



**June 30, 2017**

**Oregon Progressive Party  
Position on Bill at 2017  
Session of Oregon Legislature:**

**SB 229 A Amendments (-A7 and -A10): Oppose**

Dear Committee:

The Oregon Progressive Party opposes the -A7 and -A10 amendments to this bill, which arose 2 weeks after the close of the public hearing on this bill.

The -A7 amendment:

- Circumvents the ballot title process for any measure from this session of the Oregon Legislature sent to voters, whether by the Legislature itself (by referral) or by voters using the referendum process. Instead of ballot titles written by the Attorney General, with the assistance of public comment and judicial review, the -A7 amendment specifies that the Legislature itself shall write all ballot titles, with limited judicial review.
- Circumvents the explanatory statement process for any measure from this session of the Oregon Legislature sent to voters, whether by the Legislature itself (by referral) or by voters using the referendum process. Instead of explanatory statements written by committees selected to produce an impartial result, with the assistance of public comment, the -A7 amendment specifies that the Legislature itself shall write all explanatory statements.

This circumvention seriously impairs the rights of voters to effectively exercise their franchise on issues of public importance. Having the Legislature itself write the ballot titles and explanatory statements for measures the Legislature itself refers to voters is like putting the fox in charge of the hen house. Objective ballot titles and explanatory statements are not an assured result of this process.

For example, in 2016, the the Legislature superseded the ballot title and explanatory statement functions for the referral that became Measure 95, which allows universities to invest taxpayer money in equities. See HB 4092 (2016). The caption read:

ALLOWS INVESTMENTS IN EQUITIES BY PUBLIC UNIVERSITIES TO  
REDUCE FINANCIAL RISK AND INCREASE INVESTMENTS TO BENEFIT  
STUDENTS

Who could be against that? Of course, economic theory says that investing in equities makes financial risk higher, not lower.

It is also a severe conflict of interest for the Legislature to write ballot titles and explanatory statements for measures resulting from referenda. There, voters signing petitions are dissatisfied with the product of the Legislature. Naturally, the Legislature will seek to defend the wisdom of its own action by writing ballot titles and explanatory statements that persuade voters to vote "Yes" on the bill subjected to referendum.

If having the proponent of a measure write the ballot title and explanatory statement is a good idea, why has the Legislature never allowed any proponent of any measure to do that -- except the Legislature itself?

The -A7 amendment also schedules all votes on all measures arising from the 2017 session for a January 2018 special election. This differs from the ordinary practice, set forth at Oregon Constitution, Article IV, Section 1(4)(b), of scheduling referenda "at regular general elections." It also different from the ordinary practice of scheduling referral measures for the primary or general election in the succeeding year. A January 2018 special election will no doubt have significantly lower voter turnout that either the 2018 primary election or the 2018 general election. The lower turnout for the January 2018 election will likely underrepresent younger, less affluent, and non-white voters.

The -A10 amendment was filed after 5 pm yesterday. It is the same as the -A7 amendment, except that it deletes the -A7 appropriation for the cost of a January 2018 special election and further truncates judicial review of any ballot title found insufficient by the Oregon Supreme Court. Under the -A10 amendment, such ballot title is referred for modification to the Attorney General, but the resulting modified ballot title is not subject to judicial review--a departure from current law and from the -A7 amendment.

### **Oregon Progressive Party**

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