

IN THE SUPREME COURT OF THE STATE OF OREGON

DAN HARMON,

Petitioner,

v.

ELLEN F. ROSENBLUM,
Attorney General, State of Oregon

Respondent.

Case No.

PETITION TO REVIEW BALLOT TITLE
CERTIFIED BY ATTORNEY GENERAL

Initiative Petition 29 (2014)

61800

BALLOT TITLE CERTIFIED

October 24, 2013

Initiative Petition

Chief Petitioner: Patrick Green

Jill Gibson Odell, OSB #973581
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10260 SW Greenburg Rd., Ste.1180
Portland, OR 97223
jill@gibsonlawfirm.org
Telephone:
503.686.0486
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Of Attorneys for Petitioner on Review

Ellen F. Rosenblum, OSB # 753239
Attorney General
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Assistant Attorney General
Department of Justice
1162 Court St., NE
Salem, OR 97301-4096
laura.anderson@doj.state.or.us
Telephone: 503.378.4402
Fax: 503.378.6306

Of Attorneys for Respondent

I. PETITION TO REVIEW BALLOT TITLE

A. Petitioner's Interest

Petitioner Dan Harmon is an elector of this State, a person dissatisfied with the ballot title that is the subject of this action, and adversely affected by Respondent's actions. Because Petitioner submitted written comments concerning the draft ballot title, he has standing to seek review pursuant to ORS 250.085(2).¹

B. Certified Ballot Title

On October 24, 2013, the Attorney General certified the following ballot title:

CERTIFIED BALLOT TITLE

**Increases income tax rate for taxable income over \$250,000/\$500,000
(individual/joint filers)**

Result of "Yes" Vote: "Yes" vote increases existing personal income tax rate from 9.9% to 12.5% for taxable income over \$250,000/\$500,000 (individual/joint filers).

Result of "No" Vote: "No" vote retains existing personal income tax rate of 9.9% for taxable income over \$125,000/\$250,000 (individual/joint filers); rejects tax increase.

Summary: Currently, Oregon individuals with income over \$125,000 (\$250,000 for joint filers) pay a tax of \$11,110 plus 9.9% of the excess over \$125,000. Measure, which applies to tax years beginning in 2015, adds an additional tax bracket for individuals with incomes over \$250,000 (\$500,000 for joint filers). Those taxpayers would pay income tax of \$23,485 plus 12.5% of the excess over \$250,000 (\$500,000 for joint filers). Measure does not change the tax rate for Oregon taxpayers with taxable income below \$250,000 for individual filers and below \$500,000 for joint filers; would provide additional tax revenues for the General Fund, which funds education, health care, public safety, and other state services. Additional provisions.

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¹ A copy of IP 29 is attached as Exhibit 1; the draft ballot title is attached as Exhibit 2; Petitioner's comments are attached as Exhibit 3; the Attorney General's explanatory letter is attached as Exhibit 4; and the certified ballot title is attached as Exhibit 5.

II. ARGUMENTS AND AUTHORITIES

A. Introduction

The State of Oregon taxes individuals on their income as follows:

<u>If taxable income is:</u>	<u>The tax is:</u>
Not over \$2,000	5% of taxable income
Over \$2,000 but not over \$5,000	\$100 plus 7% of the excess over \$2,000
Over \$5,000 but not over \$125,000	\$310 plus 9% of the excess over \$5,000
Over \$125,000	\$11,110 plus 9.9% of the excess over \$125,000

ORS 316.037 (1)(a)². IP 29 proposes to amend ORS 316.037 to increase the personal income tax on individuals who earn more than \$250,000.

B. Standard of Review

On review, this Court must determine whether the title substantially complies with the requirements of ORS 250.035. ORS 250.085(5).

C. The Caption

A ballot title caption must reasonably identify the subject matter of the measure.

ORS 250.035(2)(a). For purposes of this Court's review, the "subject matter" of a ballot title is "the actual major effect" or effects of the measure. *Lavey v. Kroger*, 350 Or 559, 563 (2011) (citing *Whitsett v. Kroger*, 348 Or 243, 247 (2010)).

