

**From:** [Warner Paul D](#)  
**To:** [Longacre Julia](#)  
**Subject:** FW: sb 40  
**Date:** Tuesday, April 05, 2011 7:25:17 AM

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**From:** Sen Burdick  
**Sent:** Monday, April 04, 2011 9:31 AM  
**To:** Warner Paul D  
**Subject:** FW: sb 40

FYI-

We asked the non profit association to provide us feedback on the 30% vs. 40% option in SB 40.

Jen

Jennifer Lewis, Chief of Staff  
Office of Senator Ginny Burdick  
Senate President Pro Tempore  
Serving District 18  
[sen.ginnyburdick@state.or.us](mailto:sen.ginnyburdick@state.or.us)  
503-986-1718

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**From:** Mary Lou & Ross Laybourn [mailto:laybourn@comcast.net]  
**Sent:** Friday, April 01, 2011 3:18 PM  
**To:** Sen Burdick  
**Subject:** RE: sb 40

Senator Burdick,

I am writing to memorialize the concerns I raised by telephone with Jen Lewis regarding a potential change to SB40. As you know, my organization (Nonprofit Association of Oregon) testified in favor of SB40. I now understand that the committee is contemplating a change in the threshold application of the bill from 30% program expenditures to 40%. As Jen explained to me, you are looking for the optimum "sweet spot" that would curb state subsidization of underperforming charities while not impacting the many charities that are diligently trying to make a significant impact in our local communities. That seems like a worthy goal. However, the real question is how many of the first group vs. the second group do you pick up when you move from 30 to 40%. Our concern is that we really don't know.

The original bill targets many of the out of state organizations which utilize national telemarketers. Often, these contracts provide that 75-80% of the funds raised go off-the-top to the fundraiser. Hence, these organizations will fail the 30% program threshold. I assume that the legislation would pick up a few more of these organizations if the program ratio was raised to 40%.

Meanwhile, we have the hardworking local charities to consider. Assistant Attorney General Elizabeth Grant tells me that the Department's data does not suggest that local charities would be

impacted by a move to 40%. But there is a problem with this information. Recall that the bill only impacts organizations that file a full form 990 return with the IRS and the state. In 2008, the IRS changed the form to make it much more comprehensive, but much more difficult to complete. So the IRS gave charities a temporary break and substantially raised the threshold from \$100,000 to \$1 million. Gradually, the threshold will work its way back down to \$200,000. Our concern is that when the DOJ looks at the 2008-09 data, it is largely looking at organizations with annual revenue of over \$1 million. Why might this make a difference?

All organizations require a certain amount of overhead/infrastructure to operate effectively. As organizations get larger, there are potential economies of scale and program expenditures, as a % of total expenditures, have the tendency to go up. Second, each expenditure has to be allocated to program, management or fundraising. Form 990s are regularly prepared by CPAs for the larger organizations. They understand, for instance, that some of the salaries are appropriately allocated to program. As you decline toward \$200,000 in annual revenue, you will see more organizations trying to complete the form 990 internally. There is the real prospect that some organizations will significantly under-report program expenditures. How many local \$200K - \$500K organizations might be caught in the SB40 net? We don't know and that's the problem.

So here is the bottom line. SB40 is a good bill as drafted. Does it get better by going to 40%? Because the data is thin, we're not sure and that's why we have concerns. Thank you for soliciting our comments. -- Ross Laybourn, NAO Board member (503) 297-5976

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**From:** Sen Burdick [mailto:burdick.sen@state.or.us]  
**Sent:** Thursday, March 31, 2011 3:22 PM  
**To:** laybourn@comcast.net  
**Subject:** sb 40

Hi Ross-

Senator Burdick discussed SB 40 with her colleagues today, specifically the 40% versus 30% standard. Her peers really like the idea of using the higher number. She was hoping that you could write out your (the board's) concerns via email for the group's benefit.

The bill is set to be scheduled next week for a work session and we want to make sure our members have all of the information needed prior to that.

Thanks,

Jen

Jennifer Lewis, Chief of Staff  
Office of Senator Ginny Burdick  
Senate President Pro Tempore  
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