



April 3, 2019

Oregon Progressive Party Position on Bill at 2019 Session of Oregon Legislature:

SB 225: Neutral

Dear Committee:

SB 225 illustrates existing law's discrimination against the Independent Party of Oregon (IPO), and that discrimination should be corrected. Still, SB 225 is an interesting idea and perhaps should be tried out (along with the corrections).

What happens in the "NAV Primary," if one or more major parties have opened their primaries to NAVs?

Do the NAVs then receive 2 partisan candidate primary ballots, one from the major party and the other with the "NAV" candidates? SB 225 provides that, if anyone files to be the NAV candidate for any partisan office, the state and counties are required to print and distribute primary ballots, showing the NAV contest, to all NAVs. If a major party opens its primary to NAVs, however, existing law does not require the state and counties to distribute those major party ballots to all NAVs. Instead, the Secretary of State has interpreted existing law as requiring a county to provide such a ballot only to each individual NAV who requests that ballot, in writing (not on the internet), at least 21 days before the primary election.

But the question remains: What if a NAV wants to vote in the major party primary and requests that ballot. Under SB 225, she will also receive the "NAV primary" ballot in the mail. Does she get to vote twice regarding the same office?

This also illustrates how existing state law discriminates against IPO. As a major party, IPO has always opened its entire primary election to all NAVs. In 2016, Secretary of State Atkins sent a letter to all NAVs prior to the primary election, notifying them of their opportunity to remain a NAV but obtain an IPO ballot (by submitting a written request at least 21 days before the primary election) or to join a major party in order to vote in its primary election. The result was about 50,000 requests for IPO primary ballots from NAVs. In 2016, Secretary of State Richardson declined to send any notice. The result was only about 500 requests

for IPO primary ballots from NAVs, statewide.

So, while existing law and practice relegates IPO to the distribution of only about 500 IPO primary ballots to NAVs, SB 225 allows anyone to file one short piece of paper with a small fee and automatically appear on over 900,000 primary ballots (those mailed to NAVs). This is fundamentally unequal treatment. If a single NAV candidate gets to be on all NAV ballots, then IPO candidates should also be presented to all NAVs, not just to 500 of them.

SB 225 protects the NAV primary from rogue write-ins far more than existing law protects the IPO primary.

SB 225 does not allow just anyone to win the NAV nomination by write-in. Existing law requires that anyone can win an IPO primary by write-in, even persons with views antithetical to those of IPO. SB 225 provides that no one can win the NAV primary by write in, unless she has filed a declaration of write-in candidacy before the close of the primary election. That declaration must state that the person is not affiliated with a major party or minor party. So the write-in winner must herself be a NAV. But existing law allows members of other parties to win all IPO nominations by write-in. Why is the NAV primary protected from non-NAV interlopers, when the IPO primary is not protected from non-IPO interlopers?

Further, SB 225 does not allow write-in candidates to win any nomination, unless there is also a printed NAV candidate on the NAV primary ballot for that office. In contrast, existing law allows anyone to win an IPO nomination by write in, and all partisan offices are required to be listed on the IPO primary ballot (whether or not there is any filed candidate for the office), thus ensuring the opportunity for write-in winners for all offices, including those with no connection with IPO.

It would be simpler to adjust the signature requirements for NAV candidates to get on the general election ballot.

If the goal is to have more NAV candidates appear on the general election ballot, there is a simpler and cheaper solution than conducting a NAV primary: reduce the signature requirement to qualify as a nonaffiliated candidate on the general election ballot. The current ORS 249.740 requirement is 1% of the total votes cast for all candidates for presidential electors in the most recent general election within the electoral district for which ballot access is being sought. For a statewide race, the number of signatures required is thus 20,014. For an Oregon Senate race, the number is about 668 signatures. For an Oregon House race, the number is about 334 signatures. Note that any registered voter can sign such a petition, including members of political parties. If those barriers are too high, the Legislature can reduce them.

Is "NAVness" a political philosophy that warrants restricting NAV votes only to NAV candidates in the primary election?

Finally, the bill seems to be based on the premise that "NAVness" is a kind of political philosophy. To me, it seems more of a "undecided" or "I am not very interested" stance. In Oregon, it also is the result of people not opening mail that appears uninteresting or not wishing to fill out a form (to join a party) and mail it in.

The new influx of NAVs is definitely the result of divorcing two processes that were previously married: registering to vote and choosing a party. New registrants were previously offered the opportunity to do both at the same time. Under the revised Motor Voter system, however, new registrants are not offered the opportunity to choose a party, except by means of a letter mailed several weeks after the event triggering the registration (business at DMV). Before the new Motor Voter system, 76% of Oregon registered voters had officially joined political parties. Under the new system, only 12.7% of 2018's new registrants joined parties (12.1% in 2017). The tidal wave of NAVs in Oregon is a matter dictated far more by the design of the registration system than by political philosophies of the new registrants.

While it may make sense for Democrats to vote in the Democratic primary in order to elect a Democrat who is philosophically consistent with Democratic ideals, why does it make sense to limit NAVs to voting in the primary only for other NAVs? NAVs have always been allowed to vote in the IPO primary (although the state makes it difficult for them to do that) and may well in the future be invited to vote in the primaries of the other major parties. Why should their choices be limited to voting for other persons who are NAVs? Why should that choice be offered to all NAVs, while the choice of other candidates is limited to those NAVs who submit a written request for a major party ballot 21 days before the primary election?

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