

TESTIMONY ON HB 4124

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House Committee on Rules

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Honest Elections Oregon, the Independent Party of Oregon, the Oregon Progressive Party, and the Alliance for Democracy oppose HB 4124, which would deny the expressed wishes of Oregon voters statewide for limits on political campaign contributions, even if the Oregon Supreme Court rules that such limits are constitutional and valid.

Delaying Effectiveness of Measure 47 of 2006

Oregon voters in 2006 enacted Measure 47, which sets limits on campaign contributions for all candidate races. The Oregon Supreme Court in *Hazell v. Brown* (2012)¹ ruled that a reversal of *Vannatta I* would put all of the provisions of Measure 47 (2006) into effect, pursuant to Section 9(f) of that measure. Thus, Measure 47 is codified but in a state of suspension, until and unless (1) the Court reverses its 1997 decision about the validity of contribution limits under the Oregon Constitution or (2) Oregon voters amend the Oregon Constitution in a manner that validates Measure 47.

The Oregon Supreme Court is now considering such a case, the "validation proceeding" for the Multnomah County charter amendment adopted with 89% "yes" votes in 2016 (Measure 26-184). That measure is similar to Measure 47 in that it limits campaign contributions in candidate contests and requires that political advertisements prominently disclose their top five funders. The parties in that case (Supreme Court No. 066445) completed briefing and oral argument in 2019. I expect the Court to decide the case in the first half of this year, but it could take

1. This and other documents are available at http://bit.ly/or_cfr. Choose the Courts folder.

longer. If the Court decides that contribution limits are allowed by the Oregon Constitution, then Measure 47 would become effective, according to *Hazell v. Brown*.

HB 4124, if enacted, would delay the operational date of Measure 47 to July 1, 2021, even if the Oregon Supreme Court before then rules that such limits are constitutional and valid. It appears that the desired result is to (1) avoid all limits on campaign contributions during the 2020 election cycle and (2) give the Oregon Legislature the entire 2021 full session to pass a bill repealing Measure 47 or replacing it with ineffective limits.

The history of the Oregon Legislature indicates that those outcomes are more likely than the outcome of the Legislature adopting effective contribution limits. The Oregon Legislature has never adopted contribution limits. Oregon voters have used the initiative power to adopt such limits four times. The Legislature has partially or completely repealed those voter-enacted limits twice.

Voter enactment of SJR 18 in November 2020 does not preserve Measure 47 or place it into effect, because SJR 18 applies only to laws enacted on or after January 1, 2016.

Measure 47 also requires that all advertising for or against candidates include full disclosure of the largest donors to the campaign or to the "independent expenditure" that funded the advertising. HB 4124 would also delay implementation of that requirement to July 1, 2021. Oregon has no other law requiring candidates to identify their funders in their ads, outside of candidates for Multnomah County and Portland public offices. HB 2716 (2019) exempts candidates and their committees from its disclaimer requirements, and the disclaimer requirements in that enacted bill applicable to independent expenditures are easily avoided.²

2. See my testimonies on HB 2716 (2019) (36 pieces) at <https://olis.leg.state.or.us/liz/2019R1/Measures/Exhibits/hb2716>, particularly the testimony on June 17, 2019.

Establishing a Task Force on Political Campaign Contribution Limits

HB 4124 also would set up a "Task Force on Political Campaign Contribution Limits," which is an example of foxes guarding the henhouse. All 17 members of the Task Force are to be appointed by the foxes (the legislators elected under a campaign finance system with no contribution limits). And 11 members of the Task Force are specifically deemed to represent the foxes (officeholders, political parties, and big donors), including:

- 2 for the Senate
- 2 for the House
- 5 for political parties
- 1 for 501c4 organizations (this includes "dark money" groups)
- 1 for for-profit corporations

Thus, the foxes will have a clear majority of at least 11 on the 17-member Task Force. There is only one seat for "organizations that focus on campaign finance reform," and even that seat will be filled by the foxes (legislators) and could be filled with someone from an organization that focuses on opposing campaign finance reform.

The composition of the Task Force should be significantly changed so that advocates of campaign finance reform have at least some say. A similar task force was established by HB 2178 (2015). That task force had double the representation for advocates of reform than is now proposed in HB 4124. It produced 51 pages of report to the Legislature during 2016 but did not persuade the 2017 session to take reform actions.