

SUMMARY STATEMENT

Idahoans United for Women and Families v. Labrador
Docket No. 52636-2025

Article III, section 1 of the Idaho Constitution reserves to the people the power to legislate directly through the initiative process, under such conditions and in such manner as provided by laws enacted by the Idaho Legislature. Idaho law requires citizens to first submit a copy of the initiative petition to the Idaho Secretary of State. Idaho law then triggers a series of events that must occur within specified timeframes. One is the Idaho Division of Financial Management's ("DFM") preparation of a Fiscal Impact Statement ("FIS"). Another is the Attorney General's preparation of short and long ballot titles. Idaho law identifies mandatory requirements for both the FIS and ballot titles. Citizens cannot solicit the necessary signatures to qualify an initiative for a general election ballot until they receive the FIS and ballot titles.

Idahoans United filed a petition with the Idaho Supreme Court, seeking a writ of mandamus or writ of certiorari against DFM, the Attorney General, and the Secretary of State. Idahoans United argues that neither the FIS nor the ballot titles for the Initiative meet the requirements of Idaho law. It asked the Court to either certify the FIS and ballot titles it prepared or order DFM and the Attorney General to prepare a new FIS and new ballot titles that substantially comply with Idaho law. Idahoans United did not specify the relief it sought against the Secretary of State.

Article V, section 9 of the Idaho Constitution vests the Idaho Supreme Court with limited original jurisdiction to issue writs of mandamus and certiorari. A writ of mandamus is proper only when a state actor has a clear legal duty to act. A writ of certiorari may be granted when an inferior tribunal, board or officer exercising judicial functions has exceeded its jurisdiction. DFM argued that it does not have a clear legal duty and has not exceeded its jurisdiction because it exercises discretion when determining whether passage of the Initiative would have a fiscal impact on the state. Neither the Attorney General nor the Secretary of State contested the Court's jurisdiction.

The Court concluded that it had jurisdiction to consider the petition seeking a writ of mandamus against DFM. While DFM exercises its discretion in determining the amount of any fiscal impact, the Court determined it does not have discretion whether to prepare an FIS that meets the mandatory requirements of Idaho law. The Court dismissed the petition seeking a writ of certiorari against DFM as duplicative of the requested writ of mandamus. It further concluded that it had jurisdiction to consider the petition against the Attorney General seeking a writ of mandamus but dismissed the request for a writ of certiorari as duplicative. Finally, the Court dismissed the petition for both writs against the Secretary of State because Idahoans United did not allege that he failed to comply with a clear legal duty or exceeded his jurisdiction concerning the FIS or the ballot titles.

Turning to the statutory requirements for the FIS and ballot titles, the Court has not previously identified the legal standard it uses when determining whether an FIS meets the requirements of Idaho law. However, when it comes to ballot titles, it has reviewed them for "substantial compliance" with Idaho law. It determined that the task of reviewing an FIS for compliance with Idaho law does not substantially differ from that of reviewing ballot titles, and

therefore held that it would also review the FIS to determine whether it substantially complies with Idaho law.

The Court partially granted the requested writ of mandamus against DFM. It concluded that the FIS failed to substantially comply with the requirements of Idaho Code section 34-1812 because DFM failed to establish a factual basis for its estimated fiscal impact. The Court also concluded that the FIS fails to substantially comply with the clear and concise requirement of the statute because (1) it contains conflicting statements concerning whether there will be a fiscal impact on the budget of the Idaho Department of Correction and (2) its reference to the state Medicaid budget creates confusion concerning the total fiscal impact. Finally, the Court concluded that the FIS fails to substantially comply with the statutory requirement to avoid legal and technical terms whenever possible because it includes unnecessary references to state statutes and a vague mention of “Medicaid references.” However, the Court denied the requested writ concerning the references to the Medicaid and prisoner populations because it concluded those references substantially comply with the statutory requirement to provide an explanation of the assumptions underlying any estimated fiscal impact.

As to the Attorney General, the Court partially granted and partially denied Idahoans United’s petition seeking a writ of mandamus. It concluded that the Attorney General’s short ballot title fails to substantially comply with the distinctive and comprehensive requirement of Idaho Code section 34-1809 because it fails to alert a prospective signer of the Initiative to the Initiative’s four distinctive characteristics. However, the Court denied the requested writ concerning the use of “fetus viability” in the short ballot title. It concluded that the short title substantially complies with the statutory requirement to use language by which the Initiative is commonly referred. The Court determined that the phrase to which Idahoans United objected, “fetus viability,” has been used in Idaho before. The Court determined that, while Idahoans United’s preferred term, “fetal viability,” has been used more frequently, the meaning of the two phrases does not substantially differ and they simply use different parts of speech for the same word. The Court therefore concluded that the short title substantially complies with section 34-1809. It denied the requested writ concerning the long ballot title and concluded that it substantially complies with the statutory requirements.

The Court declined to certify Idahoans United’s proffered ballot titles and FIS. The Court noted that it has previously declined to dictate the form of ballot titles because it is not its job to determine the best way to draft a ballot title. Rather, it explained that its job is to determine whether the ballot titles substantially comply with the requirements of Idaho law. The same holds true for the FIS. Therefore, the Court remanded the short ballot title to the Attorney General and the FIS to DFM. It ordered them to provide the Court with a revised short ballot title and a revised FIS in seven calendar days. To avoid further litigation and to finalize the FIS as quickly as possible, the Court also ordered DFM to submit a sworn declaration by the preparer of the FIS describing the process utilized, including the evidence gathered and the assumptions utilized to create the FIS.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.