



DEPARTMENT OF JUSTICE
APPELLATE DIVISION

January 5, 2026

Dena Dawson
Director, Elections Division
Office of the Secretary of State
255 Capitol St. NE, Ste. 126
Salem, OR 97301

Re: Proposed Initiative Petition — Repeals Firearm Permit Requirement, Magazine Capacity Limitations; Firearm-Regulation Authority Purportedly Limited to Ballot Measures.

DOJ File #BT-46-25; Elections Division #2026-046

Dear Ms. Dawson:

We received comments on the draft ballot title for Initiative Petition 46 (2025) from Bill Childress; Anthony Fields; Michael Selvaggio; and Margaret Olney (on behalf of Amie Wexler).

This letter summarizes the comments we received, our responses, and the reasons we did or did not make suggested changes to the draft ballot title. ORAP 12.30(6) requires this letter to be included in the record if the Oregon Supreme Court is asked to review the ballot title.

A. Constitutional challenges

Commenter Selvaggio argues that section 7 of the proposed measure violates Article IV, section 1, of the Oregon Constitution's requirement that "[a]n initiative petition shall include the full text of the proposed law or amendment to the Constitution." Commenter Olney argues that section 7 of the proposed measure violates "the full text requirements found in Article IV, section 2," of the Oregon Constitution.

Whether the proposed measure complies with constitutional requirements is beyond the scope of the ballot title drafting process. *See* OAR 164-014-0028 (providing for separate review process by Secretary of State to determine if a measure complies with constitutional procedural requirements for proposed initiative measures). We thus do not address that issue here.

B. Proposed modifications to the ballot title

Margaret Olney was the only commenter who proposed modifications to the draft ballot title. We address her suggestions below.

1. The caption

ORS 250.035(2)(a) requires a ballot title to contain a caption of “no more than 15 words that reasonably identifies the subject matter of the state measure.” The caption must “state or describe the proposed measure’s subject matter ‘accurately and in terms that will not confuse or mislead potential petition signers and voters.’” *Kain/Waller v. Myers*, 337 Or 36, 40, 93 P3d 62 (2004) (quoting *Greene v. Kulongoski*, 322 Or 169, 174–75, 903 P2d 366 (1995)). “Subject matter” refers to the “actual major effect” of a measure or, if the measure has more than one major effect, all such effects (to the limit of the available words). *Swanson v. Rosenblum*, 362 Or 143, 144, 404 P3d 949 (2017); *see also Terhune v. Myers*, 342 Or 475, 479, 480, 154 P3d 1284 (2007) (caption must “inform potential petition signers and voters of the sweep of the measure” and its “principal effect”). Although the caption must not be inaccurate or underinclusive, *Hunnicut v. Myers*, 342 Or 491, 495, 155 P3d 870 (2007), it “is not meant to serve as a comprehensive statement of the measure’s effects.” *Carson v. Myers*, 326 Or 248, 254, 951 P2d 700 (1998).

The draft caption provides:

Repeals firearm permit requirement, magazine capacity limitations; firearm-regulation authority purportedly limited to ballot measures

Commenter Olney suggested that the caption should explain that permits can be granted under current law only after a background check is conducted and after the applicant has completed firearm-safety training. We have not adopted those suggestions.

First, although the proposed measure would eliminate the permit requirement, sections 3 and 7 would retain background-check requirements that currently exist *in addition* to the permit requirement. It thus is not necessary to refer to the background-check requirement in order to adequately describe the proposed measure’s “major effect.”

Second, it also is not necessary to refer to the safety-training requirement in order to adequately describe the proposed measure’s major effect. The caption already refers to the proposed repeal of the current permit requirement, which is a requirement that *encompasses* the firearm-safety training requirement.

Third, adding references to current law’s background-check and safety-training requirements would require us to delete references to other significant provisions in existing law that the proposed measure purports to eliminate.

As a result, we have chosen not to modify the draft ballot title caption. We certify the following caption:

Repeals firearm permit requirement, magazine capacity limitations; firearm-regulation authority purportedly limited to ballot measures

2. The “yes” result 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 “yes” vote result statement should identify the measure’s “most significant and immediate” effects. *Novick/Crew v. Myers*, 337 Or 568, 574, 100 P3d 1064 (2004).

The draft “yes” vote result statement provides:

Result of “Yes” Vote: “Yes” vote repeals firearm permit requirement, criminalization of sale/delivery to person without permit, magazine capacity limitations; firearm-regulation authority purportedly limited to ballot measures.

