

# TESTIMONY ON CAMPAIGN FINANCE REFORM

Senate Committee on Rules and Executive Appointments

by **Daniel Meek**

for Honest Elections Oregon

**January 13, 2022**

## PROPOSED 2022 BALLOT MEASURES

In early December 2021, the Honest Elections Oregon coalition of democracy-focused groups filed 3 proposed statewide ballot measures to accomplish campaign finance reform:

Petition 43 includes campaign contribution limits, requirements that political ads identify their largest funders, additional disclosure requirements, and public funding of campaigns for state office.

Petition 44 is the same as Petition 43 but without public funding of campaigns.

Petition 45 is largely the same as Petition 43 but:

- > has lower limits on contributions by Small Donor Committees (SDCs) and membership organizations
- > expressly requires ORESTAR reporting by those who make independent expenditures
- > requires more disclaimers on advertisements involving state and local ballot measures
- > ensures opportunity for judicial review when the Secretary of State declines to find violations or impose penalties for violations.

The Honest Elections Oregon coalition will decide which of these measures to qualify for the November 2022 ballot after the ballot title processes are complete.

In mid-December 2021, persons associated with labor unions filed 3 other proposed statewide ballot measures to accomplish campaign finance reform:

Petition 46 is almost the same as Petition 43 but

- > makes requirement for ORESTAR reporting by those who make independent expenditures somewhat less explicit
- > requires fewer disclaimers on advertisements involving state and local ballot measures
- > does not ensure opportunity for judicial review when the Secretary of State declines to find violations or impose penalties for violations.

Petition 47 is the same as Petition 46 but does not have any disclosure requirements regarding ballot measures or disclaimer requirements for advertisements about ballot measures.

Petition 48 is entirely different from the others. The others consist of detailed laws occupying 35-50 single-spaced pages. Petition 48 is 1 page. It has no disclosure or disclaimer requirements. It would:

- > allow Small Donor Entities (SDEs) to make essentially unlimited contributions while themselves being funded by unlimited donations from any source, with no disclosure or disclaimer requirements applicable to SDEs or their funding sources
- > limit contributions by anyone else to any candidate or other political committee to \$2,500 per year, including measure committees
- > ban loans by the candidate to her own campaign

Further explanation of Petition 48 is attached as an appendix.

Attached are (1) tables specifying the contributions limits in each of the 5 detailed proposed measures and (2) 3-page summaries of Petitions 43, 44, and 45.

The chief petitioners on Petitions 46, 47, and 48 have not filed the 1,000 sponsorship signatures required to commence the ballot title process.

## **LC 166**

The Senate Rules Committee has posted LC 166 on OLIS. It appears to be nearly identical to HB 2680 as it would have been altered by the -1 Amendment filed May 11, 2021. The House Rules Committee did not adopt that amendment but instead adopted the -12 Amendment (removing the contribution limits from the bill) and sent it to the Joint Ways & Means Committee, where it expired.

The major differences between LC 166 and HB 2680-1 are:

- > all of the contribution limits in LC 166 are blanks.
- > LC 166 correctly applies its blank contribution limits to "individuals" rather than "persons"

Attached are tables specifying the contributions limits in LC 166 and HB 2680-1.

We have previously stated many objections to HB 2680-1, most of which apply also to LC 166 (see attached testimony of Dan Meek, May 12, 2021). Honest Elections Oregon was joined in opposition to HB 2680-1 by the Oregon League of Women Voters, Oregon Common Cause, OSPIRG, the Independent, Pacific Green and Progressive parties, Our Revolution, the Multnomah County Democratic Party Election Integrity Group, Consolidated Oregon Indivisible Network, Portland Forward, Alliance for Democracy, and the editorial board of THE OREGONIAN (May 26, 2021, editorial attached), among others.

That opposition would not be neutralized by merely filling in the blanks in LC 166. Further, the Honest Elections Oregon coalition and several labor unions and nonprofit organizations during August - November 2021 devoted a lot of effort to reviewing and improving the provisions of HB 2680-1. That work is reflected in Petitions 43-47 and should be incorporated in any campaign finance reform bill considered during this session.

### **Need for Campaign Finance Reform in Oregon**

In case one wonders why should Oregon adopt campaign finance reform, attached is a flyer by Honest Elections Oregon outlining the need.

## PETITION 48 (2022)

Dan Meek  
January 13, 2022

Petition 48 is 1 page. It has no disclosure or disclaimer requirements. It would:

- > allow Small Donor Entities (SDEs) to make essentially unlimited contributions while themselves being funded by unlimited donations from any source, with no disclosure or disclaimer requirements applicable to SDEs or their funding sources
- > limit contributions by any other entity or person to any candidate or other political committee to \$2,500 per year, including measure committees
- > ban loans by the candidate to her own campaign.

Petition 48 would allow any SDE to contribute to any political committee per year up to \$100 multiplied by the number of "members" of the SDE. A "member" has to "provide financial support to the entity" but the amount of support, or when it happens, is unstated. If an SDE had 10,000 members, each of whom contributed 1 cent, and then one member who contributes \$1 million, the SDE could then contribute \$1 million to any candidate, regardless of where the funds actually came from. Also, the SDE could spend its money on unlimited independent expenditures for or against candidates or measures.

Petition 48 would allow any person or entity to contribute an unlimited amount to any "small donor entity." Note that "small donor entity" is not a "political committee" and is thus not subject to the contribution limits or even the ORESTAR requirements applicable to a "political committee."

Petition 48 limits contributions to all "political committees" to \$2,500 per year from any individual, and it bans all contributions by entities that are not natural persons. It expressly adopts the present definition of "political committee" in ORS 260.005. That definition includes measure committees. Thus, Petition 48 bans all contributions to measure committees, except for \$2,500 per individual per year.

The United States Supreme Court since 1978 has consistently struck down contribution limits pertaining to ballot measures. Thus, it is virtually certain that Petition 48 would be ruled invalid by the courts. Also, there would be no way for the courts to sever the unconstitutional aspect of Petition 48 and preserve the rest. The function of severance does not allow courts to add words to a statute (just to remove them). There are no words that could be removed from Petition 48 that would make its contribution limits applicable to candidate races but not to ballot measures.

