



# Portland City Auditor

Elections



February 25, 2024

House Committee on Rules  
900 Court Street NE  
Salem, OR 97301

Dear Chair Fahey and Members of the Committee,

Thank you for the opportunity to submit written testimony.

As I testified yesterday, the City of Portland and the Portland Elections Office are in opposition to HB 4024-3 as drafted. Specifically, we oppose the apparent preemption of the City's Charter provisions that pertain to campaign finance. While it is clear from HB 4024-3 that there is some intent to allow flexibility to local governments, as written, the scope of preemption and what flexibility the City of Portland retains to set contribution limits is unclear.

Our concern primarily is with Section 4's preemption provision. We've had multiple lawyers review it, and no one is entirely clear how to interpret it, or how it would interact with the City of Portland's existing campaign finance law. Specifically, the references between the different subsections of Section 4 do not intersect well together and raise a host of questions about what types of contributions a city must permit versus what types it can restrict. If passed as drafted, we believe the law would cause confusion for City of Portland candidates and the public.

The City of Portland has had campaign finance contribution limits and disclosure requirements in its Charter since 2020. The City is presently in its third election cycle operating under these regulations. With our current set of laws, including much lower contribution limits, candidates have been able to run robust campaigns for City offices. Moreover, with the disclosure requirements in our Charter, we have been fairly successful at helping the electorate know who is behind independent expenditures and political communications to voters.

The City strives to be a collaborative partner in efforts to enact campaign finance reform in Oregon and we would very much appreciate the opportunity to be at the table as this proposal develops. We also wish to express that we appreciate the Committee's intent (as mentioned at the public hearing on February 23, 2024) to amend the bill to enshrine the ability for public

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financing programs like Portland's Small Donor Election Program to continue to operate. We look forward to working with the Committee to achieve greater clarity on the interaction between our existing campaign finance regulations and these provisions.

We have listed specific citations needing clarity below.

Pre-emption provisions needing amendments:

- Section 4, subsection (1)(c)(A) states that “except as provided in subsection 8(a) of this section, any local government may adopt contribution limits that are lower than those required by this section for elections of the local government.” But subsection 8(a), by our read, caps the contributions a small donor political committee can receive, not a candidate. It is unclear what the reference to subsection 8(a) is meant to accomplish, particularly given that we do not believe a local government would have jurisdiction to regulate a type of committee created under, and regulated by, state law.
- Section 4, subsection (1)(c)(B) indicates that any contribution limits adopted by a local government must allow a candidate for local office to accept contributions from any political committee from which a candidate for the Office of state Representative may accept contributions under subsection 2(a) of this section. But subsection (2)(a) limits aggregate contributions from a person. We are unclear if this distinction between “person” and “political committee” is intentional, or how it is meant to be interpreted.
  - While we understand a political committee to be a type of person, it is unclear what type of contributions the preemption provision is intending cities must permit versus what types of contributions cities can choose to restrict.
  - As drafted, and applying traditional maxims of statutory construction, the types of persons who are also political committees in subsection 2(a) would seem to be only those types of committees not listed in subsections 2(b)-2(g).
  - Moreover, as drafted, the preemption provision would also presumably permit cities to restrict contributions from natural persons and legal persons (such as corporations) that are not “political committees.”
  - There would therefore seem to only be a narrow category of political committees that local governments must permit candidates to accept contributions from. Not only are we unclear if this is the intent of the drafters, we note that this would be a mismatch with the City of Portland’s Charter, leading to complex questions about what from the Charter remains and whether we must read in that certain (but not all) types of political committees can now give \$3300 per election to City candidates.

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