

April 6, 2021



Oregon Progressive Party Independent Party of Oregon

Position on Bills at 2021 Session of Oregon Legislature:

Dear Committee: **SB 827: Oppose**

The Independent Party of Oregon and Oregon Progressive Party oppose this bill, which would direct taxpayer money to the task of undermining proposed ballot measures.

SB 827 would require the Secretary of State to provide a list of all prospective statewide initiative petitions by November 1 of each odd-numbered year and again in every month through February of the even-numbered year. SB 827 would require legislative staff, including Legislative Counsel, to examine and critique all of the prospective statewide initiative petitions. Such critiques are to include policy impacts, fiscal impacts, revenue impacts, and constitutional or other legal concerns. In recent years the number of prospective petitions filed by February of the even-numbered year has averaged over 50

We believe that this process will devolve into taxpayer-funded trashing of proposed measures. Oregonians place measures on the ballot, because they believe that the Oregon Legislature does not adopt necessary laws (or adopts laws that are harmful). There is an unavoidable tension between the 2 co-equal branches of the legislative branch of Oregon government -- the sitting Legislature and the people using the initiative and referendum powers. As the Oregon Supreme Court stated in Meyer v. Bradbury, 341 Or 288, 299-300, 142 P3d 1031, 1037 (2006):

"By the adoption of the initiative and referendum into our constitution, the legislative department of the State is divided into two separate and distinct lawmaking bodies. * * *

Straw v. Harris, 54 Or 424, 430-31, 103 P 777 (1909). As a result, although two lawmaking bodies--the legislature and the people--exist, their "exercise of the legislative powers are coequal and co-ordinate." State ex rel. Carson v. Kozer, 126 Or 641, 644, 270 P 513 (1928).

The Court further explained in Hazell v. Brown, 352 Or 455, 465, 287 P3d 1079, 1084 (2012):

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 P3d 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 P3d 1031.:

SB 827 does not respect the equal status of citizens using the initiative power. Employees of the sitting Legislature (assigned to write the critiques) will inherently favor laws that they themselves draft and vet, not laws that are drafted by initiative sponsors. They will inherently question and oppose laws written by initiative sponsors, as those law are written for the express purpose of bypassing the sitting Legislature. SB 827 will open taxpayers' pockets to fund inherently biased analyses of proposed measures. It would be tantamount to using public funds to oppose the proposed measures, which is currently banned by Oregon law.

We note that no fiscal impact statement has been prepared for this bill. Performing the required analyses on 50 or more prospective petitions for every 2-year election cycle would no doubt have a substantial cost.

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