



CONCERNS WITH SB SB 1561-1

To: Senate Committee on Rules
From: Madison Walters
Date: February 10, 2022

Chair Wagner, Vice-Chair Knopp, and members of the Committee:

We thank you for the opportunity to testify to SB 1526, regarding campaign finance limits. United Food and Commercial Workers Local 555 is the largest private sector labor union in Oregon, representing workers from a number of industries, including grocery, retail, food processing, manufacturing, and healthcare. We are a diverse group of workers who take pride in acting as a strong collective voice for working people.

To that end, we routinely engage in the political process, oftentimes opposing candidates or measures that have the well-financed backing of large corporations or independently wealthy donors. In order to level the playing field as best we can, we have cultivated a giving program that has been supported by tens of thousands of small donations from working-class individuals around the state, each of whom is able to participate in our decision-making process. In this way, we are able to provide an avenue for middle and working-class Oregonians to participate in the elections process in a way that is not eclipsed by large mega-donors, and hopefully hold elected officials accountable to a wider array of Oregon voices.

We value and envision a political system that is not so easily tilted by the independently wealthy or well-heeled out of state corporations. We recognize, however, that if such reforms are not approached carefully and deliberatively, the result could be a further disadvantaging of already vulnerable communities such as low-wage workers and BIPOC communities.

With that in mind, we firmly appreciate the Legislative Assembly's eagerness to supply concepts for campaign finance reform, but feel an obligation to our membership to express some concerns with the 1526-1 amendments released on February 10.

Whereas Clauses:

While the "whereas clauses" portion of the measure begins on a solid footing with a value statement about all Oregonians having a voice in Oregon elections, many of the subsequent clauses are either unnecessary, inflammatory, or simply untrue.

- Under the third clause, a reference is made to the necessity of these campaign finance limits in curbing “the reality ... of corruption.” Surely, any actual evidence of corruption does not require an additional law passed in order to be curbed; by its very definition, “corruption” is already against the law. By including this phrase, the clear implication is that the same legitimate political avenues in which UFCW 555 and others have engaged somehow makes participants party to the corruption of the democratic process. We reject this notion and ask that the Legislature not lend its imprimatur to such a baseless accusation.
- Further clauses attempt to draw conclusions about the effects of the measure without rationale. As an example, one clause states: “the reasonable contribution limits in this Act will not prevent candidates, political committees or political parties from gathering the resources necessary for effective advocacy”. However, simply making such a statement does not make it true. A local grassroots candidate who finds themselves up against a wealthy self-financing opponent may disagree when that candidate finances their own campaign to an absurd degree. The “whereas clauses” should not attempt to read conclusions into the record that are wholly unsupported.

Section 2 (Definitions)

- Clearly, the definition of “Election cycle” for the purposes of a recall election is flawed; it defines such a cycle as: “the period of time beginning on the date that the recall election is called or declared and ending at midnight on the date of the recall election.” A candidate may have a recall election called upon them that never materializes to a ballot. Some elected officials will be constantly operating under multiple “election cycles.” Even under a strict interpretation of a duly-filed recall, if the cycle only ends on the date of the actual recall election, it allows for multiple overlapping cycles.
- Where the definition of “entity” is outlined, the term is limited to entities that are a “combination of persons.” Does this exclude a single-member Limited Liability Company? (Read on for a possibly conflicting interpretation of “person” in Section 12.)
- Rather than use the phrasing elsewhere in ORS 260, the definition of “in-kind contribution” is unintentionally broad in that it only excepts “money,” and not other negotiable financial instruments.
- Using the term “campaign planning” in the definition of “in-kind personal services” is especially vague. What does this encompass?
- “Labor organization” as a definition is excessively broad and would include an employer-created and controlled committee. There is nothing in the definition that requires the participating employee to be non-management. Under this definition, a

corporate board would be considered to be a “Labor organization.” This definition borders on insulting.

- Especially for the definition of “Membership Organization,” please note that not all unions are formed as an Oregon nonprofit corporation, meaning some organizations and workers may be inadvertently shut out of political participation.

Section 3 (Limits)

- Sections 2-15 “do not apply to a candidate’s personal contributions or expenditures made to assist the candidate’s campaign.” This means that despite proponents’ assurances that this measure will create additional and sufficient opportunities for small grassroots candidates, any wealthy prospective candidate willing to spend their own money to purchase an elected office will now have an enormously outsized advantage to do so.

Section 7 (Foreign Entities)

- Given the definition of “Foreign national,” the measure appears to discriminate against undocumented individuals residing out of state. For example, a candidate with an out of state family member who is documented would be able to receive a contribution from that family member; a candidate with an out of state family member who is undocumented would not be permitted to receive such a contribution.