The caption does not meet these statutory requirements because the reference to joint filers is inaccurate and misleading. The measure does not establish tax rates for joint filers. In

² These income categories and tax amounts are inflated for inflation. ORS 316.037 (1)(b).

fact, the measure does not change anything about how taxes for joint filers are computed, which is the subject of other statutes. Thus, information regarding joint filers is beyond the scope of the measure and including this information suggests incorrectly that IP 29 would change the statutes which impose taxes on joint filers.

To address these deficiencies, we propose the following caption:

**Increases income tax rate from 9.9% to 12.5% for individuals
with taxable income over \$250,000**

D. The Result of “Yes” Statement

ORS 250.035(2) (b) requires a ballot title to contain “[a] simple and understandable statement of not more than 25 words that describes the result if the state measure is approved.” The statement must inform voters of the “outcome that is the most significant and immediate, or that carries the greatest consequence, for the general public.” *Novick v. Myers*, 337 Or 568, 574 (2004).

The “Yes” statement suffers from the same deficiency as the caption because it includes a reference to joint filers. To address this defect, Petitioner suggests the following statement:

Result of “Yes” Vote: “Yes” vote increases existing personal income tax rate from 9.9% to 12.5% for individuals with taxable income over \$250,000.

E. The Result of “No” Statement

ORS 250.035(2)(c) requires that a ballot title contain a “simple and understandable statement,” 25 words long, explaining what will happen if voters reject the measure. This means that the statement must explain to voters “the state of affairs” that will exist if the initiative is rejected, i.e., the status quo. It is essential that the “no” vote result statement relate to the subject matter of the proposed measure to avoid misleading petition signers or voters about the effect of their signature or vote. *Nesbitt v. Myers*, 335 Or 219 (2003), (original review) 335 Or 424, 431 (2003) (review of modified ballot title).

The "No" statement does not comply with these requirements for the same reasons as stated above. We suggest the following:

Result of "No" Vote: "No" vote retains existing personal income tax rate of 9.9% for individuals with taxable income over \$125,000; rejects tax increase.

F. The Summary

A ballot title's summary must be a "concise and impartial statement of not more than 125 words summarizing the state measure and its major effect." ORS 250.035(2) (d). The goal of the summary is to "help voters[] understand what will happen if the measure is approved" and the "breadth of [the measure's] impact." *Mabon v. Myers*, 332 Or 633, 640 (2001) (*quoting Fred Meyer, Inc. v. Roberts*, 308 Or 169,175 (1989)).

The summary does not comply with these standards for two reasons. First, as discussed above, the summary contains information which is beyond the scope of the measure by including references to joint filers. Second, the sentence regarding the General Fund ("The measure provides additional tax revenues for the General Fund, which funds education, health care, public safety, and other state services.") is also beyond the scope of the measure and its inclusion would suggest incorrectly that IP 29 pertains to the funding of education, health care, public safety, and other state services. Simply put, the General Fund is beyond the subject matter of the measure and the public services funded by the General Fund are *well* beyond the subject matter of the measure.

While, passage of IP 29 might indirectly affect state funding for certain programs, such a result is speculative and not relevant to a summary of the measure. Indeed, increased personal income taxes would have other indirect affects as well, such as decreasing the amount of disposable income for certain taxpayers, but that result would also be beyond the scope of the measure and inappropriate to include in the summary. Furthermore, to the extent this sentence is included to explain the purpose of the measure, a proponent's purpose is not appropriate to summarize the measure itself.

To address these issues, we suggest the following summary:


Summary: Under current law, an income tax of \$11,110 plus a tax rate of 9.9% applies to individual Oregon taxpayers with taxable income over \$125,000. The measure increases the tax from \$11,110 to \$23,485 and increases the tax rate from 9.9% to 12.5% for individual Oregon taxpayers with taxable income over \$250,000. The measure does not affect the tax rate for individual Oregon taxpayers with taxable income below \$250,000. The measure applies to tax years beginning on or after January 1, 2015. Includes other provisions.

