

TESTIMONY ON SJR 18 AND PROPOSED AMENDMENTS

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Senate Committee on Campaign Finance Reform

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

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. I again testified in person and in writing on March 20.

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

CHANGING "REGULATIONS" TO "ORDINANCES" IS NOT A SUBSTANTIVE CHANGE TO SJR 18

We support the -5 and -6 amendments, with one caveat. Both of the amendments change in line 5 the word "regulations" to "ordinances." This change has not been discussed by the Committee. I would think that the word was changed because the SJR 18 term "laws or regulations regulating" offended someone's sense of style. But the word change should not alter the meaning of SJR 18.

The word "regulations" was used because it is a generic term for government rules. It would include on the local government level both ordinances and charter provisions. Both the Multnomah County campaign finance regulations adopted by voters in 2016 and those adopted by Portland voters in 2018 were amendments to their respective charters. They were certainly "regulations" but not "ordinances." One conceivable interpretation of SJR 18 with the -5 and -6 amendments is that SJR 18 would not protect those charter provisions from challenge under the Oregon Constitution.

We ask the Committee to make it absolutely clear that such is not the intent of the -5 and -6 amendments. Instead, they do not alter the intent that SJR 18 authorizes the Multnomah County and Portland charter provisions (and charter provisions that may be adopted in other jurisdictions) and protect them from challenge under the Oregon Constitution.

While charter amendments are not "ordinances," they are "laws" and so would be protected by SJR 18. Those charter amendments are "laws . . . regulating the user of moneys in political campaigns." The Oregon courts often use Websters' dictionaries to define "laws," most recently in *Harisay v. Atkins*, 295 Or App 493, 500, 434 P3d 442, 447 (2018):

"The binding custom or practice of a community; rules or mode of conduct made obligatory by some sanction which is imposed and enforced for their violation by a controlling authority."

WEBSTER'S NEW INT'L DICTIONARY 1401 (unabridged 2d ed. 1961).

The Multnomah County and Portland charter provisions would clearly be "laws" under this definition.

THE OREGONIAN HAS PROVIDED ADDITIONAL DOCUMENTATION OF CAMPAIGN FINANCE PROBLEMS IN OREGON

The -5 plus -6 version of SJR 18 is well designed to guarantee that legislatures at all levels in Oregon, and the people by initiative, to regulate political contributions and expenditures in order to prevent the appearance and reality of corruption. The recent OREGONIAN series, *Polluted by Money*, presented examples of where campaign contributions appear to have had an effect on policy outcomes. My March 13 testimony attached the first 3 installments of that series, but those do not appear in the OLIS record for SJR 18. So I am submitting them again now. My March 20 testimony attached the fourth installment, and that is in the OLIS record. Attached today is also the OREGONIAN's editorial of March 25, 2019, urging the Legislature to adopt significant campaign finance reforms.

SJR 18 ENSURES THAT CAMPAIGN FINANCE REGULATION CAN PROCEED WITHOUT LEGAL CHALLENGES STEMMING FROM THE OREGON CONSTITUTION

I also wish to emphasize that the SJR 18 referral to voters is necessary only to guarantee that campaign finance regulations in Oregon can be adopted and enforced and not be hindered by lawsuits claiming preclusion by the Oregon Constitution. In fact, Oregon's free speech clause is the same as that of 36 other states, all of which limit campaign contributions and all of which require that political ads identify at least their primary sponsor. No court has held that those clauses preclude the adoption and enforcement of limits on campaign

contributions or mandatory taglines on political advertisements, identifying their funders.

The current constitutionality of such requirements in Oregon is established by the briefs I filed in *In the Matter of Validation Proceeding To Determine the Regularity and Legality of Multnomah County Home Rule Charter Section 11.60 and Implementing Ordinance No. 1243 Regulating Campaign Finance and Disclosure* (Multnomah County Circuit Court No. 17CV18006) (attached to this testimony). SJR 18 simply ensures that such campaign finance regulations will not face legal challenges based upon the Oregon Constitution, even though such legal challenges should ultimately fail in any event. It also provides local governments with assurance that may be necessary before they will enact campaign finance reforms.