

TESTIMONY ON SJR 18 AND PROPOSED AMENDMENTS

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Senate Committee on Campaign Finance Reform

March 20, 2019

I submit this testimony on behalf of Honest Elections Oregon and the Oregon Progressive Party.

On March 12 I submitted written testimony that addressed SJR 18, along with HJR 13 and SJR 13. On March 13, I briefly testified about those resolutions at the Committee hearing.

The Committee is now again hearing SJR 18. So this is more detailed testimony about that resolution.

The case for campaign finance reform is firmly established by the Oregonian's 4-part series, "*Polluted by Money: How Corporate Cash Corrupted One of the Greenest States in America.*" I attached the first 3 parts to my March 12 testimony and attach part 4 to this testimony. Much additional literature is available at the Honest Elections website.

SJR 18 HAS FIVE PROBLEMS

SJR 18 would add this to Article II, § 8, of the Oregon Constitution:

- (2) Notwithstanding section 8, Article I of this Constitution, the Legislative Assembly, or the people through the initiative process, may enact laws limiting or prohibiting contributions received by or made to candidates, or the principal campaign committees of candidates, for nomination or election to public office.

1. **SJR 18 DOES NOT ADDRESS EXPENDITURES OR INDEPENDENT EXPENDITURES AND PROVIDES NO PROTECTION FOR ADDED DISCLOSURE REQUIREMENTS.**

This is a very limited authorization for campaign finance reform legislation. It addresses only limits on "contributions" but not any sort of regulation of "expenditures" or "independent expenditures." Thus, it would not serve as

authorization for mandatory taglines or disclaimers on political advertisements, such as those proposed by HB 2716.

If voters were to enact the SJR 18 amendment (limited to regulation of contributions), that would still leave Oregon with a **Citizens United** regime (unlimited individual and corporate independent expenditures, including from undisclosed dark money sources), even if the United States Supreme Court were to reverse **Citizens United**.

Reversal of **Citizens United** is a realistic prospect. It remains a 5-4 decision of the Court that entirely contradicted its earlier decisions. Both of the recent justices leaving the Court were in the **Citizens United** majority, which leaves the current lineup with a 5-4 split. One further appointment of a justice by the President following Donald Trump could result in reversal of it.

In the meantime, the effective response to unlimited independent expenditures are mandatory taglines on political advertisements, identifying the largest several funders of the independent expenditure effort. The model for requiring such taglines is Section 3-303 of the Portland City Charter (attached), which was enacted as part of Measure 26-200 in 2018. It requires:

Each Communication to voters related to a City of Portland Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:

- (1) The names of any Political Committees and other Entities that have paid to provide or present it; and
- (2) For each of the ve Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:

SJR 18 would not protect such law from invalidation under the Oregon Constitution. I do not believe that such protection is necessary. There is no Oregon Supreme Court decision striking down any law requiring disclosure of the sources of funds for political advertisements. But Legislative Counsel seems to believe that the Oregon Constitution may not allow laws requiring disclaimers or taglines. If his view is correct, SJR 18 would not overcome it (while HJR 13 would overcome it).

Thus, the result of SJR 18, if enacted by voters, would be the opportunity for legislation to limit political contributions but not expenditures. Why the Legislature would desire that outcome is a mystery.

2. SJR 18 LEAVES UNCLEAR THE AUTHORITIES OF LOCAL GOVERNMENTS TO ADOPT CAMPAIGN FINANCE REGULATIONS FOR THEIR JURISDICTIONS.

SJR 18 refers only to "the Legislative Assembly, or the people through the initiative process" as the authorities which "may enact laws limiting or prohibiting contributions." This leaves unclear the authority of local governments to limit contributions in their elections.

3. SJR 18 EXCLUDES BALLOT MEASURE CAMPAIGNS FROM ITS AUTHORIZATION FOR LIMITS.

SJR 18 addresses only candidate campaigns, not measure campaigns. Decisions of the United States Supreme Court in 1978 and 1981 indicated that spending in measure campaigns could not be restricted.¹ Both decisions included dissents, and both could be reversed in the future. But SJR 18 would leave measure contributions and spending in Oregon uncontrolled, even if those cases were reversed.

4. SJR 18 HAS AN UNNECESSARILY NARROW "NOTWITHSTANDING" PHRASE.

Should say "Notwithstanding any other provision of this Constitution." Opponents would argue that limits on contributions also violate Article I, § 26 of the Oregon Constitution, which states:

No law shall be passed restraining any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good; nor from instructing their Representatives; nor from applying to the Legislature for redress of grievances [sic].