III. CONCLUSION

Based upon the foregoing, Petitioner respectfully requests that this Court declare that the certified ballot title does not substantially comply with ORS 250.035 and refer the ballot title back to the Attorney General for modification.

DATED this 7th day of November, 2013.

Respectfully submitted,

 _____
Jill Gibson Odell, OSB #973581
GIBSON LAW FIRM, LLC

Of Attorneys for Petitioner

Section 1. ORS 316.037 is amended to read:

(1)(a) A tax is imposed for each taxable year on the entire taxable income of every resident of this state. The amount of the tax shall be determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$2,000	5% of taxable income
Over \$2,000 but not over \$5,000	\$100 plus 7% of the excess over \$2,000
Over \$5,000 but not over \$125,000	\$310 plus 9% of the excess over \$5,000
Over \$125,000 but not over \$250,000	\$11,110 plus 9.9 % of the excess over \$125,000
Over \$250,000	\$23,485 plus 12.5% of the excess over \$250,000

(b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

(A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjustment for the calendar year.

(B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this paragraph shall not be changed.

(C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the rate brackets, shall be adjusted.

(D) The rate brackets applicable to taxable income in excess of \$125,000 may not be adjusted.

(c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calendar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the second quarter of the calendar year 1992.

(d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50, the increase shall be rounded to the next lower multiple of \$50.

(2) A tax is imposed for each taxable year upon the entire taxable income of every part-year resident of this state. The amount of the tax shall be computed under subsection (1) of this section as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided under ORS 316.117 to determine the tax on income derived from sources within this state.

(3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident that is derived from sources within this state. The amount of the tax shall be determined in accordance with the table set forth in subsection (1) of this section.

Section 2. The amendments to ORS 316.037 by Section 1 of this 2014 Act apply to tax years beginning on or after January 1, 2015.

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KATE BROWN
SECRETARY OF THE STATE

DRAFT BALLOT TITLE

Increases income tax rate for taxable income over \$250,000/\$500,000 (individual/joint filers)

Result of "Yes" Vote: "Yes" vote increases existing personal income tax rate from 9.9% to 12.5% for taxable income over \$250,000/\$500,000 (individual/joint filers).

Result of "No" Vote: "No" vote retains existing personal income tax rate of 9.9% for taxable income over \$125,000/\$250,000 (individual/joint filers); rejects tax increase.

Summary: Under current law, an income tax rate of 9.9% applies to Oregon taxpayers with taxable income over \$125,000 for individual filers and over \$250,000 for joint filers. The measure increases the tax rate from 9.9% to 12.5% for Oregon taxpayers with taxable income over \$250,000 for individual filers, and above \$500,000 for joint filers. The measure does not affect the tax rate for Oregon taxpayers with taxable income below \$250,000 for individual filers and below \$500,000 for joint filers. The measure provides additional tax revenues for the General Fund, which funds education, health care, public safety, and other state services. The measure applies to tax years beginning on or after January 1, 2015. Includes other provisions.

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2013 SEP 25 PM 1 15
KATE BROWN
SECRETARY OF THE STATE



October 9, 2013

Via Facsimile - (503) 373-7414

The Honorable Kate Brown
Secretary of State
Elections Division
255 Capitol Street NE, Ste. 501
Salem, OR 97310-0722

RECEIVED
2013 OCT 9 PM 3 42
KATE BROWN
SECRETARY OF THE STATE

Re: Public Comment on Initiative Petition 29 (2014)

Dear Secretary Brown,

I represent Dan Harmon, who is an elector in the State of Oregon and wishes to comment on the draft ballot title for IP 29 (2014).

The Attorney General has proposed the following ballot title for IP 29:

**Increases income tax rate for taxable income over
\$250,000/\$500,000 (individual/joint filers)**

Result of "Yes" Vote: "Yes" vote increases existing personal income tax rate from 9.9% to 12.5% for taxable income over \$250,000/\$500,000 (individual/joint filers).