Section 10 (Segregated Funds)

- Again, please note that not all unions are formed as an Oregon nonprofit corporation, meaning some organizations and workers may be inadvertently shut out of political participation.

Section 12 (Enforcement)

- The first clause of this section indicates that the bulk of the measure will be enforced in part by “Oregon’s electors.” This is a staggeringly vague statement with significant potential impact. We believe that the statement is superfluous and suggest it be stricken. If it is not superfluous, we require clarification.
- The section allows “any person” to file a complaint. Since the phrase “individual” was not used, we assume this means that corporate entities may file complaints as well. (Otherwise, many other sections which also reference “person” could be easily circumvented.) Since corporations and business entities are not subject to the same disclosure rules as political committees, this functionally creates a pathway for anonymized complaints.

- The proposed contested case hearing process features the complainant in a very central role (i.e: the ability to participate in the hearing as well as bring a civil action in a representative capacity in an enforcement process) and a hearings officer with broad authority to regulate the discovery process. Since a union membership list would be central to the maintenance of an associated small donor committee, we are very concerned that this could create an avenue for that process to be weaponized and for that closely-guarded information to be released for nefarious purposes.

Section 14 (Miscellaneous Provisions)

- Subsection 5 provides that “An individual or entity may not make a contribution or expenditure ... in any name other than that of the individual or entity that provided the source funds for the contribution. We would like to ensure that individuals may use a name which is in common use and definitively identifies the individual, regardless of whether it is officially or legally recognized. Individuals should not be required to deadname themselves in order to participate in the electoral process.

Section 25 (Grassroots Donor Fund)

- As this section is a statutory attempt to instruct future Legislatures to make specific budgetary decisions, the drafters should be aware that this portion is purely advisory.
- Subsection 4 attempts to statutorily restrict future legislative actions to three-fifths “supermajority” votes of each chamber. This is an abrogation of Article IV, Section 25 of the Oregon Constitution, which clearly allows (most) legislative action to occur via a simple majority. If the proponents of this measure insist on such a model, we would suggest structuring the Grassroots Donor Fund as a trust, which would legally protect it from legislative reappropriation without requiring an adjustment to the Constitution. (See the SAIF fund for an example.)

Section 27 (Oregon Elections Commission)

- It is unclear to us why the Oregon Government Ethics Commission would serve as the initial point of contact for potential Elections Commission appointments.
- The membership criteria bars current and former (for 2 years) staff and vendor employees of candidates and elected officials from serving on the Commission. Simultaneously, it requires membership of individuals with experience in campaign strategy, engagement, and campaign finance. We fear that this will result in either a slim pool of eligible applicants or a reliance on individuals who have been apart from a quickly-evolving field for a number of years.

Section 31 (Oregon Elections Commission Administration)

- In Section 2(c), the Commission is granted the ability to reduce the maximum public match under certain circumstances “by the greater of: (i) Five percent from the previous election cycle; or (ii) Five percent from the amount set forth in section 26 of this 2022 Act.” Based on subsequent context, we assume that this was meant to say “by up to the greater of...”

Section 33 (Staffing)

- This section describes incredibly specific staffing requirements without an accompanying appropriation. We suggest describing the expected functionality (rather than the staffing requirements) and allowing Ways & Means to provide any specifics along with an appropriate expenditure limitation.

(These items represent concerns that particularly stood out in the relatively short time we have had in which to review these measures. We reserve the ability to continue our review.)

While these may be fixable issues, we would caution the Legislative Assembly on two fronts:

First, we believe that political engagement is best achieved when lay-participants can understand and easily function in such a space on a level equal to that of a paid expert. Or, to put it another way: Simplicity is a good way to drive engagement, and effective campaign finance reform need not be so verbose.

The measure before you is not simple for a layperson to understand, and we would expect that more candidates and organizations would have to avail themselves of expert bookkeepers or even attorneys in order to safely navigate such a process, creating additional barriers to participation.

Second, that there is a risk of pushing significant amounts of campaign spending into less-transparent channels, such as dark money independent expenditures. Oregon has a wonderfully transparent campaign finance system and we would hope that any resulting policy would keep as much proportionate campaign spending flowing through that pipeline (versus other more opaque channels) as possible.

In sum, campaign finance reform is a vital discussion, one which we believe merits much more thoughtful consideration than a short session. As Legislators are no doubt well aware, such regulations are inherently politically charged and difficult to course-correct once set. It will be more difficult to claw back from any unintended consequences than to convene a thoughtful, deliberative process that can generate consensus on such an essential issue.

We do not feel that this measure is ready to move forward. Thank you.