# Contribution Limits in Petitions 43 & 44 (2022)

(per Election Period, except where noted)

Donors	Recipients					
	State-Level Candidate Committee (includes Legislature candidates)	Local Candidate Committee	Political Party Multicandidate Committees (taken together for each party)	Caucus Committee (1 per party per chamber)	Multicandidate Committee	Small Donor Committee (SDC)
<b>Individual</b> (not defined)	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$1,000 per year	\$1,000 per year	\$250 per year
<b>State-Level Candidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$5,000 per year	\$1,000 per year	0
<b>Local Candidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$1,000 per year	\$1,000 per year	0
<b>Political Party Multicandidate Committees (together for each party)</b>	\$50,000 Statewide Office \$10,000 all other	\$5,000	0	0	0	0
<b>Caucus Committees (1/party per chamber)</b>	\$5,000	\$1,000	0	0	0	0
<b>Multicandidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$5,000 per year	\$1,000 per year	0
<b>Small Donor Committee (SDC)</b>	greater of \$20,000 for Statewide Office and \$10,000 for other office or up to \$50 from each Oregon individual's contribution to SDC		0	0	0	0
<b>Membership Organization (501c4 or 501c5)</b>	Up to \$20,000 in aggregate, which may consist of any combination of (a) up to \$20,000 from member dues/donations from individuals who live, work, or go to school in Oregon, (capped at \$250/year from any member); and (b) up to \$10,000 from any source  PLUS  12 person-months of "in-kind personal services," with at least 6 of those person-months consisting of coordinating the activities of unpaid volunteers		0	0	0	0
<b>Federal or Other Non-Oregon Candidate Committee</b>	0	0	0	0	0	0

One "election period" goes from the day after the general election for the public office until and including the date of the next primary election for that office. The other "election period" goes from the day after that primary election until and including the date of the next general election for that office.

# Contribution Limits in Honest Elections Petition 45 (2022)

(per Election Period, except where noted)

Donors	Recipients					
	State-Level Candidate Committee (includes Legislature candidates)	Local Candidate Committee	Political Party Multicandidate Committees (taken together for each party)	Caucus Committee (1 per party per chamber)	Multicandidate Committee	Small Donor Committee (SDC)
<b>Individual</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$1,000 per year	\$1,000 per year	\$250 per year
<b>State-Level Candidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$5,000 per year	\$1,000 per year	0
<b>Local Candidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$1,000 per year	\$1,000 per year	0
<b>Political Party Multicandidate Committees (taken together for each party)</b>	\$50,000 Statewide Office \$10,000 all other	\$10,000	0	0	0	0
<b>Caucus Committees (1/party per chamber)</b>	\$5,000	\$1,000	0	0	0	0
<b>Multicandidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$5,000 per year	\$1,000 per year	0
<b>Small Donor Committee (SDC)</b>	10 times the limit applicable to contributions from a Multicandidate Committee		0	0	0	0
<b>Membership Organization (501c4 or 501c5)</b>	Up to \$10,000 in aggregate, which may consist of any combination of (a) up to \$10,000 from member dues/donations from individuals who live, work, or go to school in Oregon (capped at \$250/year from any member); and (b) up to \$5,000 from any source  PLUS  \$10,000 of "in-kind personal services"		0	0	0	0
<b>Federal or Other Non-Oregon Candidate Committee</b>	0	0	0	0	0	0

Statewide Office means Governor, Secretary of State, State Treasurer, Attorney General, or Commissioner of the Bureau of Labor and Industries.

One "election period" goes from the day after the general election for the public office until and including the date of the next primary election for that office. The other "election period" goes from the day after that primary election until and including the date of the next general election for that office.

# Contribution Limits in Petitions 46 & 47 (2022)

(per Election Period, except where noted)

Donors	Recipients					
	State-Level Candidate Committee (includes Legislature candidates)	Local Candidate Committee	Political Party Multicandidate Committees (taken together for each party)	Caucus Committee (1 per party per chamber)	Multicandidate Committee	Small Donor Committee (SDC)
<b>Individual</b> (not defined)	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$1,000 per year	\$1,000 per year	\$250 per year
<b>State-Level Candidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$5,000 per year	\$1,000 per year	0
<b>Local Candidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$1,000 per year	\$1,000 per year	0
<b>Political Party Multicandidate Committees (together for each party)</b>	\$50,000 Statewide Office \$10,000 all other	\$5,000	0	0	0	0
<b>Caucus Committees (1/party per chamber)</b>	\$5,000	\$1,000	0	0	0	0
<b>Multicandidate Committee</b>	\$2,000 Statewide Office \$1,000 all other	\$500	\$10,000 per year	\$5,000 per year	\$1,000 per year	0
<b>Small Donor Committee (SDC)</b>	greater of \$20,000 for Statewide Office and \$10,000 for other office or up to \$50 from each Oregon individual's contribution to SDC		0	0	0	0
<b>Membership Organization (501c4 or 501c5)</b>	Up to \$20,000 in aggregate, which may consist of any combination of (a) up to \$20,000 from member dues/donations from individuals who live, work, or go to school in Oregon, (capped at \$250/year from any member); and (b) up to \$10,000 from any source  PLUS  12 person-months of "in-kind personal services," with at least 6 of those person-months consisting of coordinating the activities of unpaid volunteers		0	0	0	0
<b>Federal or Other Non-Oregon Candidate Committee</b>	0	0	0	0	0	0

One "election period" goes from the day after the general election for the public office until and including the date of the next primary election for that office. The other "election period" goes from the day after that primary election until and including the date of the next general election for that office.