1. *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 98 S.Ct. 1407, 55 L.Ed.2d 707 (1978); *Citizens Against Rent Control/Coal. for Fair Hous. v. City of Berkeley*, 454 US 290, 297, 102 S Ct 434, 438, 70 L Ed 2d 492 (1981).

5. SJR 18 FAILS TO PROTECT CAMPAIGN REGULATION ADOPTED BY INITIATIVE FROM NULLIFICATION BY THE SITTING LEGISLATURE.

This has occurred to campaign finance reform enacted initiatives several times in just the past 15 years (Massachusetts 2003, Missouri 2007, South Dakota 2016). The Oregon Legislature in 1973 repealed the contribution limits that had been in place since adopted by initiative in 1906. In contrast, Initiative Petition #1 (2020) protects campaign finance reform laws adopted by initiative from being gutted by politicians elected under the existing big money system by requiring at least 3/4 of them to approve the gutting.

A SIMPLE ALTERNATIVE TO SJR 18

If a simple amendment is desired, we recommend the language of Initiative Petition #1 (2020):

Be it enacted by the People of the State of Oregon, there is added to Article I, Section 8, of the Constitution of Oregon, as follows:

Laws consistent with the freedom of speech guarantee of the United States Constitution may regulate contributions and expenditures, of any type or description, to influence the outcome of any election; provided, that such laws are adopted or amended by an elected legislative body by a three-fourths vote of each chamber or by initiative.

This language could be part of Article I, § 8, or Article II, § 8, or be placed somewhere else in the Oregon Constitution. Its location does not matter.

This language solves the five problems discussed above.

If the 3/4 vote requirement is not wanted, that could be omitted.

THE SJR 18 PROPOSED -2 AMENDMENT

The -2 Amendment (by Sen. Knopp) would replace the substantive language of SJR 18 with proposed amendment to the Oregon Constitution that would limit the political contributions of individuals and certain entities to \$5,000 per election to any individual candidate. The primary and general elections would each be considered an election. Thus, the limit per election cycle would be \$10,000.

The -2 Amendment has all of the same 5 problems identified for SJR 18 above. It does not alleviate any of those problems.

The -2 Amendment introduces the possibility of loopholes, because it applies its limit only to "an individual, corporation, professional corporation, nonprofit corporation, labor organization or political committee." What about an unincorporated association or a partnership? No doubt political veterans could think of other entities that are beyond the -2 list.

Also, the courts may well find that the -2 Amendment preempts the adoption of any lower limit by any government in Oregon, including local governments and the Oregon Legislature itself. The result would be increasing the contribution limits adopted by 88% of the voters in Multnomah County and Portland in 2016 and 2018 from \$500 per election cycle to \$10,000 per election cycle. An added result is that the limit in races for the Legislature would be the same as for statewide races. This is not the usual practice in other states, where limits applicable to legislative races are typically much lower than limits in statewide races.

THE SJR 18 PROPOSED -3 AMENDMENT

The -3 Amendment (by Sen. Golden) is an improved version of HJR 13. It mostly solves 2 of the 4 flaws in HJR 13 described in my written testimony to this Committee on March 12 but does not solve the other 2 problems, which are:

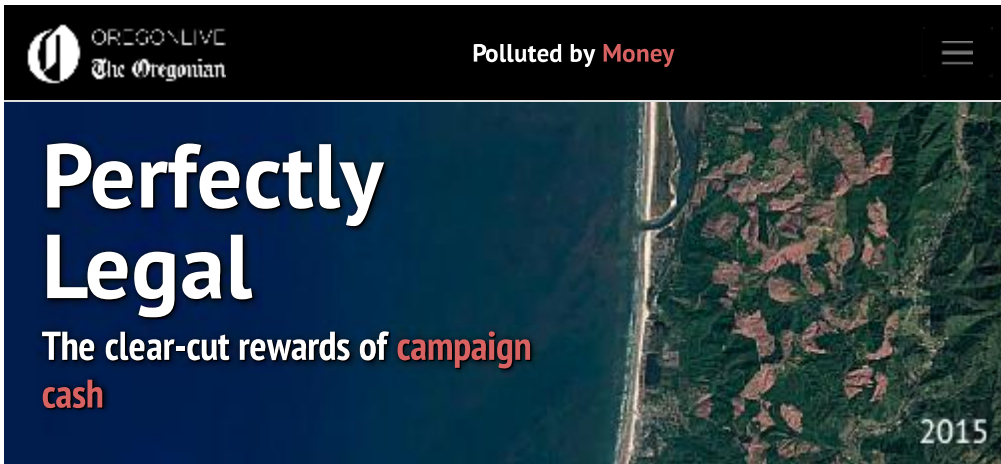
1. It defeats the will of the voters in Multnomah County (2016) and Portland (2018) by not applying to the campaign finance reform measures they enacted by overwhelming votes of 89% and 87% in favor. Instead, it only applies to laws enacted on or after December 3, 2020. This is a direct insult to the voters of Oregon's most populous county and city.
4. Another constraint is created by the HJR 13 language "(d) Any other regulation on the use of moneys in political campaigns permitted under federal law." It is unclear what that means. Federal law does not regulate the use of moneys in state or local political campaigns, except for the law that bans receipt of funds from foreign persons or entities. Other than that, federal law does not "permit" or "not permit" regulation on the use of moneys in state or local political campaigns. For example, you will find no federal law that "permits" limits on contributions in state or local campaigns. Nor will you find a federal law that forbids such limits. So, if all you can do for regulation is what is