Result of "No" Vote: "No" vote retains existing personal income tax rate of 9.9% for taxable income over \$125,000/\$250,000 (individual/joint filers); rejects tax increase.

Summary: Under current law, an income tax rate of 9.9% applies to Oregon taxpayers with taxable income over \$125,000 for individual filers and over \$250,000 for joint filers. The measure increases the tax rate from 9.9% to 12.5% for Oregon taxpayers with taxable income over \$250,000 for individual filers, and above \$500,000 for joint filers. The measure does not affect the tax rate for Oregon taxpayers with taxable income below \$250,000 for individual filers and below \$500,000 for joint filers. The measure provides additional tax revenues for the General Fund, which funds education, health care, public safety, and other state services. The measure applies to tax years beginning on or after January 1, 2015. Includes other provisions.

Elections Division
 October 9, 2013
 Comments on IP 29
 Page 2 of 4

I. INTRODUCTION

The State of Oregon taxes individuals on their income as follows:

<u>If taxable income is:</u>	<u>The tax is:</u>
Not over \$2,000	5% of taxable income
Over \$2,000 but not over \$5,000	\$100 plus 7% of the excess over \$2,000
Over \$5,000 but not over \$125,000	\$310 plus 9% of the excess over \$5,000
Over \$125,000	\$11,110 plus 9.9% of the excess over \$125,000

ORS 316.037 (1)(a)¹. IP 29 proposes to amend ORS 316.037 to increase the personal income tax on individuals who earn more than \$250,000.

II. CAPTION

ORS 250.035(2)(a) requires a ballot title to contain "[a] caption of not more than 15 words that reasonably identifies the subject matter of the state measure." To comply with this standard, case law requires that the caption identify the proposal's subject matter in terms that will not "confuse or mislead potential signers and voters." *Kain/Waller v. Myers*, 337 Or 36, 40 (2004). The Oregon Supreme Court recently emphasized that the "subject matter" is the "actual major effect" of the measure. *Lavey v. Kroger*, 350 Or 559 563 (2011). If a draft ballot title is challenged for failure to comply with these requirements, upon review the Oregon Supreme Court's "initial task is to determine whether the title prepared by the Attorney General is unfair or insufficient." *Remington v. Paulus*, 296 Or 317, 320 (1984).

The draft caption will comply with these statutory requirements if the reference to joint filers is removed. The measure does not establish tax rates for joint filers and does not even refer to joint filers. The circumstances that establish personal income tax rates for joint filers is not the subject of the measure. In fact, the measure does not change anything about how taxes for

¹ These income categories and tax amounts are inflated for inflation. ORS 316.037 (1)(b).

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Page 3 of 4

joint filers are computed, which is the subject of other statutes. Thus, information regarding joint filers is beyond the scope of the measure and including this information would suggest incorrectly that IP 29 changes the laws which impose taxes on joint filers.

To address these deficiencies, we propose the following caption:

Increases income tax rate from 9.9% to 12.5% for individuals with taxable income over \$250,000

III. RESULT OF "YES" VOTE

ORS 250.035(2)(b) requires that a ballot title contain a "simple and understandable statement," 25 words long, explaining what will happen if the measure is approved. The purpose of this portion of the ballot title is to "notify petition signers and voters of the results of enactment that would have the greatest importance to the people of Oregon. *Novick v. Myers*, 337 Or 568, 574 (2004).

The draft "yes" statement suffers from the same deficiency as the draft caption because it includes a reference to joint filers. We suggest the following statement:

Result of "Yes" Vote: "Yes" vote increases existing personal income tax rate from 9.9% to 12.5% for individuals with taxable income over \$250,000.

IV. RESULT OF "NO" VOTE

ORS 250.035(2)(c) requires that a ballot title contain a "simple and understandable statement," 25 words long, explaining what will happen if voters reject the measure. This means that the statement must explain to voters "the state of affairs" that will exist if the initiative is rejected, i.e., the status quo. It is essential that the "no" vote result statement relate to the subject matter of the proposed measure to avoid misleading petition signers or voters about the effect of their signature or vote. *Nesbitt v. Myers*, 335 Or 219 (2003), (original review) 335 Or 424, 431 (2003) (review of modified ballot title).