# Contribution Limits in LC 166 (2022)

**(except where noted, all limits are per election; primary and general are separate elections)**

Donors	Recipients					
	State-Level Candidate Committee	Local Candidate Committee	State Party Multicandidate Committee	Caucus Committee In Legislature	Multicandidate Committee	Small Donor Committee
“Individual” (not defined)	\$___ Statewide \$___ Senate* \$___ House	Same as contributions to Oregon House candidate but Local Govt can set other limits, including higher ones	\$___ per year	\$___ per year	\$___ Statewide \$___ Senate* \$___ House	\$___ per "individual" (not defined) per year
State-Level Candidate Committee	\$___ Statewide \$___ Senate* \$___ House		\$___ per year	\$___ per year	\$___ per year	0
Local Candidate Committee	\$___ Statewide \$___ Senate* \$___ House		\$___ per year	\$___ per year	\$___ per year	0
State Party Multicandidate Committee (1 per party)	\$___ Statewide \$___ Senate* \$___ House		\$___ per year	\$___ per year	\$___ per year	0
Caucus Committee (2 per party with caucuses in the Legislature)	\$___ Statewide \$___ Senate* \$___ House		\$___ per year	\$___ per year	\$___ per year	0
Multicandidate Committee	\$___ Statewide \$___ Senate* \$___ House		\$___ per year	\$___ per year	\$___ per year	0
Small Donor Committee (SDC)	\$___	unlimited	0	0	0	\$___ per year
Membership Organization	0	0	0	0	0	___% of each member's dues or donations received during previous 12 months, with limit of \$___ from dues or donations paid by each individual member
Oregon or Non-Oregon Federal Candidate	0	0	\$___ per year from Oregon federal candidates only	\$___ per year	0	0

Statewide refers to a candidate running for Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Judge of Court of Appeals, or Justice of Oregon Supreme Court.

\* Limits applicable to state Senate races also apply to Circuit Court judge races.



**Contribution Limits HB 2680-1 (Rayfield) -- May 11, 2021 version**  
**(except where noted, all limits are per election = primary and general are separate)**

Donors	Recipients					
	State-Level Candidate Committee	Local Candidate Committee	State Party Multicandidate Committee	Caucus Committee**	Multicandidate Committee	Small Donor Committee
"Person" (includes any corporation, union, or individual)	\$2,900 Statewide \$2,000 Senate* \$1,000 House	\$1,000	\$2,900 per year	\$2,900 per year	\$2,900 per year	\$250 per "person" per year plus \$250 x organization's members who live anywhere; plus multiples of \$50,000 of paid staff time; corporations are "persons" and can be members of membership organizations; identities of members can be secret
"Person" (only any corporation or union)	\$50,000 or multiples of \$50,000 in paid staff time	\$50,000 or multiples of \$50,000 in paid staff time				
State-Level Candidate Committee	\$2,900 Statewide \$2,000 Senate* \$1,000 House	\$1,000	\$2,900 per year	\$40,000	\$2,900 per year	0
Local Candidate Committee	\$2,900 Statewide \$2,000 Senate \$1,000 House	\$1,000	\$2,900 per year	\$40,000	\$2,900 per year	0
State Party Multicandidate Committee (1 per party)	\$30,000 Statewide \$10,000 Senate \$10,000 House	\$2,900	\$2,900 per year	\$2,900 per year	\$2,900 per year	0
Caucus Committee (2 per party with caucuses in the Legislature)	\$40,000	\$40,000	\$2,900 per year	\$40,000	\$2,900 per year	0
Multicandidate Committee	\$2,900 Statewide \$2,000 Senate* \$1,000 House	\$1,000	\$2,900 per year	\$2,900 per year	\$2,900 per year	0
Small Donor Committee (SDC)	The greater of \$25,000 or \$25 per person who resides, works, or goes to school in Oregon and who contributed to the SDC or was a member of a membership organization that contributed anything to the SDC; plus all paid staff time contributed to the SDC by membership organizations		0	0	0	Unlimited
Oregon or Non-Oregon Federal Candidate	0	0	\$2,900 per year	\$40,000	0	0

Statewide principal candidate committee refers to a candidate running for Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Judge of Court of Appeals, or Justice of Oregon Supreme Court.

\* Limits applicable to state Senate races also apply to Circuit Court judge races.

\*\* Limits applicable to Caucus Committees also apply to the single multicandidate committee of any political party that has no Caucus Committees.

Cells in pink are effectively unlimited.

Cells in green show very high limits for Caucus Committees compared with Political Party Committees.

**HONEST ELECTIONS:  
PETITION 43 SUMMARY**

**1. Campaign Contribution Limits**

a. Limits contributions to those shown in attached table.

(1) Candidate for statewide office may receive (per election period):

- > from any individual: \$2,000
- > from any multicandidate committee: \$2,000
- > from any political party: \$50,000
- > from any legislative caucus committee (one per party per chamber): \$5,000

(2) Candidate for other office may receive (per election period):

- > from any individual: \$1,000
- > from any multicandidate committee: \$1,000
- > from any political party: \$10,000
- > from any legislative caucus committee (one per party per chamber): \$1,000

(3) Multicandidate committee may receive: \$1,000 per calendar year from any individual, candidate committee, or multicandidate committee.

(4) Political party committees (taken together for each party) may receive: \$10,000 per calendar year from any individual, candidate committee, or multicandidate committee.

(5) Legislative caucus committee (2 per major party) may receive: \$1,000 per calendar year from any individual or local candidate committee; \$5,000 from any state-level candidate committee.

b. Small Donor Committees (SDCs):

(1) SDC may accept contributions only from individuals and in amounts of \$250 or less per person per calendar year.

(2) SDC may contribute to any candidate per election period the greater of:

- (a) \$20,000 to statewide candidate or \$10,000 to other candidate per election cycle; or

- (b) \$50 from each Oregon individual's contribution to the SDC.
- c. Membership Organizations (MO):
  - (1) MO must be certified tax-exempt by IRS, register as an Oregon nonprofit corporation, exist for previous 18 months, and have members who live, work, or go to school in Oregon.
  - (2) MO may contribute to any candidate per election period:
    - > \$20,000; and
    - > 12 person-months of "in-kind personal services," limited to certain activities, with at least half of that coordinating activities of unpaid volunteers.
- d. Candidate who loans money to the campaign may not repay to self more than \$50,000 if for statewide office or \$10,000 for other office.
- e. Local governments can adopt lower limits for elections of local public officials.

