballot title.

This letter summarizes the comments we received, our responses to those comments, and the reasons we declined to make the proposed changes. ORAP 11.30(7) requires this letter to be included in the record in the event that the Oregon Supreme Court reviews the ballot title.

A. The caption

The draft ballot title's caption read:

Exempts from state, local taxation "family giving" (defined) of any "property" (defined), including by inheritance

Commenters Gail Rasmussen and BethAnne Darby (represented by Aruna Masih) proposed a caption that would read, "Nullifies existing inheritance tax on estates of \$1 million, prohibits taxing family property transfers." That wording, they asserted, would provide voters with more particular information—compared to the information in the draft caption—describing how the proposed measure would alter existing law.

Yet the first part of the proposed alternative—"[n]ullifies existing inheritance tax on estates of \$1 million"—potentially would mislead voters. The proposed wording suggests that, under the proposed measure, no estate valued at \$1 million would be subject to an inheritance tax. In fact, the proposed measure would nullify the existing inheritance tax on estates valued at \$1 million or more only with respect to property in an estate that passes from one family member to another. (See Proposed Measure, § 7, precluding taxation "on any property * * * passed from

Exhibit D, Page 1 of 6

a family member to another family member” and “of any inheritance received by a family member from another family member”). That is, the proposed measure would not nullify the existing inheritance tax on estates of \$1 million or more if property in the estate is to be passed to a non-family member. Because the proposed alternative wording would describe the proposed measure’s impact overly broadly, we have declined to adopt that proposal.

We also have declined to adopt the suggestion that the caption state, “prohibits taxing family property transfers.” As written, the draft caption—by declaring that the proposed measure “[e]xempts from state, local taxation ‘family giving’ (defined) of any ‘property’ (defined)” —already conveys that same information.

Kevin Mannix—writing on his own behalf, and on behalf of Chief Petitioners Marie Bowers, Robert Zielinski, Jr., and Gerald Freeman—proposed a caption reading, “Gifts by family member (defined) to another family member are exempt from state, local taxation.” That proposed caption, however, provides less information to voters than does the draft caption. Unlike the draft caption, the proposed alternative caption fails to convey that property passed by inheritance from one family member would constitute a “gift” or “family giving” that—under the proposed measure—would be exempt from taxation. (See Proposed Measure, § 7, stating that measure “precludes taxation of any inheritance received by a family member from another family member”). Consequently, we have declined to adopt the proposed alternative wording.

B. The “yes” result statement

The draft ballot title’s “yes” result statement read:

“Yes” vote exempts “family giving” (defined) of “property” (defined)—including inheritance received from a “family member” (defined)—from state or local taxation; reduces state revenue.

Commenters Rasmussen and Darby made essentially the same recommendation for the “yes” result statement that they made for the caption. They proposed an alternative “yes” result statement reading, “‘Yes’ vote nullifies, prohibits existing inheritance tax on estates of \$1 million or more, other death-related or family property transfers * * * .” For the same reasons that we declined to adopt their recommendations for the caption, we have declined to adopt their recommendations for the “yes” result statement.

Commenter Mannix stated that the draft “yes” result statement “can be interpreted to mean that the ‘family member’ definition only applies to an inherited gift,” and that it thus might mislead voters. As drafted, however, the “yes” result statement makes it clear that the proposed measure exempts all “family giving” of property from state or local taxation, and not just family giving by way of inheritance; it declares that the measure “exempts ‘family giving’ (defined) of ‘property’ (defined)—including inheritance received from a ‘family member’ (defined)—from state or local taxation.” As a result, it is unlikely that any ambiguity about the applicability of the phrase “family member” will impair voters’ ability to understand result if the proposed measure becomes law. See ORS 250.035(2)(b) (“yes” result statement must “describe[] the result if the state measure is approved”). We therefore have declined to alter the phrase at issue.

Commenter Mannix also suggested that the phrase "state and local taxation" be substituted for the phrase "state or local taxation." (Emphasis added.) He suggested that the use of "state or local taxation" implies that the proposed measure would permit "one or the other" of those types of taxation. Because we are not convinced that voters are likely to read the phrase at issue in that fashion, we have declined to alter it.

C. The "no" result statement

The draft "no" result statement read:

"No" vote retains law taxing certain estates and making those to whom estate property passes—even if related to decedent—liable for unpaid estate tax.

Commenters Rasmussen and Darby recommended condensing the description of the estate tax imposed by current law, for the purpose of adding the following phrase: "retains tax on all income-producing property transfers between family members." But because the proposed additional wording likely would mislead voters about current law, we have declined to adopt it. The proposed phrase would suggest that "all income-producing property transfers between family members" are currently taxed. Voters thus might conclude, if the suggested phrase is adopted, that current law imposes a tax on gifts given by one family member to another, and on inheritances in which property passes from one family member to another. In fact, current law does not impose a tax on gifts given from one family member to another, or (with the exception of the tax on estates valued at \$1 million or more) impose a tax on inheritances passed from one family member to another. Consequently, we have not adopted the proposed wording.

