

## MORE ADDITIONAL TESTIMONY ON HB 4124

Daniel Meek  
Co-Chair, Independent Party of Oregon

House Committee on Rules

February 18, 2020

Honest Elections Oregon, the Independent Party of Oregon, the Oregon Progressive Party, and the Alliance for Democracy still oppose HB 4124, with or without the proposed amendments. HB 4124 would deny the expressed wishes of Oregon voters statewide for limits on political campaign contributions, even if the Oregon Supreme Court rules that such limits are constitutional and valid.

This testimony supplements, my testimony of February 4 and my testimony of February 11.

HB 4124 would delay the operational date of Measure 47 (2006) to July 1, 2021, even if the Oregon Supreme Court a year or more before then rules that such limits are constitutional and valid. It appears that the desired result is to (1) avoid all limits on campaign contributions during the 2020 election cycle and (2) give the Oregon Legislature the entire 2021 full session to alter Measure 47.

The the most important consequence of HB 4124 is becoming clear: It would ensure, according to the informal opinion of Legislative Counsel, that Measure 47 would take effect, if ever, in the midst of an election cycle **and because of that would be unconstitutional.**

For campaign finance purposes, the election cycle ends on the day of the November general election. July 1 is not the end of an election cycle.

Rep. Rayfield has produced an informal opinion of Legislative Counsel that changing campaign contribution limits at any time other than the end of an election cycle would violate the Equal Protection guarantee of the U.S. Constitution and the "equal privileges" guarantee of the Oregon

Constitution, Article I, § 20. **Thus, HB 4124 itself would ensure that Measure 47's contribution limits are declared unconstitutional. HB 4124 would thus destroy Measure 47 and the will of Oregon voters.**

The proposed -2 and -4 Amendments do not alter this basic consequence.

I explained in my Additional Testimony on HB 4124 (February 11) that it is quite likely that, even if the Oregon Supreme Court issues a decision in the Multnomah County validation case in 2020, the Court would set the effective date for Measure 47 at November 3, 2020. The reactivation of Measure 47 is not an automatic result of a Court decision upholding the contribution limits in the Multnomah County Measure 26-184. The Citizen Parties in the case would request an effective date of November 3, 2020, for Measure 47 reactivation. And the issuance of a decision on the merits by the Court does not place that decision itself into effect.

The appellate decision becomes effective when the appellate judgment issues. \* \* \* Any opinion that the court issued with its decision is not part of the appellate judgment and does not accompany it.

***Int'l Bhd. of Elec. Workers Local No. 48, ex rel Indus. Const. Servs., Inc. v. Oregon Steel Mills, Inc.***, 180 Or App 265, 271, 273, 44 P3d 600 (2002). The Court can set the date of the appellate judgment and can also set or reset the effective date of the decision, if it wants. ***Nelson v. Roberts***, 309 Or 1, 4, 784 P2d 432 (1990).

## **The -2 Amendment**

The -2 Amendment, made available by Rep. Rayfield at the February 11 hearing, does not alter the consequence of HB 4124. It merely calls for the Attorney General and Secretary of State to perform some work between (a memo and rules) during late 2020. Inexplicably, it then bans any legal challenge to Measure 47 until January 1, 2021. There is no reason for that delay. If the Oregon Supreme Court in ***Multnomah County v. Trojan*** (the Multnomah County validation case) in 2020 overturns ***Vannatta v. Keisling*** (1997) regarding limits on contributions, one would expect an immediate lawsuit to challenge to Measure 47's limits. There is no reason to delay such challenge until the year 2021.

## **The -4 Amendment**

The -4 Amendment, filed with OLIS on February 17 and not subject to public hearing, also does not alter the consequence of HB 4124. The only difference between the -2 Amendment and the -4 Amendment appears to be that the -2 Amendment calls for the Attorney General to write a memorandum about the constitutionality of Measure 47.

## **Conclusion**

We again urge the Committee to reject this bill or, at a minimum, change the stipulated effective date of Measure 47 to November 3, 2020, for the reasons stated in this testimony and my earlier testimonies on February 4 and February 11.