"permitted under federal law," you cannot do much at all. The U.S. Constitution, however, is interpreted as permitting or not permitting certain state or local regulation of campaign money. Maybe that is what the drafter of HJR 13 means to refer to. So the term "federal law" should be replaced with "the United States Constitution" in HJR 13.

Instead of replacing the term "federal law" with "the United States Constitution," the drafter of the -3 Amendment instead just added the term "and the Constitution of the United States." This does not solve the problem.

The -3 Amendment has additional problems:

1. In order to prevent the enumeration of 4 types of regulation from being interpreted by the courts as an exclusive list, the word "including" on page 1, line 4, should be followed by "but not limited to:"
2. The -3 Amendment does have the unnecessarily narrow "notwithstanding" phrase in SJR 18 discussed above. This is easily fixed by inserting the words "Notwithstanding any other provision of this Constitution," if a "notwithstanding" phrase is desired.
3. The -3 Amendment introduces a potential loophole in its Section 1(2)(d) by limiting disclosure requirements to "contributions or expenditures, as defined in state law, made in connection with political campaigns." A future legislature can thus redefine "contribution" or "expenditure" in ways that would defeat meaningful disclosure requirements. For example, a future legislature could define "contribution" to exclude anything other than cash, thus excluding all in-kind contributions from the authorization for disclosure requirements. The result could be that the bulk of contributions would thereafter be made in-kind in order to avoid disclosure. The phrase "as defined in state law" should be removed from the -3 Amendment.



The watershed that provides drinking water to Rockaway Beach was almost entirely logged in the past 15 years. Residents said they struggled to be heard by a local lawmaker who took thousands from timber companies. (Images: Google Earth Engine)

“There is no longer anything sentimental about trying to save a tree or protect an old swimming hole.”

— OREGON GOV. TOM MCCALL, EARTH DAY, 1970

Part Four of Four

March 15, 2019

Story by **ROB DAVIS**

Photography by **BETH NAKAMURA**

The Oregonian/OregonLive

After announcing she would retire from Oregon’s Legislature early last year, Rep. Deborah Boone freely spent her remaining campaign money — on herself.

The Cannon Beach Democrat wasn’t on the ballot. She had no need for yard signs. But she had \$13,000. Some legislators transfer all their leftover money to

other candidates or causes. Boone spent her account dry.

She bought tangible goods: A \$2,799 Apple computer, \$2,000 in Volvo repairs and a \$700 set of tires.

She double dipped, using campaign cash to pay bills that taxpayers also reimbursed. There was the \$170 dinner during the legislative session, the multi-day \$595 hotel stay in Salem, the gasoline and cell phone expenses after the session ended. Charging her campaign let her pocket some of the \$10,000 in expense allowances the Legislature provided during her last year in office.

“You know, it’s legal, it’s perfectly legal to do,” Boone told The Oregonian/OregonLive. “I’m not saying I should’ve done it or whatever.”

The failure to limit campaign donations has turned Oregon into one of the biggest money states in American politics, an investigation by The Oregonian/OregonLive found. Corporate interests donate more money per resident in Oregon than in any other state. All that giving worked. Oregon now trails its West Coast neighbors on a long list of environmental protections.

To understand how the vast sums of corporate money can influence lawmakers, it helps to see how they

Campaign spending

Since 2008, members of the Legislature have spent an estimated \$2.2 million in campaign funds on items prohibited in at least one other state.