The draft "No" statement does not comply with these requirements for the same reasons as stated above. We suggest the following:

Result of "No" Vote: "No" vote retains existing personal income tax rate of 9.9% for individuals with taxable income over \$125,000; rejects tax increase.

V. SUMMARY

ORS 250.035(2)(d) requires that a ballot contain a "concise and impartial statement of not more than 125 words summarizing the measure and its major effects." "[T]he purpose of the summary is to 'help voters understand what will happen if the measure is approved' and 'the

Elections Division
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breadth of its impact." *Mabon*, 322 Or at 640 (quoting *Fred Meyer, Inc. v. Roberts*, 308 Or 169, 175 (1989)).

The draft summary does not comply with these standards for several reasons. First, as discussed above, the summary contains information which is beyond the scope of the measure by including references to joint filers. Second, the sentence regarding the General Fund ("The measure provides additional tax revenues for the General Fund, which funds education, health care, public safety, and other state services.") is also beyond the scope of the measure and its inclusion would suggest incorrectly that IP 29 pertains to the funding of education, health care, public safety, and other state services. While passage of IP 29 might indirectly affect state funding for certain programs, such a result is speculative and not relevant to a summary of the measure. Indeed, increased personal income taxes would have other indirect affects as well, such as decreasing the amount of disposable income for certain taxpayers, but that result would also be beyond the scope of the measure and inappropriate to include in the summary. Furthermore, to the extent this sentence is included to explain the purpose of the measure, a proponent's purpose is not appropriate to summarize the measure itself.

Finally, the summary does not inform voters that the measure would increase the tax from \$11,110 to \$23,485 for taxable income above \$250,000. This is an important aspect of the measure and its inclusion is necessary to help voters understand what will happen if the measure is approved.

To address these issues, we suggest the following summary:

Summary: Under current law, an income tax of \$11,110 plus a tax rate of 9.9% applies to individual Oregon taxpayers with taxable income over \$125,000. The measure increases the tax from \$11,110 to \$23,485 and increases the tax rate from 9.9% to 12.5% for individual Oregon taxpayers with taxable income over \$250,000. The measure does not affect the tax rate for individual Oregon taxpayers with taxable income below \$250,000. The measure applies to tax years beginning on or after January 1, 2015. Includes other provisions.

Thank you for considering our comments to the draft ballot title.

Jill Gibson Odell
Gibson Law Firm



DEPARTMENT OF JUSTICE
APPELLATE DIVISION

October 24, 2013

Gina Zejdlik
Acting Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

RECEIVED
2013 OCT 24 PM 2:27
KATE BROWN
SECRETARY OF THE STATE

Re: Proposed Initiative Petition — Increases Income Tax Rate For Taxable Income Over
\$250,000/\$500,000 (Individual/Joint Filers)
DOJ File #BT-29-13; Elections Division #29

Dear Ms. Zejdlik:

Pursuant to ORS 250.067, we have reviewed the comments submitted in response to the draft ballot title for the above-referenced initiative petition. We provide the enclosed certified ballot title, which retains the existing caption and result statements, but changes the ballot title summary in response to the comments.

We received one comment from attorney Jill Gibson Odell, representing elector Dan Harmon. This letter summarizes Mr. Harmon's comments, our response to those comments, and the changes we have made to the draft ballot title. ORAP 11.30(7) requires that this letter be included in the record in the event the Oregon Supreme Court reviews this ballot title.

1. Elector Harmon's comments regarding the Attorney General's draft ballot title caption and result statements.

Elector Harmon asserts that the draft ballot title caption, "yes" result statement and summary do not comply with ORS 250.035(2) because those portions of the Attorney General's ballot title refer to joint filers. (October 9, 2013 Harmon letter). "The measure does not establish tax rates for joint filers and does not even refer to joint filers. The circumstances that establish personal income tax rates for joint filers is [sic] not the subject of the measure."¹ *Id.* Elector Harmon proposes that the references to "joint filers" in the caption, "yes" result statement, and summary be removed.

