



THE NONPROFIT  
ASSOCIATION OF  
OREGON

Testimony of Ross Laybourn, Board Member, Nonprofit Association of Oregon  
A-Engrossed HB 4067  
February 22, 2016  
Senate Committee on Judiciary

I am member of the Board of Directors of the Nonprofit Association of Oregon (NAO) and submit this testimony in support of NAO's opposition to the A-Engrossed version of HB 4067. I offer this testimony in addition to that of NAO Executive Director Jim White because I have a unique perspective beyond my current identified capacity. Prior to joining the NAO Board, I served as Attorney-in-Charge of the Oregon Attorney General's Charitable Activities Section. I served for 20 years as AIC. During that time, I also served for many years on the Board of Directors of the National Association of State Charity Officials (NASCO) and served for a period of time as its president.

In my AIC role, I was in charge of supervising the section's investigations of potential wrongdoing by those charged with administration of charitable assets. A portion of those investigations were initiated as a result of information furnished by "whistleblowers", individuals who were currently or recently employed by charitable organizations. Our investigation of the PSU Foundation, which contributed to the resignation of the university president, was one such investigation.

Throughout my twenty year tenure, I was approached by numerous volunteers or employees of charities who suspected that the organization was not in compliance with all applicable laws. Some were very forthcoming and seemed anxious to make a formal complaint. Others did show some desire to not call attention to themselves. In the latter case, we could receive the information, however guarded, and proceed by analyzing public documents and then use the section's subpoena (investigative demand) and audit authority. Were there other individuals who feared retaliation and never came forward? Candidly, I do not know. But with laws such as Sarbanes-Oxley already on the books and many large nonprofits already having whistleblower policies in place, I doubt that this bill will alter the mindset of those who previously chose not to come forward. After all, many who choose to work in nonprofit sector do so because of their desire to contribute to the community and are not shy about communicating their displeasure when they feel that their efforts are being exploited.

It seems to me that drawing out "whistleblowers" would have much more potential and impact in the for profit sector (think environmental and safety concerns). As Jim White's testimony notes, the bill, as drafted, poses some serious issues for nonprofits, while, in my judgment, not offering much in the way of an upside. Stated another way, I have not either witnessed firsthand or deduced from legislative testimony offered to date, the type of intimidation by charity managers that justifies lumping all 501 (c) (3) organizations in legislation largely directed at and inspired by governmental entities.