Category	Amount
Family member on payroll	\$469,000
Family member’s mileage	\$7,000
Fines for election violations	\$79,000
Membership dues for civic groups	\$71,000
Car maintenance	\$23,000
Dry cleaning	\$1,000
Out-of-state travel	\$611,000
Legislative office costs	\$392,000
Gifts and gatherings during session	\$88,000
Lodging during session	\$164,000
Meals during session	\$22,000
Mileage during session	\$206,000
Fuel and parking during session	\$23,000
Airfare in-state during session	\$4,000

Chart: Analysis of Oregon State Elections Division data

can spend the donations. The money buys more than consultants and mailers.

Oregon allows lawmakers to spend campaign money on perks they'd otherwise have to pay for personally or justify on legislative expense reports. And, by permitting double dips, the state has created a conduit between the nation's largest companies and legislators' bank accounts.

The result: Lawmakers owe donors for far more than their legislative seats.

The newsroom combed through 114,000 transactions and \$83 million in campaign spending by state lawmakers over the last decade. The review found hundreds of cases of double dips that benefited lawmakers' pocketbooks and other questionable spending that enhanced their lifestyles.

The analysis also uncovered \$2.2 million in spending that would have been illegal in at least one other state, including salaries to family members, capitol office furnishings, international luxury travel and fines for campaign finance violations.

"This is embarrassing for the whole Legislature," said Robert Stern, a good government advocate and attorney who helped write California's campaign finance controls. "It undermines the whole campaign finance system when you're taking campaign money and using it for personal purposes. It appears almost like legalized bribery."

Lawmakers justified the expenses as essential to winning voter support, legislating or making their jobs pay a sustainable wage. Lawmakers are paid \$24,000 a year. They collect another \$22,000 in per diems during a long legislative session.



Rep. Paul Evans, D-Monmouth, used \$5,000 in campaign money to pay for 105 visits to pubs and sports bars in his district. The Arena Sports Bar in Independence was a frequent destination. Some of the payments happened during legislative sessions, when taxpayers paid his living expenses. (Photos: Teresa Mahoney/staff, left; Denis C. Theriault/staff, right)

"I understand how someone unfamiliar with the schedule of a citizen legislator might be confused by the scale and scope of the meetings I have held over the last five years," said Rep. Paul Evans, D-Monmouth, who used \$5,000 in campaign money to pay for 105 visits to pubs and sports bars in his district.

The dates of the payments included times when taxpayers were already reimbursing his meal costs.

In an email, Evans said of his sports bar trips that he tries "to optimize available times during the week and/or weekends when people can meet" and that meetings over a meal "promote a constructive work environment."

He declined to say whether he purchased alcohol.



Campaign cash saturates life in the state Capitol.

You'll see it everywhere when you walk in, past the inscription beseeching the state's citizenry to eschew vice and be righteous purveyors of justice.

It's the bouquets on the floor of the House of Representatives and flowers on Senate desks. It's the candy, coffee and water in Rep. Brian Clem's office. It's the ink and office supplies in Rep. Greg Smith's office. It's the souvenirs Rep. Sherrie Sprenger gives to children who visit her office. It's flags and framed bills and commemorative pins and mugs and socks and end-of-session parties and all the hundreds of gifts that lawmakers give one another.

Search the data: See how much current legislators have raised and from what source. [🔗](#)

Campaign money also bankrolls items that lawmakers can take home.

Clem, D-Salem, bought a \$399 Apple Watch in September, his latest campaign-funded accessory from the California company. He's also purchased Apple's wireless headphones, an iPad, an iPhone and a second Apple Watch. (One was for an aide, he explained.)

"That's all stuff I use here in the Capitol," Clem said. His watch helps him keep track of meetings in Salem, he said.

Clem said he needed wireless headphones because "when I'm driving and talking about legislative business, I can't do it illegally." He declined to explain why the wired headphones that come with every iPhone were insufficient for the task.



Rep. Caddy McKeown, D-Coos Bay, spent \$690.24 in campaign funds in November 2013 for a stay at the Fairmont Banff Springs hotel during a conference. Unlike some states, Oregon allows campaign money to pay for travel related to being a legislator. (Photo: Jon Sullivan, left; Stephanie Yao Long/staff, right)

Eleven days before she resigned to lead the Oregon Home Builders Association, Rep. Jodi Hack, R-Salem, used \$99 in campaign cash to pay her Amazon Prime membership. Hack said she was representing her constituents and doing outreach until her last day in office. Amazon was where she bought thank-you notes before she left, she said.

