



ALEX CUYLER

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DATE: February 11, 2019

TO: Senate Committee on Rules

RE: SB 368, relating to timing of procedural review of ballot measures seeking to amend county charters

Dear Chairwoman Burdick and members of the Committee:

The Lane County Board of Commissioners sought SB 368 and is in support of this measure. We ask that you schedule this measure for a work session and move it to the floor with a DO PASS recommendation.

This measure will avoid future litigation and will save those who endeavor to change county charters through the initiative process time and money.

Here is some history that should help clarify the need for this bill:

- In 1978, Washington County voters passed a charter amendment that came to them via a citizen initiative. It amended thirteen sections of the Charter (eliminating seven sections and adding six new ones). Due to the complexity of that vote, then Representative Mary Ford introduced a bill in 1981 to ensure that future charter votes be required to allow voters to decide each subject separately. This has been termed “single vote” or “separate vote” and requires a review of the ballot measure language by the County Clerk similar to other reviews (single subject and administrative/legislative) they are statutorily mandated to undertake. While she initially was unsuccessful in that effort, she tried again during the 1983 session and HB 2400 (1983) was passed into law. It was codified at ORS 203.725.
- Unlike other statutes that limit the circulation of petitions or the placement of initiative and referendum measures on the ballot, ORS 203.725 does not indicate who (for example, the clerk) is to make the review, or precisely when the review should take place.¹³⁹ The only reference to time in 203.725 is “when a measure is submitted to the electors.” ORS 203.725 became the subject of two Lane County court cases, one of which was just upheld by the Oregon Court of Appeals. At issue is the Circuit Court found (and the Appeals Court upheld) that the single vote review shall occur after the requisite signatures are collected and validated.
- Further, in the subsequent but related case, the Lane County Circuit Court found that this particular effort included at least six different yes or no questions a voter would have to decide among, and ruled the ballot measure could not proceed to the electorate. That case is now under appeal.

SB 368 aligns the single subject review with the separate vote review in terms of when it occurs. It is good public policy.

SUBMITTED ELECTRONICALLY BY ALEX CUYLER