

## Testimony on House Bill 4085

*February 10<sup>th</sup>, 2016*

Common Cause Oregon opposes House Bill 4085.

Common Cause Oregon is an organization dedicated to empowering citizens to engage in their democracy. And one of the biggest ways that we can lift up the voices of voters is by reducing the impact of big money in politics.

Unfortunately, HB 4085 is problematic and could have unintended consequences. We oppose this bill for two reasons. The first is that it would make Oregon vulnerable to a costly legal challenge that could have negative national effects on future efforts to pass disclosure. And the second is that it does not address voters' real concerns about big money in politics.

The legal ramifications of this bill could create serious setbacks for transparency laws across the country.

The problem is that while the Supreme Court and lower courts have typically supported increased disclosure, they have also stated that the reporting requirements can create a burden for citizens to get involved in their democracy. So the government has to balance whether or not that burden is outweighed by the government interest in raising awareness of who is funding political campaigns.

Part of that decision is dependent on how effective the expense can be. For example, a \$500,000 campaign can buy a lot of materials and advertisements. It will likely have the effect of persuading voters to support or oppose a candidate. And because the large expense can have a large impact, the courts have signaled that the government can place disclosure requirements on that campaign, even if it is considered burdensome.

That might not be the case with a \$50 or \$100 expense. The courts will look for evidence, such as whether a small expense could reasonably influence an election. If there is no evidence for that, the courts could strike down the law as placing a burden on small donors who want to get involved in their democracy.

HB 4085 makes Oregon vulnerable to a costly legal fight. What is also concerning is that the courts have issued several opinions that are critical of efforts to regulate money in politics. They have narrowed the justification for these regulations. Since this law is so vulnerable to a legal challenge, not only could the courts strike it down, but they could actually restrict the ability to pass disclosure laws in the future.

Common Cause also opposes HB 4085 on the grounds that this policy does not address the concerns that voters have about money in politics.

Voters are very concerned about the large amount of money that special interests and big donors can pour into an election, and that a campaign can be entirely funded by a single

individual or relatively small number of wealthy backers. This is what threatens an unbiased policy-making process, undermines the credibility of the government, and threatens to drown out the voices of working Oregonians.

Voters are not concerned about local activists who spend a small amount on markers and posterboard to support their neighbor running for school board. And if those people have to navigate government bureaucracy to file disclosure reports, it could discourage them from participating in an election.

HB 4085 is problematic, because it creates a barrier for voters to get involved in their democracy. It also makes Oregon vulnerable to a legal challenge that could see the law struck down, and could restrict our ability to pass disclosure reforms in the future. For these reasons, Common Cause Oregon respectfully urges you to not pass this bill.