

Dear Senators Burdick, Baertschiger Jr., Boquist, Dembrow and Roblan:

Below is a copied analysis of the unconstitutionality of SB368 by Dan Meek, attorney.

Not being an attorney, but a physician, I understand legalize but do not speak it. So, in plain English: why would we give power to a local elected official to make what are clearly legal decisions? Lincoln County decided that the sheriff was not the one to decide what gun laws to follow, so why would we give power away to decide issues that affect the basic democratic right of self-determination of the voters guaranteed by the constitution? I am from Illinois and Wisconsin where there is no citizens' initiative process. Imagine my delight when I came to Oregon! Let's keep the door wide open for democracy and our constitution.

Thank you.

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Newport, Oregon

County clerks should not be empowered to disqualify measures from the ballot on the basis of a separate-vote test, for many reasons:

1. Separate-vote analysis is a complex legal inquiry that is beyond the capability of most, if not all, county clerks, who are typically not lawyers. Opinions of the Oregon Supreme Court applying the separate-vote test to proposed amendments to the Oregon Constitution typically occupy dozens of pages of text.
2. There is no separate-vote requirement for county charter amendments in the Oregon Constitution.
3. Adding a separate-vote requirement for county charter amendments by mere statute would violate several provisions of the Oregon Constitution, including:
 1. Article III, §1, which prohibits interference by one branch of government into the other branches (separation of powers), which assures the governance system has checks and balances.
 2. Article I, § 8, which prohibits interference with freedom of speech, which includes petitioning and making issues the subject of widespread public attention.
 3. Article I, § 26, which prohibits interference with freedom of assembly and the right to petition government for redress.
 4. Article II, § 18(8), which prohibits the Legislature "in any way to limit the initiative and referendum (I&R) powers reserved by the people," thus

protecting individual rights to participate in legislative functions secured by Article VI, § 10.

5. The First Amendment to the U.S. Constitution, which protects freedom of speech and assembly.
6. The Fourteenth Amendment to the U.S. Constitution, which requires due process of law. (SB 368 would allow county clerks to disqualify measures from the ballot on separate-vote grounds, without providing prior notice to anyone or conducting any sort of hearing or process; this would violate Due Process requirements.)