Elector Harmon's assertion that the Attorney General's inclusion of joint filers in her draft ballot title does not substantially comply with ORS 250.035(2) is at odds with the proposed

¹ Elector Harmon raised the same objection to the Supreme Court in reference to a previous iteration of IP 29. *Harmon v. Kroger*, 351 Or 676, 276 P3d 1124 (2012) (certifying Attorney General's ballot title for IP 33 without modification).

measure's effect in the context of Oregon's tax statutes and statistics. In Oregon, the majority of taxpayers file joint returns rather than individual returns.² Moreover, the tax rate for joint filers is determined by reference to the rate for individual filers. ORS 316.042 reads:

Amount of tax where joint return used

In the case of a joint return of husband and wife, pursuant to ORS 316.122 or pursuant to ORS 316.367, the tax imposed by ORS 316.037 shall be twice the tax which would be imposed if the taxable income were cut in half. For purposes of this section, a return of a head of household or a surviving spouse, as defined in subsections (a) and (b) of section 2 of the Internal Revenue Code, [footnote omitted] shall be treated as a joint return of husband and wife.

Therefore, the Attorney General's draft caption reasonably identifies the subject matter of the state measure, and complies with ORS 250.035(2)(a). On the same basis, the Attorney General's "yes" result statement "contains "that outcome that is the most significant and immediate, or that carries the greatest consequence, for the general public." See *Novick/Crew v. Myers*, 337 Or 568, 574, 100 P3d 1064 (2004).

Elector Harmon asserts that the Attorney General's "no" result statement does not explain the "state of affairs" that will exist if the measure does not pass, by referring to the status quo for joint filers as well as individual return filers. (October 9, 2013 Harmon letter, page 3). For the same reason the reference to joint return filers is important in the caption and "yes" result statement, the "no" result statement substantially complies with ORS 250.035(2).

2. Elector Harmon's comments regarding the Attorney General's draft ballot title summary.

Elector Harmon takes issue with three aspects of the Attorney General's draft ballot title summary. First, Elector Harmon reiterates his contention that reference to joint filers is "beyond the scope of the measure" and should be eliminated from the proposed summary. For the reasons given above, the Attorney General respectfully disagrees.

Elector Harmon also objects to the summary's statement that additional tax revenues would be deposited in the state's General Fund, for certain enumerated purposes.³ (October 9, 2013 Harmon letter, page 4). According to Mr. Harmon, although passage of the proposed measure may "indirectly affect state funding for certain programs, such a result is speculative and not relevant to a summary of the measure." *Id.* Elector Harmon asserts that the measure

² See Department of Revenue Statistics and Reports: Oregon Personal Income Tax Annual Statistics: http://www.oregon.gov/dor/PERTAX/docs/or-personal-income-tax-2010-statistics_101-406_2012.pdf

³ Elector Harmon raised the same objection to the Supreme Court in reference to a previous iteration of IP 29. *Harmon v. Kroger*, 351 Or 676 (certifying Attorney General's ballot title for IP 33 without modification).

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SECRETARY OF THE STATE

would have "other indirect affects as well" but cites only a syllogism that the measure's increase in tax rates for certain taxpayers, would have the effect of "decreasing the amount of disposable income for certain taxpayers." *Id.*

The broad categories of General Fund expenditures the Attorney General listed in the proposed measure summary are drawn from the Legislative Fiscal Office's *Budget Highlights, 2013-15 Legislatively Adopted Budget* (2013).⁴ These categories are not inaccurate or misleading and will "help the voters understand what will happen if the measure is approved." *Fred Meyer, Inc. v. Roberts*, 308 Or 169, 175, 777 P2d 406 (1989)).