## **2. Disclosure Requirements ("paid for by")**

Advertisements for or against a candidate or measure must prominently disclose:

- > the names of the entities that paid for it;
- > the largest 4 sources of funds for each entity;
- > the types of businesses from which the funders derived the funds; and
- > the amount, if any, of candidate personal funds spent on the campaign, if over \$20,000 for statewide office or \$5,000 for any other office.

## **3. Reporting Requirements (ORESTAR).**

- > Independent spenders must report their contributions and expenditures.

## **4. Enforcement Provisions**

- a. Violations to be penalized by civil fines of at least the amount of the unlawful contribution or expenditure, including amounts not properly disclosed or spent on ads that do not comply with the disclaimer requirements.

- b. Each successive knowing, willful, or reckless violation involving a \$5,000 or more by any person during a calendar year shall be penalized by imposition of a civil fine which is not less than the otherwise applicable minimum penalty multiplied by the number of such prior violations.
- c. Provisions to be enforced by Secretary of State and Attorney General, with limited judicial review available, if those public officers fail to enforce the law.
- d. Hearings on alleged violations are conducted by independent Oregon Office of Administrative Hearings, with appeals to courts.

**5. Public Funding of Campaigns.**

Provides system of public funding of campaigns for state office, including all statewide offices, all judges, and all district attorneys.

- a. Small donations are matched with public funds with maximum of \$8 million for Governor candidate, \$750,000 for candidate for other statewide office, \$600,000 for State Senator or State Representative, \$300,000 for Supreme Court Justice, \$150,000 for other judge elected statewide, and the lesser of \$250,000 or \$1 per district resident for district attorney or circuit court judge.
- b. Participating candidates are subject to lower limits on private contributions.
- c. Creates Oregon Elections Commission to administer the system.

**6. Other Provisions.**

- a. Removes campaign contribution loophole in Oregon's criminal bribery law, which currently allows using campaign contributions to obtain *quid pro quo* benefits from public officials.
- b. Limits accumulation of campaign funds left over after election.
- c. Employers prohibited from requiring employees or contractors to make contributions; penalty is \$20,000 per violation.
- d. The contribution limits become effective on January 1, 2023.
- e. The disclosure and disclaimer requirements become effective on June 1, 2023.

## HONEST ELECTIONS:

### PETITION 44 SUMMARY

#### 1. Campaign Contribution Limits

a. Limits contributions to those shown in attached table.

(1) Candidate for statewide office may receive (per election period):

- > from any individual: \$2,000
- > from any multicandidate committee: \$2,000
- > from any political party: \$50,000
- > from any legislative caucus committee (one per party per chamber): \$5,000

(2) Candidate for other office may receive (per election period):

- > from any individual: \$1,000
- > from any multicandidate committee: \$1,000
- > from any political party: \$10,000
- > from any legislative caucus committee (one per party per chamber): \$1,000

(3) Multicandidate committee may receive: \$1,000 per calendar year from any individual, candidate committee, or multicandidate committee.

(4) Political party committees (taken together for each party) may receive: \$10,000 per calendar year from any individual, candidate committee, or multicandidate committee.

(5) Legislative caucus committee (2 per major party) may receive: \$1,000 per calendar year from any individual or local candidate committee; \$5,000 from any state-level candidate committee.

b. Small Donor Committees (SDCs):

(1) SDC may accept contributions only from individuals and in amounts of \$250 or less per person per calendar year.

(2) SDC may contribute to any candidate per election period the greater of:

- (a) \$20,000 to statewide candidate or \$10,000 to other candidate per election cycle; or

- (b) \$50 from each Oregon individual's contribution to the SDC.
- c. Membership Organizations (MO):
  - (1) MO must be certified tax-exempt by IRS, register as an Oregon nonprofit corporation, exist for previous 18 months, and have members who live, work, or go to school in Oregon.
  - (2) MO may contribute to any candidate per election period:
    - > \$20,000; and
    - > 12 person-months of "in-kind personal services," limited to certain activities, with at least half of that coordinating activities of unpaid volunteers.
- d. Candidate who loans money to the campaign may not repay to self more than \$50,000 if for statewide office or \$10,000 for other office.
- e. Local governments can adopt lower limits for elections of local public officials.

## **2. Disclosure Requirements ("paid for by")**

Advertisements for or against a candidate or measure must prominently disclose:

- > the names of the entities that paid for it;
- > the largest 4 sources of funds for each entity;
- > the types of businesses from which the funders derived the funds; and
- > the amount, if any, of candidate personal funds spent on the campaign, if over \$20,000 for statewide office or \$5,000 for any other office.

## **3. Reporting Requirements (ORESTAR).**

- > Independent spenders must report their contributions and expenditures.

## **4. Enforcement Provisions**

- a. Violations to be penalized by civil fines of at least the amount of the unlawful contribution or expenditure, including amounts not properly disclosed or spent on ads that do not comply with the disclaimer requirements.

- b. Each successive knowing, willful, or reckless violation involving a \$5,000 or more by any person during a calendar year shall be penalized by imposition of a civil fine which is not less than the otherwise applicable minimum penalty multiplied by the number of such prior violations.
- c. Provisions to be enforced by Secretary of State and Attorney General, with limited judicial review available, if those public officers fail to enforce the law.
- d. Hearings on alleged violations are conducted by independent Oregon Office of Administrative Hearings, with appeals to courts.

**5. Other Provisions.**

- a. Removes campaign contribution loophole in Oregon's criminal bribery law, which currently allows using campaign contributions to obtain *quid pro quo* benefits from public officials.
- b. Limits accumulation of campaign funds left over after election.
- c. Employers prohibited from requiring employees or contractors to make contributions; penalty is \$20,000 per violation.
- d. The contribution limits become effective on January 1, 2023.
- e. The disclosure and disclaimer requirements become effective on June 1, 2023.



## HONEST ELECTIONS:

### PETITION 45 SUMMARY

#### 1. Campaign Contribution Limits

a. Limits contributions to those shown in attached table.