Commenter Mannix stated that the draft "no" result statement fails to note "that current state law does not restrict counties, cities, or other units of local government from imposing gift taxes." He thus proposed that the statement include the phrase, "'No' vote maintains authority of local governments to impose gift taxes." The proposed wording, however, would suggest to voters that the measure would eliminate the "authority of local governments to impose gift taxes" altogether. In fact, even if the proposed measure becomes law, state and local governments still would possess authority to impose certain gift taxes, so long as the gifts being taxed did not constitute gifts between family members. Because the proposed alternative statement might mislead voters into perceiving the proposed measure's scope as broader than it is, we have not adopted that statement.

Moreover, we note that Commenter Mannix is essentially suggesting that the "no" result statement should tell voters that, under current law, state and local government could impose a tax on gifts, even though no existing law currently imposes such a tax. Put differently, Mr. Mannix is suggesting that the "no" result statement identify a restriction on governmental authority that does not currently exist, even though the absence of that restriction has not resulted in any legislation that can be found in current law. We have concluded that nothing requires the "no" result statement to include information of that nature.

D. The summary

The draft ballot title summary read:

Current law imposes one-time tax on estate of person who dies when value of estate—as determined by federal law—is \$1 million or more; if estate does not pay tax, those to whom estate property passes are liable; does not otherwise tax property received as gifts or inheritance. Measure precludes state, local tax on property—defined as including any legal or equitable interest in anything of value—given from one “family member” (defined) to another family member; includes property passed by will, inheritance, or other operation of law; exempts all “family giving” (defined) from taxation. Measure does not prohibit or restrict ordinary property taxes imposed based on ownership of an interest in property. Measure reduces state revenues; provides no replacement. Other provisions.

Commenters Rasmussen and Darby proposed adding the following phrases to the summary: “[current law] taxes income-producing property transfer regardless of parties’ relationship,” and “[m]easure nullifies existing inheritance tax.” For reasons recounted already, we believe that the proposed phrases might mislead voters about the proposed measure’s impact on current law. We thus have declined to add the proposed phrases.

Commenter Mannix stated that the summary should explain that current law “includes no state prohibition of local taxes on gifts.” Yet the draft summary—by declaring that the “[m]easure precludes state, local tax on property * * * given from one ‘family member’ (defined) to another family member”—necessarily conveys that state and local governments are not currently prohibited from taxing property given from one family member to another. The summary it follows, need not provide additional information along those lines.

Commenter Mannix suggested that the summary should identify the manner in which the proposed measure defines “family member” and “family giving,” and that room for that information could be created, in part, by condensing the description of the current estate tax that appears in the summary. (Commenters Rasmussen and Darby also proposed that the summary should explain how the proposed measure defines “family member.”) But in light of the summary’s word limit, and in light of the lengthy definitions that the proposed measure provides for both “family member” (30 words, not including the list of examples that the measure also provides) and “family giving” (38 words), we have concluded that the better approach is to simply alert the voter—as the draft summary does—that the measure provides particular definitions for those phrases. As a result, we also have declined the invitation to condense the description of current law that appears in the summary’s first sentence.

Commenter Mannix also suggested that the draft summary, by noting that the proposed measure “does not prohibit or restrict ordinary property taxes imposed based on ownership of an interest in property,” refers to a part of the measure that is “not significant enough to warrant inclusion in the summary.” (See Proposed Measure, § 7: “This 2014 Act does not cover or restrict ordinary property taxes that are imposed based upon ownership of an interest in property.”) But because that portion of the measure sheds light on the extent of the effect that the measure—if approved

by voters—would have on existing law, we believe that the summary should refer to it. See ORS 250.035(2)(d) (requiring ballot title summary to summarize the measure's "major effect"). We therefore have retained the description.

E. Conclusion

Although we have further reviewed the proposed measure, and although we have reviewed the comments we received, we have not modified the draft ballot title. We certify the attached ballot title under ORS 250.067(2).

— Assistant Attorney General
rolf.moan@doj.state.or.us

RCM:chc/4353792

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Kevin L. Mannix
Kevin L. Mannix P.C.
2009 State St.
Salem, OR 97301

BALLOT TITLE

Exempts from state, local taxation “family giving” (defined) of any “property” (defined), including by inheritance

Result of “Yes” Vote: “Yes” vote exempts “family giving” (defined) of “property” (defined)—including inheritance received from a “family member” (defined)—from state or local taxation; reduces state revenue.

Result of “No” Vote: “No” vote retains law taxing certain estates and making those to whom estate property passes—even if related to decedent—liable for unpaid estate tax.

Summary: Current law imposes one-time tax on estate of person who dies when value of estate—as determined by federal law—is \$1 million or more; if estate does not pay tax, those to whom estate property passes are liable; does not otherwise tax property received as gifts or inheritance. Measure precludes state, local tax on property—defined as including any legal or equitable interest in anything of value—given from one “family member” (defined) to another family member; includes property passed by will, inheritance, or other operation of law; exempts all “family giving” (defined) from taxation. Measure does not prohibit or restrict ordinary property taxes imposed based on ownership of an interest in property. Measure reduces state revenues; provides no replacement. Other provisions.

