

Verified Correct Copy of Original 4/27/2018.

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES**

FILED
CIRCUIT COURT
2018 APR 27 PM 3:42
DESCHUTES COUNTY
OREGON

Barb Campbell)
Petitioner) Case No. 18CV16770

vs.)
John Hummel, District Attorney) PETITION
Respondent)

_____)

**Petition for review of ballot title for Initiative Petition #9-2018-1
Submitted Thursday, April 27, 2018, in Deschutes County Circuit Court,
1100 NW Bond St. Bend, OR**

This ballot title appeal is based on grounds that IP #9-2018-1 is insufficiently worded. It fails to make clear to potential signatories that, if this ballot measure is passed by the electorate in its current form, grave consequences for Deschutes County would accompany its implementation.

1— If this ballot measure is approved by voters, it would place Deschutes County in direct violation of an existing state statute, namely '2017 ORS 166.170, State Preemption.'

2017 ORS 166.170, State Preemption

(1) Except as expressly authorized by state statute, the authority to regulate in any matter whatsoever the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition, is vested solely in the Legislative Assembly.

(2) Except as expressly authorized by state statute, no county, city or other municipal corporation or district may enact civil or criminal ordinances, including but not limited to zoning ordinances, to regulate, restrict or prohibit the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition. Ordinances that are contrary to this subsection are void. [1995 s.s. c.1 §1]

1.a. The language of the ballot title is insufficient because it fails to explain how Deschutes County can legally regulate firearms on its own, when State Preemption clearly gives that authority *exclusively* to the State Legislature.

1.b. The language of the ballot title is insufficient because it fails to explain how Deschutes County will cover the costs of the inevitable legal challenges when State Preemption clearly gives authority on this matter *exclusively* to the State Legislature.

1.b.i. *The language of the ballot title is insufficient because it fails to explain that the taxpayers of Deschutes County would bear the legal costs on both sides if such a challenge came directly from the State of Oregon.*

2—The ballot title Summary, as currently written, “would make unconstitutional in Deschutes County any law or regulation that restricts a person from possessing firearms . . .” IP #9-2018-1 would necessarily strike down the existing Oregon Firearms Safety Act, whose requirement for background checks that can restrict firearm possession would render it *unconstitutional and unlawful in Deschutes County*.

Residents of Deschutes County would be forced into a Hobson’s Choice: Whether to obey County law as mandated by the provisions of IP #9-2018-1 or to obey the Oregon Firearms Safety Act. They would risk prosecution and fines and prison time, no matter which of these contradictory laws—County or State—they choose to obey.

The language of the ballot title of is insufficient, in that it fails to explain how it would avoid creating a state of uncertainty for firearms dealers in Deschutes County on the *question of whether or not to perform background checks*.

3—The language in the Summary of the IP #9-2018-1 ballot title bestows upon the Deschutes County Sheriff broad powers to “determine whether [federal, state, and local laws] . . . violate the United States and Oregon Constitutions.” In our system of checks and balances and multiple branches of government, the power to determine constitutionality belongs to the judiciary, not to the County Sheriff, who is the law enforcement arm of the executive branch.

From the Constitution of the State of Oregon.

ARTICLE III DISTRIBUTION OF POWERS

Section 1. Separation of powers. The powers of the Government shall be divided into three separate branches, the Legislative, the Executive, including the administrative, and the Judicial; and no person charged with official duties under one of these branches, shall exercise any of the functions of another, except as in this Constitution expressly provided. [Constitution of 1859; Amendment proposed by H.J.R. 44, 2011, and adopted by the people Nov. 6, 2012]

3.a. The language of the ballot title of IP #9-2018-1 is insufficient because it fails to explain how Deschutes County can avoid constitutional challenges that might arise if it is approved by the voters and becomes County law.

3.b. The language of the ballot title is insufficient because it fails to explain how Deschutes County will cover the costs of constitutional challenges.