(1) Candidate for statewide office may receive (per election period):

- > from any individual: \$2,000
- > from any multicandidate committee: \$2,000
- > from any political party: \$50,000
- > from any legislative caucus committee (one per party per chamber): \$5,000

(2) Candidate for other office may receive (per election period):

- > from any individual: \$1,000
- > from any multicandidate committee: \$1,000
- > from any political party: \$10,000
- > from any legislative caucus committee (one per party per chamber): \$1,000

(3) Multicandidate committee may receive: \$1,000 per calendar year from any individual, candidate committee, or multicandidate committee.

(4) Political party committees (taken together for each party) may receive: \$10,000 per calendar year from any individual, candidate committee, or multicandidate committee.

(5) Legislative caucus committee (2 per major party) may receive: \$1,000 per calendar year from any individual or local candidate committee; \$5,000 from any state-level candidate committee.

b. Small Donor Committees (SDCs):

(1) SDC may accept contributions only from individuals and in amounts of \$250 or less per person per calendar year.

(2) SDC may contribute to any candidate ten times the limits applicable to a multicandidate committee.

c. Membership Organizations (MO):

- (1) MO must be certified tax-exempt by IRS, register as an Oregon nonprofit corporation, exist for previous 18 months, and have members who live, work, or go to school in Oregon.
- (2) MO may contribute to any candidate per election period:
  - > \$10,000; and
  - > \$10,000 worth of "in-kind personal services," limited to certain activities.
- d. Candidate who loans money to the campaign may not repay to self more than \$50,000 if for statewide office or \$10,000 for other office.
- e. Local governments can adopt lower limits for elections of local public officials.

## **2. Disclosure Requirements ("paid for by")**

Advertisements for or against a candidate or measure must prominently disclose:

- > the names of the entities that paid for it;
- > the largest 4 sources of funds for each entity;
- > the types of businesses from which the funders derived the funds; and
- > the amount, if any, of candidate personal funds spent on the campaign, if over \$20,000 for statewide office or \$5,000 for any other office.

## **3. Reporting Requirements (ORESTAR).**

- > Contribution to political committee from a single source over \$10,000 must be reported within 7 calendar days, no matter when received.
- > Independent spenders must report their contributions and expenditures.

## **4. Enforcement Provisions**

- a. Violations to be penalized by civil fines of at least the amount of the unlawful contribution or expenditure, including amounts not properly disclosed or spent on ads that do not comply with the disclaimer requirements.
- b. Each successive knowing, willful, or reckless violation involving a \$5,000 or more by any person during a calendar year shall be penalized by imposition of a civil fine which is not less than the

otherwise applicable minimum penalty multiplied by the number of such prior violations.

- c. Provisions to be enforced by Secretary of State and Attorney General, with judicial review available, if those public officers fail to enforce the law.
- d. Hearings on alleged violations are conducted by independent Oregon Office of Administrative Hearings, with appeals to courts.

**5. Other Provisions.**

- a. Removes campaign contribution loophole in Oregon's criminal bribery law, which currently allows using campaign contributions to obtain *quid pro quo* benefits from public officials.
- b. Limits accumulation of campaign funds left over after election.
- c. Employers prohibited from requiring employees or contractors to make contributions; penalty is \$20,000 per violation.
- d. The contribution limits become effective on January 1, 2023.
- e. The disclosure and disclaimer requirements become effective on June 1, 2023.

# Opinion

EDITORIAL

## Campaign finance reform bill missing the 'reform'

There are two bills in the Oregon House proposing campaign contribution limits. One, House Bill 3343, proposes clear, modest limits and has the support of good-government groups that have long fought to cap donations. The other, House Bill 2680, does little to curb the massive contributions that corporations and labor unions have long donated to candidates and political parties.

So, guess which bill has the momentum?

Unfortunately for Oregonians who want to get big money out of politics, that would be HB 2680, which is scheduled for a work session in the House Rules Committee on Friday.

The bill, in its current version, does impose some limits. Candidates for a statewide office — such as governor or secretary of state — could not accept more than \$2,900 per election from a person or \$40,000 from a political party caucus committee. Candidates for state house and senate seats face lower limits. Local governments could set their own caps, provided they do not exceed the state's.

The range of per-person contributions are much higher than the \$500 to \$1,000 caps contemplated by HB 3343, but more important, HB 2680 would have little effect on changing the dynamics set by the same players who have long dominated the political landscape — corporations and unions. Loopholes and design flaws abound in the legislation, which is opposed by League of Women Voters of Oregon, Common Cause Oregon, OSPIRG, Honest Elections Oregon and several other groups that have pressed for meaningful contribution caps.

Among the flaws: A "person" who can give to a candidate is defined as an "individual, labor union or corporation, including any corporation operated for economic gain or any not-for-profit corporation." Entities can easily skirt the limit by forming new corporations, which takes \$100 and a couple of minutes, as campaign finance reform activist and lawyer Dan Meek has said, noting that many exploited a similar campaign contribution loophole in New York before the state closed it.

There's more. The bill would allow corporations — for-profit and nonprofit — to provide a candidate with \$50,000 a year in paid staff time, such as a political consultant. That gives the donor considerable influence in a candidate's campaign. It would permit Democratic and Republican caucus committees to amass and redi-



rect donations at levels far higher than most other political committees. And it would continue to bless game-changing donations by public-employee unions and other so-called "membership organizations" that would still be able to indirectly steer massive sums to candidates through "small-donor committees," as The Oregonian/OregonLive's Hillary Borud reported.

Corvallis Democratic Rep. Dan Rayfield, the bill's chief sponsor, deserves credit for wading into the campaign finance morass. But even he can't support the current version without changes, telling The Oregonian/OregonLive Editorial Board that he would want the amendment allowing donation of staff time to be narrowed, though not eliminated. He said the provision furthers a legitimate policy objective — helping organizations that have been historically left out of the political process to participate on behalf of candidates.

That's a worthy consideration. But legislators should look for other avenues to support that goal that don't allow the same old players to keep playing the same old game. Nineteen states ban contributions from corporations and unions outright, according to Meek, who helped author the successful campaign finance limit initia-

tives in Portland and Multnomah County. Another 23 states have limits far stricter than those under consideration in Oregon.

