

House Committee on Rules
January 11, 2020
Testimony on House Bill 4124
Jeanne Atkins, former Oregon Secretary of State

Good morning Mr. Chair and Committee members:

My name is Jeanne Atkins. I served as Secretary of State from March of 2015 until January of 2017, and I am here today to express my support for House Bill 4124. In particular, I want to offer an experienced perspective on elections law changes and their implementation.

On Wednesday March 11, 2015 I was sworn in as Oregon's 25th Secretary of State. Five days later Governor Kate Brown signed into law Oregon's first in the nation automatic voter registration law.

Making that happen was a big assignment for a brand new Secretary of State.

But I had several things working for me.

First, the law called for implementation to be completed by January 1, 2016 – not the day it was signed.

Second, I had a team in place at the Secretary of State's office that had worked with Governor Brown during her tenure as Secretary of State and were part of the team that had worked to develop and evaluate that very legislation over a period of nearly four years. Luckily, they agreed to stay on and work with me to make implementation happen.

Even so, implementing AVR was a stressful, nearly full-time project, happening at the same time we were preparing for what came to be the highest turnout election cycle in Oregon history. And despite our best efforts, at least one major part of the program (reaching back to find Oregonians who had Department of Motor Vehicle transitions in previous years) had to be delayed until after the Primary, causing great angst among advocates.

I'm very proud of the work accomplished and very grateful to the team for assuring that we met the deadlines set by the Legislature.

But we were given a reasonable chance to succeed.

The situation before you today -- with respect to establishing campaign contribution limits -- presents quite different challenges.

As the Committee is aware, the constitutionality of Ballot Measure 47, passed in 2006, is currently before the Oregon Supreme Court. It is unclear when a decision will be rendered.

But it is clear that advocates have the expectation and hope that when that decision is announced, Ballot Measure 47 will be resuscitated from its currently "suspended" state, requiring both candidates and the state Elections Division to immediately come into compliance with its requirements.

Let me suggest what I think that will look like from the perspective of either the current, or the next, Secretary of State:

- (1) Immediately, there would be a need to establish legal status of all provisions under federal constitutional law.

This includes at minimum, thorough consultation with the Attorney General, and at maximum, making decisions to either engage in or risk litigation.

- (2) Immediately, the office would need to create an operational structure for the new law and produce administrative rules that meet the legal standards of notice, public comment, and final publication. While Ballot Measure 47 is quite detailed about enforcement it does not cover every base -- writing these rules would include some significant policy decisions. For instance, determination of the penalties to be applied for violations of the contribution limits is left to the Secretary.

The use of a Rules Advisory Committee would be highly recommended for this Rulemaking process to assure that all voices are heard, and that there is common understanding of the meaning of proposed rules and every opportunity to push back or suggest a different approach. Recruitment of members, scheduling meetings, and assuring a good public record that demonstrates the Committee had meaningful input is a process that takes time.

- (3) Immediately, there would be the need to plan and establish an application process for what the initiative calls "handles" to be given to those who may give \$500 or more not to an individual candidate but in aggregate to multiple candidates.

The current campaign finance reporting rules rely on candidates and their committees to provide information. Immediately, there would need to be a reporting system for donors; with specific operational requirements set by Measure 47.

- (4) And finally, immediately, there would be the need to establish a process for reversion of funds as called for in the 2006 measure.

if there ever was an election year in which it was more important than ever for the Secretary's office to focus on successfully and securely conducting both a Presidential Primary and General Election, 2020 is that year. To have to hastily create a new enforcement program with new reporting systems – based on a law that Elections Division staff have had no role in constructing -- is a recipe for mistakes and unintended consequences detrimental to the public. Those are unnecessary risks and I hope they will not be imposed on the Office of the Secretary of State.

To complicate things further, as you know, one of the offices on the ballot in November will be that of Secretary of State, which means that in the last half of 2020 preparation for, and execution of a significant transition will be needed in the office itself.

The current Secretary is not a candidate for election to the office, with the result that there is virtually no likelihood that there will be Executive Staff who will stay in place to work with the next Secretary. And although you could assume that Elections Division staff will continue to provide their talents and experience during that transition, it is beyond reason to ask that group to prepare for instant transition to changes in the campaign finance system during a Presidential election year. The current Secretary of State should not be asked lead such a program development effort during the last months or weeks of their term, nor should a new Secretary of State be asked to instantly produce such a system change.

I am a passionate believer in campaign finance reform, and an advocate for contribution limits. But I want Oregon to establish a well-run system that gives the public the transparency it needs, that addresses potential corruption, and that treats all candidates fairly. I urge you to give the Secretary of State's office – both the current occupant and future occupants – what they will need to be successful. HB 4124 sets a course to make that happen. I urge your support.