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SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203	FILED IN THE SUPREME COURT APR 21 2008 OF THE STATE OF COLORADO SUSAN J. FESTAG, CLERK
ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2007) Appeal From Ballot Title Setting Board	▲ **COURT USE ONLY** ▲
IN THE MATTER OF THE TITLE, BALLOT TITLE AND SUBMISSION CLAUSE FOR 2007-2008, #62 JOSEPH BLAKE, OBJECTOR, Petitioner, v. JOANNE KING AND LARRY ELLINGSON, PROPONENTS; AND WILLIAM A. HOBBS, DANIEL L. CARTIN, AND DANIEL DOMENICO, TITLE BOARD, Respondents.	Case No.: 08SA90
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ANSWER BRIEF OF TITLE BOARD

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The Title Board ("Board"), by and through undersigned counsel, hereby submits its Answer Brief. The statement of the issues, statement of the case, statement of the facts and summary of the argument are set forth in the Board's Opening Brief.

ARGUMENT

I. The measure contains only one subject.

Much of Objector's argument focuses on the assertions that #62 changes existing law. Thus, according to Objector: (1) the measure repeals the employment at will doctrine (Objector's Brief, p. 6); (2) the measure creates new procedures for challenging a decision of an employer along with new remedies (opening Brief, p. 7); (3) the measure repeals the civil service system (Opening Brief, p. 8); (4) the measure eliminates the right of freedom to contract (Opening Brief, p. 9); and, (5) the measure deprives parties of the right to access the courts (Opening brief, p.9).

The Court must reject Objector's argument. The issue is not whether a proposed measure changes existing law. It is safe to presume that an initiative measure is intended to alter the status quo. The question is whether the measure contains multiple subjects.

Objector's arguments constitute nothing more than an interpretation of the impact of the measure on other statutory or constitutional provisions. Interpreting

the legal effect of an initiative is not within the purview of the Court's single subject review. *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 200A*, 992 P.2d 27, 31 (Colo. 2000) (200A). If a measure's "provisions are directly tied to the central focus of the initiative", the measure constitutes a single subject. *Id.*

All of the provisions in #62 are tied to the single subject of just cause for action by an employer against an employee. The case of *County of Kane v. Carlson*, 507 N.E.2d 482 (Ill. 1987) offers guidance. Illinois passed a comprehensive collective bargaining law for certain public employees and employers. The law contained many of the same concepts embodied in #62. It established two governing boards. The boards determined the appropriate bargaining units, conducted representative elections and determined charges of unfair labor practices. It set standards for collective bargaining and established an arbitration protocol. It also identified activities that would constitute unfair labor practices. The act was challenged on the ground that it violated the single subject rule. The Illinois Supreme Court rejected the argument, finding that all portions of the bill were germane to the bill because they were necessary or appropriate to the underlying legislative purpose. *Id.* at 484.

Like the Illinois measure, the several parts of #62 are related. Section 1 establishes the standard of "just cause" for disciplining or terminating an employee. Section 2 defines "just cause". Sections 3 and 4 establish the procedures to be employed prior to a determination that a person should be disciplined or terminated.

II. The titles are fair, clear and accurate.

Objector contends that the titles are misleading. First, he argues that the statement of the single subject suggests that the just cause standard already exists in law. (Objector's Brief, p. 16) The statement makes no such suggestion. The statement accurately reflects the language of the measure. It says nothing about the present status of the law.

Next, he contends that the titles do not state that the primary purpose of the measure is the repeal of the employment at will doctrine. (Objector's Brief, p. 16) Again, nothing in the measure discusses employment at will. The effect of the measure on the employment at will doctrine is not within the scope of the Board's review. *200A*, 992 P.2d at 31.

Objector also claims that the term "mediation" should not have been used in the titles because the term is a "misnomer". (Objector's brief, p. 17) The term is used in the body of the measure and is not defined. It is not within the purview of

Board or the Court to determine the legal impact. It is sufficient if the language of the titles tracks the text of the measure. *In re Amend Tabor No. 32*, 908 P.2d 125, 129 (Colo. 1995). Objector's "argument is nothing more than an attack on the Initiative as written." *Id.*

Likewise, the arguments that the titles do not disclose the impact on the fundamental right to contract or the elimination of the civil service system (Objector's Brief, p. 18) must be rejected. Again, the Board is not required to show how a measure would impact existing law. *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #246(e)*, 8 P.3d 1194, 1197 (Colo. 2000).

CONCLUSION

For the reasons stated in the Board's Opening and Answer Briefs, the Court must affirm the action of the Board.

JOHN W. SUTHERS
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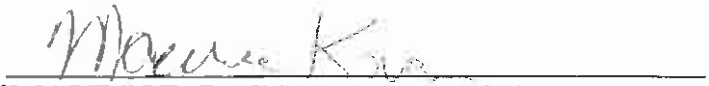

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **ANSWER BRIEF OF TITLE BOARD** upon all parties herein by depositing copies of same, overnight by DHL at Denver, Colorado, this 21st day of April 2008 addressed as follows:

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