Commenter Olney made the same suggestions for the “yes” result statement that she made for the caption—that it should explain that permits can be granted under current law only after a background check is conducted and after the applicant has completed firearm-safety training. But for essentially the same reasons recounted already, we have concluded that inclusion of that information is not required by statute in order to adequately describe “the result” if the proposed measure becomes law. Moreover, were we to adopt the proposed additions, we would need to delete references to the proposed measure’s impact on *other* significant aspects of existing law.

We thus have declined to adopt the suggested modifications. We certify the following “yes” result statement:

<p>Result of “Yes” Vote: “Yes” vote repeals firearm permit requirement, criminalization of sale/delivery to person without permit, magazine capacity limitations; firearm-regulation authority purportedly limited to ballot measures.</p>

3. The “No” Result Statement

A ballot title must include a “simple and understandable statement of not more than 25 words that describes the result if the state measure is rejected.” ORS 250.035(2)(c). The “no” vote result statement “should ‘address[] the substance of current law on the subject matter of the proposed measure’ and ‘summarize [] the current law accurately.’” *McCann v. Rosenblum*, 354 Or 701, 707, 320 P3d 548 (2014) (quoting *Novick/Crew*, 337 Or at 577) (emphasis omitted). The draft “no” vote result statement provides:

Result of “No” Vote: “No” vote retains current firearm permit requirement; criminal prohibition on firearm sale, delivery to person without permit; magazine capacity limitations; legislative authority to regulate firearms.

Here, too, commenter Olney suggested that we should provide “additional detail about what is required to obtain a permit” by referring to the background-check and safety-training requirements. For the same reasons that we declined to adopt similar suggestions for the caption and “yes” result statement, we decline to adopt Ms. Olney’s suggestions here.

We certify the following “no” result statement:

Result of “No” Vote: “No” vote retains current firearm permit requirement; criminal prohibition on firearm sale, delivery to person without permit; magazine capacity limitations; legislative authority to regulate firearms.

4. The Summary

A ballot title must include 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 purpose of the ballot title’s summary is to give voters enough information to understand what will happen if the initiative is adopted.” *McCann*, 354 Or at 708. The draft summary provides:

Summary: Oregon law currently (1) requires permit from local law enforcement to obtain firearm—must submit photo ID, provide fingerprints, complete safety training, pass criminal background check, not be prohibited from possessing firearms; officer may deny permit to those reasonably likely to pose danger to self, others; (2) makes knowingly selling, delivering firearm to person without required permit a crime; (3) criminally prohibits ammunition magazines that exceed 10 rounds or are readily modifiable to exceed 10 rounds (exceptions for law enforcement, armed forces); (4) gives legislature authority to regulate firearms. Measure repeals permit requirement; repeals prohibition on magazines that exceed 10 rounds or are readily modifiable to exceed 10 rounds; purports to give Ballot Measure Initiative Process sole authority to regulate firearms (effect unclear). Other provisions.

Commenter Olney suggested that we modify the portion of the draft summary which states that current law “gives [the] legislature authority to regulate firearms.” She suggested that the summary should “make clear that both the legislative assembly *and* the people, through the initiative process, have authority to regulate firearms.” (Emphasis added.)

We agree that including a reference to the initiative process would make the summary more accurate. We thus have added such a reference. To make room for that reference, we have made other portions of the summary more concise but have not deleted any substantive descriptions of current law or of the proposed measure’s effect if voters enact it.

We certify the following summary:

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Summary: Oregon law currently (1) requires permit from local law enforcement to obtain firearm—must submit photo ID, provide fingerprints, complete safety training, pass criminal background check, not be prohibited from possessing firearms; officer may deny permit to those reasonably likely to pose danger to self, others; (2) makes knowingly selling, delivering firearm to person without required permit a crime; (3) criminally prohibits ammunition magazines exceeding 10 rounds or readily modifiable to exceed 10 rounds (exceptions for law enforcement, armed forces); (4) authorizes legislature and the people (through initiative process) to regulate firearms. Measure repeals permit requirement; repeals prohibition on magazines exceeding 10 rounds or readily modifiable to do so; purports to give Ballot Measure Initiative Process sole authority to regulate firearms (effect unclear). Other provisions.

C. Conclusion

We have modified the summary that appeared in the draft ballot title. We certify the attached ballot title.

Sincerely,

/s/ Rolf C. Moan

Rolf C. Moan
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Enclosure

Sent via email

Michael Selvaggio
Bill Childress
Anthony Fields
Margaret Olney
Edwin Mcleod