In 2016, Gail Whitsett, a former Republican representative from Klamath Falls, spent \$817.94 at a Salem Best Buy on a computer and printer for what she called "official use." She left office three weeks later.

In an email, Whitsett said she keeps the computer in a room at her home that she describes as her campaign committee office.

It has been two years since she quit the Legislature.



Oregon's permissive campaign finance laws and their weak enforcement give lawmakers wide latitude in how they spend donors' money.

Although Oregon says candidates can't spend the money for personal use, legislators get a huge loophole. Campaign money can pay expenses connected with a lawmaker's official duties.

Lawmakers can pick their excuse. Perhaps they needed a lavish dinner, posh resort stay, car wash or even dry cleaning because they hold office. Or because they'll run for office again. Either way, they can pay the bills with campaign money.

Other states make it harder.

Pennsylvania, Kentucky, Maryland and Connecticut prohibit campaigns from covering the costs of holding office: no conference travel, no mileage to and from the state capital, no furniture for Capitol offices.

"At least in Kentucky, the Legislature has decided that they want their official duties paid for officially, not through their campaigns," said Emily Dennis, general counsel for the Kentucky Registry of Election Finance.

Other states prohibit a variety of other expenses that Oregon allows. In Louisiana, it's illegal to pay a family member's salary with campaign money. In New Jersey, a campaign account can't pay a legislative aide's salary. New Mexico explicitly says campaign money can't be used for living expenses during sessions.

Oregon lawmakers say voters can keep them honest by monitoring expenditure reports posted online.

Oregon's system leaves legislators to decide "what they're willing to have printed on the front page of the paper about them," said John Huffman, a Republican who represented The Dalles for a decade. "That's the judgment call they make."

But the money is not all out in the open. Legislative candidates paid more than \$3 million in staffing costs without naming the person who did the work. Only the payroll vendor was listed.

Lawmakers also listed \$1.3 million in miscellaneous expenses of \$100 or less, the legal threshold for reporting how they spent the money.

When Oregonians call attention to questionable spending, regulators don't always investigate.

Oregon law says any election complaint must be signed by a registered voter. Records show since 2014, the Oregon State Elections Division has tossed two complaints because they were filed anonymously.

When regulators do open a case, they don't always follow through. The elections division, overseen by the Secretary of State, does not use its authority to subpoena records. Instead, compliance specialists write letters asking candidates for information. More than once, they dropped an investigation because no one wrote back.

In California or Washington, a single newspaper story revealing shady spending can prompt regulators to start digging. Eric Jorgensen, deputy director of Oregon's elections division, said his office takes a different approach.

"Do we have to be reading every story trying to find things?" Jorgensen said.

He said the late Secretary of State Dennis Richardson and other election officials told the staff "we should be complaint-driven, so we're not out there as a gotcha organization."

A particularly blatant form of spending for personal gain, the double dip, gets the elections division's blessing. A 2005 legislative effort to bar the practice failed.

The Legislature pays each lawmaker \$149 a day in per diems for food and lodging when they're in session. It happens automatically, even if they live in Salem. Legislators living outside the capital can also turn some or all of the money into extra income by charging hotels and meals to their campaigns.

In the last decade, legislators' campaigns paid \$186,000 for lodging and meals while the Legislature met.



Twenty-three lawmakers used at least \$500 in campaign money to pay rooms in Salem, a double reimbursement for living costs paid for by taxpayers. (Photos: Oregon Legislature)

Senate Majority Leader Ginny Burdick, D-Portland, Sen. Arnie Roblan, D-Coos Bay, former Rep. Bill Garrard, R-Klamath Falls, and former Rep. Sal Esquivel, R-Medford, all spent more than \$10,000 in campaign cash on lodging during sessions in the last 10 years.

Another 19 current and former lawmakers spent at least \$500 on lodging while the Legislature met: House Speaker Tina Kotek, former House Majority Leader Val Hoyle, current House Majority Leader Jennifer Williamson, Sens. Bill Hansell, Chuck Riley, Chuck Thomsen, Dallas Heard, Dennis Linthicum, Jeff Kruse, Shemia Fagan, Tim Knopp and Reps. David Brock Smith, Duane Stark, Greg Smith, Jessica Vega Pederson, Judith Stiegler, Matt Wand and Mike Schaufler.

And Deborah Boone.

“It’s why people can do away with their full-time jobs and just become legislators,” said Jim Myron, a former policy adviser to Gov. Ted Kulongoski and now a lobbyist for Willamette Riverkeeper. “They’re living very fine on their campaign contributions and puny salary.”



