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Chris Garrett  
Chair, House Committee on Rules  
Oregon Legislature

Dear Chair Garrett:

## **RE: SB 154**

You asked whether I would suggest language alternative to the provision in SB 154 that requires any "organization or entity that pays money or other valuable consideration to a person for obtaining signatures of electors on a state initiative, referendum or recall petition \* \* \* shall register with the Secretary of State," shall identify "one or more individuals who represent the organization or entity," and requires each of those individuals to submit a sworn statement.

My recommendation is to strike all of the new subsection (10) to ORS 250.048, which is lines 18-30 on page 3 of SB 154.

The testimony at the hearing from the Secretary of State and others indicated that the intent of SB 154 is merely to treat signature gathering companies in the same manner that signature collectors (circulators) are already treated under Oregon law. Those registration and acknowledgement requirements are in ORS 250.048. They require that the paid circulator:

"(a) Registers with the Secretary of State in the manner prescribed by this section and by rule of the secretary; and

(b) Completes the training program prescribed by rule of the secretary."

It requires that the registration application shall include various types of information and this:

"(g) A statement signed by the applicant acknowledging that the applicant has read and understands Oregon law applicable to the gathering of signatures on state initiative, referendum and recall petitions and prospective petitions for state measures to be initiated, as the law is summarized in the training program established by the Secretary of State;"

There is no requirement that the applicant signature gatherer affirm that he "operates in compliance with law."

If the Secretary of State wishes to treat signature gathering companies the same way as paid circulators, then SB 154 (page 3, lines 18-30) should be amended to read:

(10) ~~An~~ A for-profit organization or entity that pays money or other valuable consideration to a person for obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective petition for a state measure to be initiated shall register with the Secretary of State by:

- (a) Submitting the name and address of the organization or entity;
- (b) Selecting one or more individuals who represent the organization or entity to complete the training program prescribed in subsection (1) of this section; and

(c) Submitting a statement signed by each individual selected,;

~~(A) Acknowledging that the individual has read and understands Oregon law applicable to the gathering of signatures on state initiative, referendum and recall petitions and prospective petitions for state measures to be initiated, as the law is summarized in the training program established by the secretary; and~~

~~(B) Affirming that the organization or entity operates in compliance with the law.~~

In addition, the Secretary of State's representatives claimed that felony charges under ORS 260.715 can be brought only for knowingly making a false

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statement. As noted at the hearing, the statement required by SB 154 is that "the organization or entity operates in compliance with the law." This statement is not in the past tense; it applies to the ongoing operations of the entity. Further, imposing criminal liability for making this statement, if later determined to be false, does not require that the individual responsible for the organization know that its practice is in violation of law (statute or rule). It only requires that the individual know that the practice is part of its operations. That practice may later be determined to be in violation of law, which then subjects the individual to felony prosecution for false swearing.

If the Secretary of State wishes to limit liability to a statement by an individual who affirms that the "the organization or entity operates in compliance with the law" while actually knowing that it does not operate in compliance with the law, that would require amending SB 154 to read:

"(B) Affirming that the individual believes that the organization or entity operates in compliance with the law."

Again, my recommendation is to strike all of the new subsection (10) to ORS 250.048, which is lines 18-30 on page 3 of SB 154.

Sincerely,

Daniel W. Meek