

Hi, this is Chris Micheli with the Sacramento Governmental Relations Firm of Aprea and Micheli and an adjunct professor at McGeorge School of Law here in Sacramento.

Thanks for joining today's podcast, which is entitled, "The Single Subject Rule and the Ballot Initiative."

Essentially, if an initiative embraces more than one subject, it can neither be submitted to nor enacted by the voters. Let's take a look at the state constitution.

Article II, Section 8(d) provides "An initiative measure embracing more than one subject may not be submitted to the electors or have any effect." You may recall that a similar rule exists for bills that have been considered by the California Legislature. The courts have generally interpreted these two rules in a similar manner.

The general idea behind the single subject rule is to ensure that measures are not overly complex or that they do not possibly confuse or hide provisions in a multifaceted ballot measure.

Some have argued that the single subject rule also precludes combining popular with unpopular and unrelated provisions in one omnibus measure to increase its chances of passage.

Now, based upon the language contained in Article II, Section 8(d) of the state constitution, if an initiative "embraces more than one subject," then it can neither be submitted to the voters or be enacted by the voters. This means that there are essentially two opportunities to challenge an initiative measure based upon that single subject rule.

In other words, there can be a pre-election challenge or a post-election challenge on single subject grounds. The obvious question that is posed by the language in the constitution is: what does embracing mean and how is subject defined?

We'll naturally have to turn to some court decisions to understand how these terms are defined by California's judicial branch so that we have guidance to follow. The following are some examples.

First is *Raven v. Deukmejian*, a 1990 California Supreme Court case. It said that an initiative measure does not violate the single subject requirement if, despite varied collateral effects, all of the parts of the ballot measure are "reasonably germane" to each other and to the general purpose or object of the initiative.

The court said that the single subject rule does not require a functional interrelationship or interdependence of provisions or a showing that each one of the measures' several provisions was capable of getting voter approval independently of other provisions.

The second California Supreme Court case, a little earlier decided, was in 1978, *Amador Valley Joint Union High School District Board v. The State Board of Equalization*.

The minimization of the risk of voter confusion and deception was one of the purposes of the single subject requirement of the California Constitution Article II, Section 8(d). The court, the California Supreme Court, that is, ruled that an initiative measure will not violate the single

subject requirement if, despite its varied collateral effect, all of its parts are reasonably germane to each other.

The basic guidance that we've received from the court in California is whether the provisions of the initiative are reasonably germane to each other, which is generally a broad test. Germane is usually defined as being relevant to the particular subject. This, again, is a broad definition based upon a relevancy to the main topic of the initiative.

Thanks for joining this podcast on the single subject rule and the initiative.