Former Rep. Deborah Boone, D-Cannon Beach, used more than \$1,000 in campaign funds to pay for dry cleaning, mainly at The Cleanery in Salem. (Photos: Teresa Mahoney/staff, left; The Daily Astorian, right)

The Oregonian/OregonLive spent 18 months examining how and why Oregon has fallen behind on so many important environmental fronts.

The answer? Money.

Oregon is one of just five states with no limits on campaign donations. No one has given more to state lawmakers in Oregon than Corporate America. Companies and industry groups contributed \$43 million to winning candidates in elections from 2008 to 2016, nearly half the money legislators raised.

Corporate donations promoted an easy regulatory climate where industry gets what it wants, while people threatened by pollution struggle to be heard.

Few lawmakers spent campaign cash like Boone. She used it to pay more than \$1,000 in dry cleaning bills. She spent it on car washes, wiper blades, snow tires, picture frames and a holiday wreath.

But her fundraising was typical: 60 percent from corporations, just 4 percent from individuals and small, unnamed donors.

When residents in Boone's district turned to her for help in 2013, they were confronted with a reality that is all too common in Oregon.

They hadn't given a dime.



The first image is a Google Earth rendering of the Jetty Creek watershed in 2004, the second a 2013 photo showing the extent of logging in the area. The stream, which supplies drinking water to Rockaway Beach, turned muddy after the area was logged. (Photos: Google Earth, Don Best Photography)

Nancy Webster first noticed something was wrong when the brown patches began appearing on the forested hills above the coastal town of Rockaway Beach, one clearcut after the other. Then came the helicopters, spraying weed killers. Webster could smell the chemicals at her home, a half-mile away.

The most striking change was in Jetty Creek, which collects rainfall from the hills that had been logged. The creek provides drinking water to the town of 1,350 people. It was so full of mud, Webster said, it looked like chocolate milk.

Timber companies own the entire 1,300-acre watershed and cut almost all of it over the past 15 years.

City notices began showing up in the mail. They warned that chlorine, which the city uses as a disinfectant, had reacted with the muddy water to create high levels of a cancer-causing byproduct.

State tests of creek water also found traces of a potent herbicide, sulfometuron methyl, that had been sprayed to control weeds so replanted trees could grow.

One company that logged the Jetty Creek watershed said workers installed sediment traps to catch runoff and avoided spraying near the town's drinking water plant. Another said it left wider buffers along streams than the law requires.

But Webster and other residents said it wasn't enough. They wanted safe drinking water, and they hoped Boone would help.

Webster recalled driving to Salem for a citizen lobbying day and running into Boone on the Capitol steps. She told the veteran lawmaker what was happening.

"It felt like she was not interested at all," Webster said. "All she wanted to do was talk about the winery she visits in her rounds of the district."



Nancy Webster on a tour of the Jetty Creek watershed in 2018. Logging roads and barren hillsides can create silty runoff in streams.

Rockaway Beach was not an isolated case. Mud from hillside clearcuts and logging roads threatens drinking water up and down the Oregon coast. Compared to Washington, Oregon lets loggers cut down trees and spray chemicals far closer to streams.

In 2015, two lawmakers introduced a bill to tighten spray practices in response to concerns Webster and dozens of coastal residents had raised. Both legislators were from the Portland area.

Boone said she listened to Rockaway Beach residents and sent an aide to meet with them. But she didn't sign on to the spraying bill, which died.

"The best thing I could know to do is call people in the company and discuss it with them and ask them to meet with people and get to some consensus," Boone said. "I can't make them act."

In her career, timber interests gave Boone \$26,000. The donors included a company that logged Jetty Creek. The timber industry gave more in Oregon in a decade than any other state in the country.

Boone said the companies that logged the watershed were constituents just as much as the townspeople who came to her for help.

"It's a tough thing to have to decide between," Boone said. "So I tried not to decide between."

Webster didn't know Boone had taken most of her money from corporations. She didn't know how Boone spent the money. Told about the car washes, the dry cleaning, the snow tires, the thousands of dollars in double dips, Webster sighed.

"Somehow," she said, "I didn't think it was that bad."

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Honest Elections City of Portland Charter Amendment

Whereas, the people of City of Portland find that limiting large contributions and expenditures in political campaigns would avoid the reality and appearance of corruption, including *quid pro quo* corruption, a new Article 3 to Chapter 3 of the City of Portland Charter, shall read as follows:

Article 3 Campaign Finance in Candidate Elections

3-301. Contributions in City of Portland Candidate Elections.