The Oregonian/OregonLive's Polluted by Money series in 2019 exposed how Oregon's lack of campaign contribution limits has translated into weaker environmental laws and lower standards than neighbors with stricter campaign-finance requirements. Oregonians responded by overwhelmingly supporting a constitutional amendment last year to allow the setting of campaign limits. And voters in Portland and Multnomah County have already enthusiastically embraced ballot initiatives establishing strict caps. The only part that's missing is the Legislature.

While it's an admittedly difficult challenge to divorce campaigns from the limitless cash infusions that have fed them, lawmakers across the Capitol need to summon their political courage to do what Oregonians elected them to do.

They should start by scrapping HB 2680, embracing the straightforward approach in HB 3343 and committing to pass meaningful campaign finance reform this session.

*The Oregonian/OregonLive Editorial Board*

**House Bill 2680, which does little to curb the massive contributions that corporations and labor unions have long donated to candidates and political parties, is scheduled for a work session in the House Rules Committee on Friday.** *Dave Killen, staff file*

### One year after the death of George Floyd

George Floyd's death a year ago sparked a global call for racial justice. Here, Oregonians rallied across the state with protests in Portland continuing for more than 100 nights. How have you seen this movement change you or your community over the past year? Email your thoughts to [oped@oregonian.com](mailto:oped@oregonian.com) with your first name, last name and city of residence by 5 p.m. Thursday and we'll publish select responses in Sunday's Opinion section.



The Oregonian  
OREGONLIVE  
OREGONIAN MEDIA GROUP

Founded December 4, 1850. Established as a daily February 4, 1861. The Sunday Oregonian established December 4, 1881. Incorporating the Oregon Journal since 1982.

**Editorial Board**  
**John F. Maher**, president  
**Therese Bottomly**, editor and vice president/content

**Laura Gunderson**, public interest and accountability director

**Helen Jung**, opinion editor

# We Need Campaign Finance Reform in Oregon

Big money weakens our democratic institutions, undermines confidence in government, and excludes the vast majority of citizens from seeking public office. Strong campaign finance laws are critical to protect the integrity of local elections & our elections.

Oregon is one of only 5 states with no limits on political contributions. Candidates and public officials have become unduly beholden to the special interests able to contribute big money. Campaign spending in Oregon has skyrocketed by a factor of 10 (1,000%) since 1996.

The State Integrity Investigation of the Center for Public Integrity in November 2015 graded Oregon an overall "F" in systems to avoid government corruption. **Oregon ranked 50th and worst of the 50 states in control of Political Financing, beating only Mississippi.**

## Worst States in Political Finance Regulation (2015)

- 45. North Dakota
- 46. Virginia
- 47. Indiana
- 48. Wyoming
- 49. Oregon
- 50. Mississippi



Conversely, the Koch Brothers-funded so-called "Institute for Free Speech" in March 2016 ranked Oregon #1 in America for having the "best" system of campaign finance regulation -- no limits on contributions at all. **The corporations and billionaires really like Oregon's system of no limits because they can use their money to buy politicians.**

The 2016 candidates for Governor spent over \$100 million, more than doubling the previous record. One person, Phil Knight, gave \$100 million to Knute Buehler, the Republican candidate. Both major campaigns raised 90% of their funds from contributions of \$10,000 or more, only 10% from contributions of under \$500, and only 15% from contributions of under \$1,000. The Oregonian reported that candidates for the Oregon Legislature raise and spend more in their campaigns, per capita, than in any other state, except New Jersey. The average spent in 2016 by the top 10 Oregon Senate candidates rose to \$50,000 each. The average spent in 2016 by the top 10 Oregon House candidates rose to \$25,000 each. Some candidates spent over \$1 million, over \$100 per vote received. The bigger spending candidate won 80% of the time (2010-2016).

The Corporate Reform Coalition (15 progressive organizations) in 2012 concluded that only 6 states have worse systems for disclosing independent expenditures. They graded Oregon an "F" in disclosure, while Washington earned an "A." Now, 10 states require that political ads identify their top funders, including California and Washington. For 20 years, Oregon had a law requiring that political ads at least identify their sources, but that law was repealed in 2001 by a Republican-majority Legislature and a Democratic Governor.

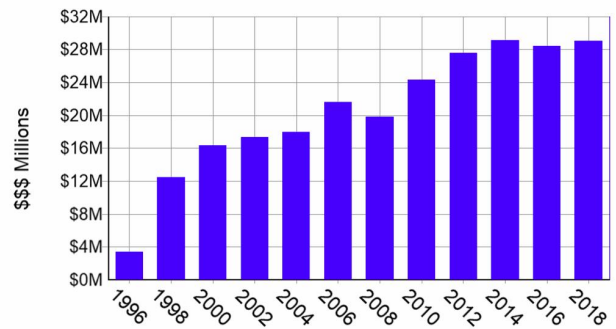
When Chevron, Inc. attempted to take over the government of the California city of Richmond (population 110,000) by running its hand-picked candidates for the mayorship and city council positions in 2011 (and spending over \$1 million to fund their campaigns), all of Chevron's candidates lost--because of the California law that required its ads and brochures and billboards to say "Major Funder: Chevron, Inc." All their opponents won, despite being outspent by about 50 to one. Voters need this information to judge the credibility of political ads.

## National Study of Anti-Corruption (Nov. 2015) Grades Oregon: F

Public Access to Information	F
Political Financing	F
Executive Accountability	F
Legislative Accountability	D-
Procurement	F
Lobbying Disclosure	F
Ethics Enforcement Agencies	F



## Spending on Oregon Legislature Races



Initiative Petition No. 1 (2020) would amend the Oregon Constitution to ensure that the people can adopt and enforce limits on campaign contributions and require all political ads to identify their largest funders. We need to collect 100,000 valid signatures by July 1, 2020, to get this on the Oregon statewide ballot. To get involved, contact us at [info@honest-elections.com](mailto:info@honest-elections.com) or 503-400-0001

# TESTIMONY ON HB 2680-1: CAMPAIGN CONTRIBUTION LIMITS

**Daniel Meek**

for Honest Elections Oregon, Oregon Progressive Party,  
and Independent Party of Oregon

**May 12, 2021**

HB 2680-1 has large loopholes that, when exploited, would render its contribution limits illusory.