Finally, Elector Harmon states that "the summary does not inform voters that the measure would increase the tax from \$11,110 to \$23,485 for taxable income above \$250,000." (October 9, 2013 Harmon letter, page 4).

The Attorney General agrees that is important information that should be included in the ballot title summary, and we have revised the summary accordingly to read:

Summary: Currently, Oregon individuals with income over \$125,000 (\$250,000 for joint filers) pay a tax of \$11,110 plus 9.9% of the excess over \$125,000. Measure, which applies to tax years beginning in 2015, adds an additional tax bracket for individuals with incomes over \$250,000 (\$500,000 for joint filers). Those taxpayers would pay income tax of \$23,485 plus 12.5% of the excess over \$250,000 (\$500,000 for joint filers). Measure does not change the tax rate for Oregon taxpayers with taxable income below \$250,000 for individual filers and below \$500,000 for joint filers; would provide additional tax revenues for the General Fund, which funds education, health care, public safety, and other state services. Additional provisions.

CONCLUSION

For the foregoing reasons we have made no changes to the draft ballot title caption and result statements, but have amended the ballot title summary. We certify the attached ballot title, pursuant to ORS 250.067(2).

Laura S. Anderson
Senior Assistant Attorney General
laura.anderson@doj.state.or.us

LSA:chc/4726683

Enclosure

⁴ <http://www.oregonlegislature.gov/lfo/Documents/2013-15%20Budget%20Highlights.pdf>

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CLERK OF THE STATE

October 24, 2013
Page 4

Patrick Green
813 SW Alder St. Ste 800A
Portland, OR 97205

Jill Gibson Odell
Gibson Law Firm LLC
10260 SW Greenburg Rd. Ste 1180
Portland, OR 97223

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2013 OCT 24 PM 2 38
KATE BROWN
SECRETARY OF THE STATE

BALLOT TITLE

**Increases income tax rate for taxable income over \$250,000/\$500,000
(individual/joint filers)**

Result of "Yes" Vote: "Yes" vote increases existing personal income tax rate from 9.9% to 12.5% for taxable income over \$250,000/\$500,000 (individual/joint filers).

Result of "No" Vote: "No" vote retains existing personal income tax rate of 9.9% for taxable income over \$125,000/\$250,000 (individual/joint filers); rejects tax increase.

Summary: Currently, Oregon individuals with income over \$125,000 (\$250,000 for joint filers) pay a tax of \$11,110 plus 9.9% of the excess over \$125,000. Measure, which applies to tax years beginning in 2015, adds an additional tax bracket for individuals with incomes over \$250,000 (\$500,000 for joint filers). Those taxpayers would pay income tax of \$23,485 plus 12.5% of the excess over \$250,000 (\$500,000 for joint filers). Measure does not change the tax rate for Oregon taxpayers with taxable income below \$250,000 for individual filers and below \$500,000 for joint filers; would provide additional tax revenues for the General Fund, which funds education, health care, public safety, and other state services. Additional provisions.

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KATE BROWN
SECRETARY OF THE STATE

CERTIFICATE OF FILING

I hereby certify that I electronically filed the PETITION TO REVIEW BALLOT TITLE CERTIFIED BY THE ATTORNEY GENERAL (Initiative Petition 29) with the Appellate Court Administrator, Appellate Court Records Section, by using the court's electronic filing system pursuant to ORAP 16 on November 7, 2013.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing PETITION TO REVIEW BALLOT TITLE CERTIFIED BY THE ATTORNEY GENERAL (Initiative Petition 29) upon the following individuals on November 7, 2013, by delivering a true, full and exact copy thereof via U.S. Mail to:

Laura S. Anderson
Assistant Attorney General
Department of Justice
1162 Court St., NE
Salem, OR 97301-4096
Attorneys for Respondent

Patrick Green, Chief Petitioner
813 SW Alder Street
Portland, OR 97205

And upon the following individual via facsimile transmission:

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

DATED this 7th day of November, 2013.

GIBSON LAW FIRM, LLC

/s/ Jill Gibson Odell, OSB # 973581
Of Attorneys for Petitioner