- (a) An Individual or Entity may make Contributions only as specifically allowed to be received in this Article.
- (b) A Candidate or Candidate Committee may receive only the following Contributions during any Election Cycle:
 - (1) Not more than five hundred dollars (\$500) from an Individual or a Political Committee other than a Small Donor Committee;
 - (2) Any amount from a qualified Small Donor Committee;
 - (3) A loan balance of not more than five thousand dollars (\$5,000) from the candidate;
 - (4) No amount from any other Entity, except as provided in Section 3-304 below.
- (c) Individuals shall have the right to make Contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

3-302. Expenditures in City of Portland Candidate Elections.

- (a) No Individual or Entity shall expend funds to support or oppose a Candidate, except those collected from the sources and under the Contribution limits set forth in this Article.
- (b) An Entity shall register as a Political Committee under Oregon law within three (3) business days of making aggregate Independent Expenditures exceeding \$750 in any Election Cycle to support or oppose one or more Candidates in any City of Portland Candidate Election.
- (c) Only the following Independent Expenditures are allowed per Election Cycle to support or oppose one or more Candidates in any particular City of Portland Candidate Election:

- (1) An Individual may make aggregate Independent Expenditures of not more than five thousand dollars (\$5,000).
- (2) A Small Donor Committee may make Independent Expenditures in any amounts from funds contributed in compliance with Section 3-301 above.
- (3) A Political Committee may make aggregate Independent Expenditures of not more than ten thousand dollars (\$10,000), provided that the Independent Expenditures are funded by means of Contributions to the Political Committee by Individuals in amounts not exceeding five hundred dollars (\$500) per Individual per year.

3-303. Timely Disclosure of Large Contributions and Expenditures.

- (a) Each Communication to voters related to a City of Portland Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:
 - (1) The names of any Political Committees and other Entities that have paid to provide or present it; and
 - (2) For each of the five Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:
 - a) The name of the Individual or Entity providing the Contribution.
 - b) The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
 - (3) For each of the largest five Dominant Independent Spenders paying to provide or present it:
 - a) The name of the Individual or Entity providing the Independent Expenditure.
 - b) The types of businesses from which the maker of the Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
- (b) If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee)

or nonprofit organization, the prominent disclosure shall include its top three funders during the current Election Cycle.

- (c) The disclosure shall be current to within ten (10) days of the printing of printed material or within five (5) days of the transmitting of a video or audio communication.

3-304. Coordination with Public Funding of Campaigns.

A candidate participating in a government system of public funding of campaigns (including the Public Election Fund established under Portland City Code Chapter 2.16) may receive any amount that such system allows a participating candidate to receive.

3-305. Implementation and Enforcement.

- (a) The provisions of this Article shall be implemented by ordinance to be operative not later than September 1, 2019.
- (b) Each violation of any provision in this Article shall be punishable by imposition of a civil fine which is not less than two nor more than twenty times the amount of the unlawful Contribution or Expenditure or Independent Expenditure at issue.
- (c) Any person may file a written complaint of a violation of any of the Provisions with the City Auditor.
- (d) The City Auditor, otherwise having reason to believe that a violation of any provision has occurred, shall issue a complaint regarding such violation.
- (e) Upon receipt or issuance of a complaint, the City Auditor:
 - (1) Shall examine the complaint to determine whether a violation has occurred and shall make any investigation necessary.
 - (2) Within two business days of receiving or issuing a complaint, shall issue a notification, including a copy of the complaint, to every person who is the object of the complaint.
 - (3) Shall accept written materials supporting or opposing the complaint for a period of 10 business days following any such notification.
 - (4) Shall render a decision on the complaint within 10 business days of the close of the material submission period.
- (f) If the complaint is received or issued within 30 days of the date of the election involving the object of the complaint, then all time periods stated in subsections (e)(3) and (e)(4) above shall be reduced by one-half.

- (g) The City Auditor may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with the provisions of this Article.
- (h) Upon finding a violation of the requirement for timely disclosure set forth in Section 3-303 above, the City Auditor shall determine the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication at issue and shall immediately issue a statement to all interested parties and news organizations containing all of the information about the involved donor(s) required by Section 3-303 above.
- (i) The complainant or any person who is the object of the complaint may, within 30 days of the issuance of the decision, appeal that order to the appropriate Circuit Court as an agency order in other than a contested case.
- (j) The decision in the matter shall be deemed final, following completion of any judicial review. Such decision shall be enforced by the City of Portland. If the decision is not enforced within thirty (30) days of the decision becoming final, the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the City of Portland, and for any appropriate equitable relief.

