

**Date:** March 10, 2025  
**To:** House Committee On Rules  
**From:** Melinda Fleming  
**Re:** Testimony In Opposition to HJR 3

I oppose HJR 3 because it is undemocratic.

HJR3 would refer to voters an amendment to the Oregon Constitution to require that the current signature requirements be met separately in each of Oregon's 36 counties. This would give the voters of Wheeler, Gilliam and Sherman Counties essentially the power of veto over all statewide ballot measures by simply not signing enough petitions in any of those counties.

The current signature requirement is 6% of the number of voters who voted in the last Governor election for statutory measures and 8% of that number for measures proposing to amend the Oregon Constitution. These signatures may be gathered from registered voters living anywhere in Oregon.

HJR 3 would also greatly increase the cost of obtaining sufficient signatures. Oregon's lesser populated counties do not have mass gatherings where volunteers can gather signatures. It would basically require petitioners to go door-to-door in those counties.

It is already hard enough to qualify statewide measures for the ballot. The number of statewide initiatives has greatly declined since 2000. This drop has resulted from the Oregon Legislature and Secretary of State adding onerous and hypertechnical requirements to the signature gathering rules and long delays in obtaining official ballot titles from Oregon Supreme Court review.

Additionally, even though the Oregon Legislature has adapted to modern changes by enabling online meetings and testimony it has not modernized signature gathering requirements, which still insist on ink on paper personally witnessed by the circulator. Adding the "per county" requirement on top of these changes would essentially terminate the initiative and referendum powers of the people.

HJR 3 will dramatically increase the cost of qualifying any statewide measure for the ballot. In the 1980s, it was possible to qualify a measure at a cost of \$20,000, mostly for volunteer coordinators and printing. Due to the factors noted above, the typical cost now is at least \$500,000 and often much more. HJR 3 will increase the cost even more by necessitating paid signature gathering in every rural county.

The Oregon Legislature has a distinct conflict of interest in restricting use of the initiative and referendum powers. Oregon has two co-equal legislative branches – the sitting Legislature and the people using the initiative or referendum. According to the Oregon Supreme Court:

“We have recognized that the legislative power is a unitary authority that rests with two lawmaking bodies, the legislature and the people. *Meyer v. Bradbury*, 341 Or. at 299–300, 142 P.3d 1031. The exercise of that power is always “coequal and co-ordinate,” regardless of which of the two entities wields it. *Id.* at 300, 142 P.3d 1031. *Hazell v. Brown*, 352 Or 455, 465, 287 P.3d 1079, 1084 (2012). By restricting use of the initiative and referendum powers, the sitting Legislature reserves power to itself in excess of the coequal balance.”

Requiring the same percentage of signatures in every county contradicts the principle of one-person-one-vote. It gives the few residents of the least populated counties veto power over the wishes of the vast majority of other voters.

If the same principle is applied to the Oregon Legislature: In order to pass, a bill would have to be approved by members of the Legislature representing every single county. If the member who represents Gilliam County votes no, then the bill does not pass. Each county gets to veto every bill. That is equivalent to the system proposed by HJR 3.

Putting an initiative on the ballot is like introducing a bill in the Legislature. The people have to vote on the initiative. The legislators have to vote on the bill. If proposing an initiative should require very substantial support in all Oregon counties, then so should the introduction of bills in the Oregon Legislature.

A rule at the Legislature, corresponding to the principle of HJR 3, would require that a bill may not be introduced, unless members representing districts in all 36 counties must sign on as sponsors. The undemocratic nature of that requirement is the same as the undemocratic nature of HJR 3.

HJR 3 would also require petitioners to use different signature sheets for each county. This will certainly decrease the validity rate, as some volunteers will no doubt gather signatures from County A on the County B sheet, particularly at public events attended by persons from several counties.

HJR 3 also has an "eye candy" provision that prohibits anyone who is not an Oregon voter from making any contributions to support or oppose ballot measures in Oregon "to the extent limitations on contributions described in this subsection are permitted under the Constitution of the United States." The United States Supreme Court has never allowed limits on contributions to support or oppose ballot measures. It has consistently struck down all such limits since 1978 by decisive majorities, such as the 8-1 majority in *Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 290 (1981). Why does HJR 3 have this provision? Because it would enable the Oregon Legislature, in writing its own ballot title, to say that the measure would prohibit out-of-state money in ballot measure campaigns. That would make the measure very popular.

But such a measure would certainly not accomplish that, because the prohibition would get struck down immediately by the courts. Unfortunately, under current practice the Oregon Supreme Court would not strip out from the ballot title a statement that the measure would prohibit out-of-state money in measure campaigns, because that would require predicting future court decisions.

Melinda Fleming