

SUPREME COURT, STATE OF COLORADO

2 East 14th Avenue
Denver, CO 80203

ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2007)
Appeal from Battle Title Board

IN THE MATTER OF TH TITLE, BALLOT
TITLE AND SUBMISSION CLAUSE FOR 2007-
2008, #92 ("EMPLOYER RESPONSIBILITY
FOR HEALTH INSURANCE")
JOSEPH BLAKE, OBJECTOR,

Petitioner ,

v.

ERNEST L. DURAN, JR. AND IRENE
GOODELL, PROPONENTS; AND WILLIAM A.
HOBBS, DANIEL L. CARTIN, AND DANIEL
DOMENICO, TITLE BOARD ,

Respondents.

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Case No.: 08 SA 178

ANSWER BRIEF OF TITLE BOARD

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William A. Hobbs, Daniel L. Cartin, and Daniel Domenico, in their capacities as member of the Title Board, (hereinafter “Board”).

ARGUMENT

The Board will not repeat arguments made in its Opening Brief.

Objector contends that #92 contains multiple subjects because it both establishes a mandate for employers to provide health insurance and creates an “authority to provide an indirect means for employers to provide health insurance for its (sic) employees by paying premiums to the Authority in such amounts as determined by the Authority to fulfill the requirements” of the proposal.

(Objector’s Opening Brief, p. 8). Objector’s statement supports the conclusion that the measure contains but one subject. Under its terms, the employers can either provide health insurance directly or through the Authority. The Authority is a means by which employers can provide insurance. It is nothing more than a government insurance company established for the sole purpose of providing insurance on behalf of employers.

The Florida Supreme Court held that a measure which both mandated property and casualty insurance and established a joint underwriting commission to provide such insurance for individuals required by law to have such insurance

contained a single subject. *Smith v. Department of Insurance*, 507 So.2d 1080

(Fla. 1987). The Court stated:

Each of the challenged sections is an integral part of the statutory scheme enacted by the legislature to address one primary goal: the availability of affordable liability insurance. We conclude by approving the words of the trial judge that the legislature was attempting to meet “the single goal of creating a stable market for liability insurance in this state.”

Id. at 1087.

Objector cites *In re Title, Ballot Title and Submission Clause and Summary Pertaining to a Proposed Initiative “Public Rights in Waters II”*, 898 P.2d 1076 (Colo. 1995) (*Waters II*). That case is inapposite. In *Waters II*, one provision of the measure would have caused a structural change by altering the manner through which water district commissioners are elected, and a second provision would have imposed a new public trust doctrine. The Court concluded that these two provisions were not sufficiently connected. The election provisions could not impact the enforcement or implementation the public trust doctrine.


In #92, the connection between the insurance mandate and the Authority is direct. Certain employers must provide insurance, and employers may obtain the

insurance through the Authority. Thus, the Authority has an active role in the implementation and enforcement of the measure.

CONCLUSION

For the reasons stated in the Board's briefs, the Court must affirm the Board's action.

JOHN W. SUTHERS
Attorney General

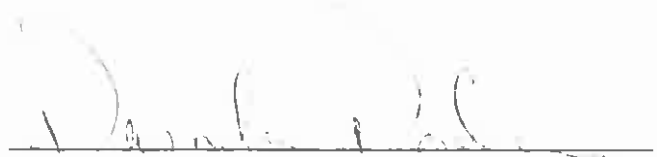


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CERTIFICATE OF SERVICE

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 9th day of June 2008 addressed as follows:

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A handwritten signature in cursive script, appearing to read "Douglas J. Friednash", is written over a horizontal line.