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Chair Fahey, Vice-Breese-Iverson, Vice-Chair Kropf, and Members of the Senate Committee on Rules:

I am Jessica Ventura, Legislative Director for Secretary of State Shemia Fagan. Secretary Fagan's mission is to build **trust** between the people of Oregon so Oregon's public services can make a positive difference in peoples' everyday lives. [SB 168-A](#) achieves this goal by clarifying when public employees engage in political advocacy.

Current Challenges

[ORS 260.432](#) currently prohibits public employees from promoting or opposing the nomination or election of a candidate during working hours. A "candidate" is someone who has filed a declaration of candidacy or has received or spent money to secure nomination or election, among other things ([ORS 260.005 \(1\)\(a\)](#)).

The definition of the term "candidate" was created for campaign finance purposes, and it works well in that context. However, the definition can cause confusion when used in the political activity. The definition of "candidate" is based on whether the person has received or spent money to secure nomination or election. **But that information is not widely known by public employees.** In general, public employees would not be aware of whether a candidate meets that definition unless they are searching for filings on ORESTAR. In addition, some candidates are exempt from filing on ORESTAR. Therefore, the existing standard could mislead and confuse a public employee about whether their activities are allowed. For example, a person could meet the definition of a "candidate" under ORS chapter 260 years before they file for office; a public employee wouldn't necessarily know this unless they search ORESTAR records for future elections. As another example, a candidate could be exempt from filing on ORESTAR, and no records would display even if the public employee conducted a search.

How Does SB 168-A Help Public Employees

The changes requested solve this problem by removing the misleading term and explicitly stating what is not allowed, which is that no public employee may engage in political advocacy while on the job or in their official capacity. The changes also clarify that public employees may

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express their personal political views at work, so long as it is not done in a way that leads a reasonable person to infer that they are expressing an opinion of the public agency. For example, under our proposed changes, a public employee could express their personal political opinions privately to their co-worker but may not express those same opinions in their official capacity to a group of stakeholders. The proposed changes do not affect public employees' speech while they are not on the job during working hours or not acting in their official capacity.

I want to clarify two points about the word "appointments" in section 2(b).

- First, the bill does not impact the appointments process to a board or a commission by the Governor. The "appointments" in the context of [SB 168-A](#) are appointments to fill a vacant public office (elected office) that will ultimately be filled by the voters. A board or commission member appointed by the Governor is not considered a public office holder for [ORS 260.432](#) purposes. Therefore, public employees could comment on appointments to boards or commissions under this bill.
- Second, people who are serving on boards and commissions are already considered public employees whose activities are restricted by ORS 260.432. Board members appointed by the Governor can still provide input into the appointment process during non-working hours.

[The bill was amended to](#) provide clarification on what we mean by "working hours" and what it includes and does not include.

We encourage your approval of [SB 168-A](#).

Thank you,

Jessica Ventura
Legislative Director

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