HB 2680-1 refers to the proposed -1 amendment to HB 2680, published on OLIS on May 11, 2021.

HB 2680-1v2 refers to the previous, unpublished version of HB 2680 distributed by Rep. Rayfield that was dated April 17, 2021.

This testimony does not address the portion of HB 2680-1 that creates a system of public funding of campaigns.

**1. New Loophole: Any union or corporation can contribute \$50,000 (or multiples of \$50,000) of paid staff time to any candidate committee.**

This loophole is new. Section 3(4) of HB 2680-1 states:

- (4) When calculating the aggregate amount of contributions a candidate or the principal campaign committee of a candidate may accept under this section:
  - (a) The first \$50,000 of time spent by a staff member of any person, other than an individual, that must otherwise be reported as an in-kind contribution may not be included; and
  - (b) Any in-kind contribution not described in paragraph (a) of this subsection must be included.

The term "this section" means Section 3 of HB 2680-1, which contains the limits on campaign contributions to candidate committees.

Thus, HB 2680-1 allows any union or corporation of any type ("person" is defined to include both) to contribute either \$50,000 or multiples of \$50,000 to any candidate for any state or local office in the form of providing paid workers for the campaign. Those paid workers could include professional political staff persons.

HB 2680-1 does not limit any union or corporation to providing just \$50,000 of paid staff time to a candidate. It appears to allow each union or corporation to provide the "first \$50,000 of time spent by a staff member of any person." Say a corporation pays for 3 staff members to help a candidate campaign. The \$50,000 exception from the limits appears to apply to each of the 3 staff members separately: the "first \$50,000 of time spent by a staff member of any person." There is no limit on the number of staff members that the "person" (union or corporation) can provide to the candidate's campaign.

This very large loophole could be even bigger, because the language does not provide a timeframe for the \$50,000 limit: Is it per year, per election, or per something else?

This \$50,000 x number of staff provided is in addition to the \$1,000 to \$2,900 per election that HB 2680-1 allows any corporation or union to contribute in cash to a candidate.

This new loophole renders the contribution limits of HB 2680-1 illusory. On the attached table of the HB 2680-1 limits, one must add "\$50,000 or multiples of \$50,000 of paid staff time" to the cells for contributions available to all state-level candidate committees and local candidate committees.

**SOLUTION: Remove this new loophole.**

**2. HB 2680-1 authorizes allowable contributions by "persons" instead of "individuals."**

HB 2680-1 partially corrects this problem by removing "association, firm, partnership, joint stock company, club, organization or other combination of individuals having collective capacity" from the definition of "person." But the new definition continues to include all unions and corporations, including nonprofit corporations, as "persons" who can make contributions. This will allow folks to create an unlimited number of new corporations and thereby multiply their legal contributions to candidates and committees, like folks in New York did with the "LLC loophole" there.

Some corporations in New York formed 50 or more LLCs for the purpose of contributing the larger amounts allowed for "persons," as the law limited any corporation to an aggregate total of \$5,000 in campaign contributions per year. These groups of LLCs contributed over \$200 million to New York candidates. Common Cause New York called it "the granddaddy of our biggest campaign finance and corruption problems." New York closed the LLC loophole in 2019.

22 states ban corporate contributions to candidate campaigns. Each of those states also bans union contributions to candidate campaigns, except Iowa, Minnesota, and West Virginia. New Hampshire allows corporate contributions but not union contributions. No ban on corporate or union contributions has been struck down by any court.

Of the 28 other states, 23 limit corporate and union contributions. None of those 23 states allows corporations or unions to make contributions nearly as large as those allowed by HB 2680-1. Not even close.

HB 2680-1 also compromises campaign contribution transparency, because the corporation would be contributing in its own name, and there is no Oregon law requiring it to disclose its sources of funds.

**SOLUTION: Return to the previous language in HB 2680 Sections 3 and 4, which authorized contributions by "individuals" and not "persons."**

**Also, adopt the HB 3343 Section 2(7) definition of "individual:"**



(a) "Individual," except as provided in paragraph (b) of this subsection, means a human being who is entitled to vote in federal elections.

(b) "Individual" means any human being, when a limitation or prohibition on an action is imposed under sections 2 to 9 of this 2021 Act.

### **3. HB 2680-1v2 allows effectively unlimited contributions by membership organizations.**

HB 2680-1 retains the extremely broad definition of "membership organization." It includes any 501(c) organization not formed or operated for commercial enterprise. It must have "members," but anyone who volunteers any amount of money or time is a "member." Thus, one could create a membership organization with many members by posting a message on social media, with the volunteer activity consisting of signing up for an email list.

Further, many multiple thousands of entities would already qualify as "membership organizations" having hundreds of thousands or millions of members. It also appears that HB 2680-1 allows corporations to be "members."

HB 2680-1 allows any membership organization to contribute to Small Donor Committees (SDC):

- > up to \$250 per member (including in-kind contributions), regardless of the organization's sources of funds; plus
- > \$50,000 of paid staff work time; plus
- > if the membership organization is also a nonprofit corporation, multiples of \$50,000 of paid staff work time (see explanation in Part 1 of this memo).

For purposes of this limit, the membership organization's members need not have any connection to Oregon.

Any membership organization could thus provide campaign staffs to SDCs, which could use those paid staff in an essentially unlimited way. HB 2680-1 limits the contribution by any non-corporate SDC to any candidate to the greater of \$25,000 or \$25 per person with ties to Oregon (lives, works, goes to school) who either contributed to the SDC or was a member of a membership organization that contributed anything to the SDC. The resulting amounts could be huge. For example, the American Association of Retired Persons (AARP) has over 500,000 members in Oregon. So it could contribute \$125 million to any Oregon SDC (not including in-kind staff time), and that SDC could then contribute \$25 times 500,000 (\$12.5 million) to any candidate.