3-306. Adjustments.

All dollar amounts shall be adjusted on January 1 of each odd-numbered year to reflect an appropriate measure of price inflation, rounded to the nearest dollar.

3-307. Severability.

For the purpose of determining constitutionality, every section, subsection, and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections, and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection, and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

3-308. Definitions.

Unless otherwise indicated by the text or context of this Article, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of January 1, 2018. Terms found therein or defined below are capitalized in this Article.

- (a) "Candidate" has the meaning set forth at ORS 260.005(1).

- (b) "Candidate Committee" has the meaning set forth at ORS 260.039 - 260.041, as of November 8, 2016, for the term "principal campaign committee."
- (c) "City of Portland Candidate Election" means an election, including a primary election, to select persons to serve (or cease serving) in public offices of City of Portland.
- (d) "Communication" means any written, printed, digital, electronic or broadcast communications but does not include communication by means of small items worn or carried by Individuals, bumper stickers, Small Signs, or a distribution of five hundred (500) or fewer substantially similar pieces of literature within any 10-day period.
- (e) "Contribution" has the meaning set forth at ORS 260.005(3) and 260.007, as of November 8, 2016, except it does not include (1) funds provided by government systems of public funding of campaigns or (2) providing rooms, phones, and internet access for use by a candidate committee free or at a reduced charge.
- (f) "Dominant Contributor" means any Individual or Entity which contributes more than one thousand dollars (\$1,000) during an Election Cycle to a Candidate Committee or Political Committee.
- (g) "Dominant Independent Spender" means any Individual or Entity which expends more than one thousand dollars (\$1,000) during an Election Cycle to support or oppose a particular Candidate.
- (h) "Election cycle" means:
 - (1) Generally, the period between an election at which a candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.
 - (2) For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
 - (3) For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.
- (i) "Entity" means any corporation, partnership, limited liability company, proprietorship, Candidate Committee, Political Committee, or other form of organization which creates an entity which is legally separate from an Individual.
- (j) "Expenditure" has the meaning set forth at ORS 260.005(8) and ORS 260.007, as of January 1, 2018, except that:

- (1) It does not include a Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of influencing an election.
 - (2) The exception in ORS 260.007(7) does not apply.
- (k) "General Election Period" means the period beginning the day after the biennial primary election and ending the day of the biennial general election.
- (l) "Individual" means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Article expresses a limitation or prohibition, "Individual" means any human being.
- (m) "Membership Organization" means a nonprofit organization, not formed or operated for the purpose of conducting or promoting commercial enterprise, which has Individual members who have taken action to join the organization and have made a payment of money or volunteer time to maintain membership in the organization.
- (1) It cannot have commercial enterprises as members.
 - (2) It can transfer to one and only one small donor committee not more than forty percent (40%) of the amount paid to the organization by each Individual member, with a limit of one hundred dollars (\$100) transferred per Individual member per calendar year.
 - (3) It shall within thirty (30) days of any such transfer notify each paying member of the amount transferred, expressed in dollars or as a percentage of the member's amount paid to the organization. Such notice may be provided by regular mail or electronic mail to each affected member or by posting the information on the organization's main website. If the amount transferred is the same for each member or category of members (in dollars or in percentage of amount paid), the posting may state that amount or percentage without identifying Individual members.
- (n) "Primary Election Period" means the period beginning on the 21st day after the preceding biennial general election and ending the day of the biennial primary election.
- (o) "Prominently Disclose" means that the disclosure shall be readily comprehensible to a person with average reading, vision, and hearing faculties, with:
- (1) any printed disclosure appearing in a type of contrasting color and in the same or larger font size as used for the majority of text in the printed material;

- (2) any video disclosure remaining readable on the regular screen (not closed captioning) for a not less than 4 seconds;
 - (3) any auditory disclosure spoken at a maximum rate of five words per second;
 - (4) any website or email message in type of a contrasting color in the same or larger font size as used for the majority of text in the message;
 - (5) any billboard or sign other than a Small Sign: in type of a contrasting color and not smaller than 10 percent of the height of the billboard or sign.
- (p) "Small Donor Committee" means a Political Committee which has never accepted any Contributions except from Individuals in amounts limited to one hundred dollars (\$100) per Individual contributor per calendar year.
- (q) "Small Sign" means a sign smaller than six (6) square feet.