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KATE BROWN
SECRETARY OF THE STATE

KATE BROWN
SECRETARY OF STATE



STEPHEN N. TROUT
DIRECTOR

255 CAPITOL STREET NE, SUITE 501
SALEM, OREGON 97310-0722

(503) 986-1518

For Immediate Release:
June 20, 2013

Contact: Lydia Plukchi
Elections Division
(503) 986-1518

The Office of the Secretary of State received a certified ballot title from the Attorney General on June 20, 2013, for initiative petition #12, proposing a statutory amendment, for the General Election of November 4, 2014.

In addition, Secretary of State Kate Brown determined that the proposed initiative petition was in compliance with the procedural requirements established in the Oregon Constitution for initiative petitions.

The certified ballot title is as follows:

**Exempts from state, local taxation "family giving" (defined)
of any "property" (defined), including by inheritance**

Result of "Yes" Vote: "Yes" vote exempts "family giving" (defined) of
"property" (defined) — including inheritance received from a "family member"
(defined) — from state or local taxation; reduces state revenue.

Result of "No" Vote: "No" vote retains law taxing certain estates and making
those to whom estate property passes — even if related to decedent — liable for unpaid
estate tax.

Summary: Current law imposes one-time tax on estate of person who dies when
value of estate — as determined by federal law — is \$1 million or more; if estate does not
pay tax, those to whom estate property passes are liable; does not otherwise tax property
received as gifts or inheritance. Measure precludes state, local tax on property — defined
as including any legal or equitable interest in anything of value — given from one "family
member" (defined) to another family member; includes property passed by will,
inheritance, or other operation of law; exempts all "family giving" (defined) from
taxation. Measure does not prohibit or restrict ordinary property taxes imposed based
on ownership of an interest in property. Measure reduces state revenues; provides no
replacement. Other provisions.

Chief Petitioner(s): Marie Bowers, SW Salmon Ct., Redmond, OR 97756, Robert Zielinski,
River Rd. N, Gervais, OR 97026 and Gerald Freeman, Oak Grove Rd., Rickreall, OR 97371.

Copies of the text of this initiative are available at Suite 501, 255 Capital St NE, for \$.25. Written requests for copies with your remittance of \$1.00 prepaid, should be addressed to: Elections Division, 255 Capitol St NE, Ste 501, Salem, OR 97310.

There now follows an appeal period of 10 business days. Any elector dissatisfied with the ballot title certified by the Attorney General, who also submitted in a timely manner written comments which addressed the specific legal standards a ballot title must meet, may petition the Supreme Court for a different title. The appeal period ends at 5:00 p.m. on July 5, 2013. The appeal procedures are outlined in ORS 250.085.

The required number of signatures for placement on the 2014 General Election ballot is 87,213. These signatures shall be filed in this office not later than July 3, 2014.

#

* * * COMMUNICATION RESULT REPORT (JUL. 5. 2013 1:34PM) * * *

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FAX HEADER 2:

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LINDA J. LARKIN
MARGARET S. OLNEY
OF COUNSEL
ALSO MEMBER
WASHINGTON BAR
ALSO MEMBER
NEW YORK BAR**FACSIMILE TRANSMISSION**

TO: Kate Brown FAX #: 1-503-373-7414

DATE: July 5, 2013

FROM: Aruna A. Masih

CLIENT/MATTER: Initiative No. 12 (2014) FILE NO: 4815-1163

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CERTIFICATE OF FILING

I certify that, I directed the original and seven copies of the PETITION TO REVIEW BALLOT TITLE CERTIFIED BY THE ATTORNEY GENERAL (Initiative Petition #12) to be electronically filed with the Appellate Court Administrator, Appellate Court Records Section, by using the court's electronic filing system pursuant to ORAP 16 on July 5, 2013.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing PETITION TO REVIEW BALLOT TITLE CERTIFIED BY THE ATTORNEY GENERAL (Initiative Petition #12) upon the following individuals on July 5, 2013, by delivering a true, full and exact copy thereof via U.S. Mail to:

Ellen F. Rosenblum, OSB #753239
 Rolf Moan, OSB #924077
 Department of Justice
 1162 Court St. NE
 Salem, OR 97310-4096
 Telephone: (503) 378-4402
 Facsimile: (503) 378-6306
 Attorneys for Respondent

Marie Bowers
 SW Salmon Ct
 Redmond, OR 97756

Robert Zielinski, Jr.
 River Rd N.
 Gervais, OR 97026

Gerald C. Freeman
 Oak Grove Rd
 Rickreall, OR 97371

and upon the following individual via facsimile transmission:

Kate Brown, Secretary of State
 Elections Division
 255 Capitol St. NE, Ste 501
 Salem, Oregon 97310-0722
 Fax: 1-503-373-7414

DATED: July 5, 2013.

BENNETT, HARTMAN, MORRIS & KAPLAN, LLP

s/Aruna A. Masih

Aruna A. Masih, OSB #973241
 of Attorneys for Petitioners