HB 2680-1 would actually allow AARP to contribute far more to an SDC, because the \$250 per member limit on the contribution to the

SDC by the membership organization is not restricted to members who have any connection to Oregon. AARP has over 38 million members and so could contribute \$9.5 billion to any Oregon SDC.

It appears that the SDC can also flow through the unlimited paid staff time from corporate membership organizations to any number of candidates.

HB 2680-1 allows membership organizations to provide these huge amounts of money and services to candidates without disclosing their sources of funds. Section 4(5)(b)(B) states:

(B) The name and any identifying information about an individual member of a membership organization may not be disclosed as a public record under ORS 192.311 to 192.478.

**SOLUTION: Remove the membership organization provisions or very substantially tighten them.**

**4. HB 2680-1 allows unions and corporations to contribute to Small Donor Committees.**

This is a new loophole. In all previous versions, only individuals could contribute to Small Donor Committees (SDC). HB 2680-1 expands that to allow unions and corporations to contribute to SDCs in the same amounts as individuals. It also allows unions and corporations to be "members" of "membership organizations" that can provide huge funds to candidates, as explained in the section above.

**SOLUTION: Remove the new provision allowing unions and corporations to contribute to and be members of membership organizations.**

**5. HB 2680-1 allows unjustifiably large (or small) contributions to and from some entities.**

The HB 2680-1 limits on contributions to Caucus Committees are too high, allowing contributions of \$40,000 per year from any candidate committee at any level (local, state, or federal), whether or not connected to Oregon.

The HB 2680-1 limits on contributions from Caucus Committees are too high, allowing any Caucus Committee to contribute \$40,000 per year to any local or state candidate.

On the attached table of HB 2680-1 limits, the green cells illustrate the unwarranted difference between the contribution limits applicable to Caucus Committees and those applicable to Political Party Committees. Caucus Committees are controlled by incumbents. Allowing them contribution limits that are more than 13 times higher than for Political Party Committees will no doubt attract challenges under the First Amendment as overly favorable to incumbents.

**SOLUTION: Treat Caucus Committees the same as multicandidate committees or at least very substantially reduce the sizes of contributions they can accept and give.**

**6. HB 2680-1v2 does not provide for effective enforcement.**

HB 2680-1 authorizes only the Secretary of State and sometimes the Attorney General to enforce its provisions. Campaign finance regulation that depends entirely on partisan elected officials enforcing them can create an appearance or reality of bias or selective enforcement. Citizen enforcement mechanisms are needed, such as those in the 2016 Multnomah County Measure 26-184 and the 2018 Portland Measure 26-200.

HB 2680-1 also has inadequate maximum penalties of only 150% of the unlawful contribution.

**SOLUTION: Adopt the HB 3343 Sections 7-8 enforcement provisions.  
Adopt the HB 3343 Section 7(2) penalties:**

**7. HB 2680-1 does not ban earmarking of contributions.**

The identity of contributors to a campaign can be cloaked by running the funds through other committees first. HB 2680-1 should add restrictions on PAC-to-PAC transfers that can be used for cloaking.

**SOLUTION: Adopt the HB 3343 Section 6(8) language:**

(a) The principal campaign committee of a candidate may not make a contribution to any other political committee if the contribution was in any way directed or instructed by an individual or entity that made a contribution to the principal campaign committee.

(b) A violation of paragraph (a) of this subsection shall result in the forfeiture of all amounts contributed, in addition to any other penalties that may be assessed by law.

8. **HB 2680-1 does not require self-funded candidates to disclose their monetary contributions in campaign ads.**

Voters should know how much "self-money" is being spent.

**SOLUTION: Adopt the self-funded candidate disclaimer requirements in HB 3343 Section 4(4).**

9. **HB 2680-1 does not impose any limits on money carried over to the next election cycle.**

The creation of war chests heavily advantages incumbents, as challengers will have to raise all of their funds under the contribution limits that were not applicable when the incumbents raised their war chests.

**SOLUTION: Adopt the candidate committee close-out provision of HB 3343 Section 6(5).**

10. **HB 2680-1 does not close the campaign contribution loophole in Oregon's bribery statute.**

Bribing public officials with campaign contributions in Oregon is legal, because "pecuniary benefit" in the bribery statute is defined to exclude campaign contributions.

**SOLUTION: ORS 162.005(1) should be amended to read:**

(1) "Pecuniary benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary, in the form of money, property, commercial interests or economic gain, ~~but does not include a political campaign contribution reported in accordance with ORS chapter 260.~~

**11. HB 2680-1 does not provide free space in the Voters' Pamphlet for candidates who agree to cap expenditures or contributions.**

The following candidates should get should earn free space in the Voters Pamphlet:

- > A candidate pledged to spend less than a certain amount (50 cents per eligible voter in a campaign for Governor, 25 cents/voter in a campaign for other statewide office, and \$1/voter for all other campaigns)
- > A candidate pledged to abide by contribution limits that are half of those allowed by law.

**SOLUTION: Adopt this new language:**

Any candidate for public office who agrees that the candidate's principal campaign committee shall expend less than fifty cents per eligible voter in the contest shall be titled to file a statement for the voters' pamphlet under ORS 251.095 or ORS 251.335 without payment of a fee. If expenditures by the candidate's principal campaign committee exceed that amount, the committee shall remit to the proper filing officer the fee that would otherwise be required.

**12. HB 2680-1 has no legislative findings that would bolster the constitutional validity of the Act.**

The determination of validity under the U.S. Constitution involves issues of fact. If the statute at issue does not have legislative findings, then the defenders of the law in court may face difficult evidentiary issues.

Legislative findings in statutes are accorded near complete deference by state and federal courts.

**SOLUTION: Add legislative findings to HB 2680-1, stating that limits on contributions are necessary to combat corruption and the appearance of corruption and that the limits specified in the statute are sufficient to enable candidates to run effective campaigns, do not inhibit effective advocacy by challengers, or mute the voices of political parties.**