



Oregon Secretary of State's Office Testimony on HB 4076

Oregon's political system would benefit from increased involvement of small donors. The Secretary of State is open to a public financing program so long as that program is technically sound and does not bias the playing field. There is a lot to like in HB 4076, but it still needs significant technical refinement in order to be efficient and fair. Our office is happy to work with supporters to iron out current drafting issues.

As currently written, the bill appears to require the Elections Division to write and be ready to implement the entire Small Donor Election Program in less than three months. We do not believe that immediate 2018 implementation is the intent of HB 4076's supporters, and we would appreciate the opportunity to assist with a clarifying amendment to fix this.

Assuming the bill is amended to begin with the 2020 election cycle, we estimate that it would cost \$1.27 million to administer, in addition to money for the Small Donor Election Fund of at least \$10.3 million and potentially up to \$96.3 million in general funds, depending on the number of participating candidates, amount of contributions, and changes in behavior due to the bill's incentive structure.

As currently written, the bill creates a loophole called "Small Donor Political Committees" that would bias the electoral playing field and likely benefit candidates on the ideological extremes of their parties. This loophole should be removed.

Unlike the acclaimed Arizona and Maine clean elections systems, the current version of HB 4076 contains no requirement that qualifying donations come from the legislative district in which a candidate is running for office. For example, this would allow a conservative candidate with many donations from rural Oregon to run a fully funded campaign in Portland, despite lack of community support. We believe this should be changed.

Our office is glad to work with proponents of public financing systems to ensure they are efficient, fair, and technically sound. As part of that process, we have identified several key questions about the bill, and we would be glad to work through them with HB 4076 supporters.

HB 4076 Technical Questions

1. Section 2(2) defines "maximum public match" and includes maximum distributions based on whether the participating candidate is opposed or unopposed. Distributions could not occur until after the candidate filing and withdrawal deadlines in March before the Primary Election. Section 3(2) provides for initial distribution of funds after the candidate satisfies the participation requirements which could be a full year before the Primary Election candidate filing and withdrawal deadlines. Are these sections in conflict?

2. Section 2(b)(B) seems to duplicate, but in reverse, 2(b)(A). Does this create a double distribution? Would minor party or nonaffiliated candidates at the general election wishing to participate in the program only receive a distribution if they are unopposed? Would a minor party candidate even conceivably be able to participate in the program with a deadline to file an intent of 150 days before the general election?
3. Section 2(6) defines "qualified small donor contributions" as aggregate contributions from an individual of not more than \$250 in an election cycle, excluding in-kind. I assume contributions from both in-state and out-of-state individuals are included. The initial distribution of funds in section 3(2) applies to in-state contributions only. A candidate may make subsequent requests for distributions in section 4(3). Is this when money would be distributed for out-of-state qualified small donor contributions received during the qualifying period? Or is the intent that only in-state individual contribution are "qualified small donor contributions?"
4. Is a loan considered a "qualified small donor contribution?" Does it make a difference if it is repaid before or after a public funds are distributed for such a transaction?
5. Section 3(5) provides that a participating candidate may not receive more than an aggregate amount of \$250 in qualified small donor contributions and nonmatching small donor contributions from a single donor per election cycle. Is this even possible? Our understanding is that qualified small donor contributions are from individuals and nonmatching small donor contributions are from persons other than individuals.
6. Definition of "nonmatching small donor contributions" in section 2(5)(b) includes in-kind contributions combined with nonmatching contributions in (5)(a), which already would include in-kind, combined with qualified small donor contributions. Is it even possible for a nonmatching small donor contribution and a qualified small donor contribution to be received from the same donor?
7. Section 4(3) and (4) addresses distributions subsequent to the initial distribution. The language includes a process where a participating candidate would file "additional contribution statements" seeking public funds not more than one time per week. Contributions are continuously reported in ORESTAR, sometimes with 2-day deadlines. We're not sure we understand what is meant by "additional contribution statements." We believe the intent is that a request for distribution of funds cannot be filed more than one time per week.

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