

**TESTIMONY OF DANIEL MEEK ON SB 148:
REQUIRES CHIEF PETITIONERS TO PAY FOR BACKGROUND CHECKS ON PAID
CIRCULATORS**

before the Senate Committee on Rules

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On behalf of the Oregon Progressive Party, this testimony opposes SB 148.

The bill requires chief petitioners to turn into the Secretary of State monthly "a copy of the criminal records check conducted by a chief petitioner of each petition or prospective petition upon which the applicant will gather signatures."

The Secretary of State already conducts criminal background checks on those applying to become paid circulators on any petition. This bill seeks to transfer the cost to the chief petitioners and in doing so will greatly increase the overall cost.

Many paid circulators work for more than one petition. Under the existing system, the Secretary of State need do the criminal background check on a circulator only once. Under SB 148, each chief petitioner for each petition will need to do a criminal background check on the same circulator. Instead of incurring this cost once, the chief petitioners could incur this cost for the same circulator many times (one per petition).

We also oppose Section 7 of SB 148, which provides:

SECTION 7.

(1) In addition to the conduct prohibited in ORS 659A.199, it is an unlawful employment practice for a person to discriminate or retaliate against another person with respect to hire or tenure, compensation or other terms, conditions or privileges of employment for the reason that the person has in good faith reported information that the person believes is evidence of a violation of a state or federal election law, rule or regulation.

(2) This section applies only to a person who pays money or offers other valuable consideration for obtaining signatures of electors on a state initiative, referendum or recall petition or on a prospective petition for a state measure to be initiated.

While this may sound innocent, it would effectively require chief petitioners and/or circulation managers to prove that the employee's complaint was not in "good faith." My experience with signature drives is that inaccurate, bad faith complaints are very common. This section should be amended to impose liability on the chief petitioner or circulation manager only for complaints that are proven to be true. Otherwise, Section 7 will heap additional penalties on chief petitioners and circulation managers on the basis of complaints that are in fact not true. The penalties include compensatory damages, punitive damages, and paying the complainant's attorney fees.

Note also that Section 7 does not merely repeat the whistleblower language from the labor statutes. Those statutes prohibit retaliatory action if taken "with the intention of defeating the purpose of this chapter." ORS 659A.865. Section 7, however, does not have any intent requirement.

At a minimum, there should be an intent required element to the offense and a "good faith" provision applicable to the chief petitioner and/or circulation manager, allowing employment actions against the complainant based upon the chief petitioner and/or circulation manager's good faith belief that the complaint has made a false statement to the authorities.