

The Oregon Conservancy Foundation

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Before the House Committee on Rules

Testimony of Cathryn A. Chudy, Oregon Conservancy Foundation

March 10, 2025

Chair Bowman, Vice Chair Drazan, Vice Chair Pham, members of the Committee, and members of the public, my name is Cathryn A. Chudy, Board member of the Oregon Conservancy Foundation (OCF), appearing before you today in opposition to HJR 3 and HJR 11 that drastically alter initiative signature gathering requirements for proposed statutory laws and constitutional amendments.

I participated in Oregon's initiative process in 1980 when we gathered signatures on an initiative petition to regulate the siting of nuclear power plants in our state. This initiative was passed becoming Oregon's 1980 Ballot Measure law. If a single county could withhold signatures under these proposed constitutional amendments, it would have effectively prevented this measure from being enacted and protecting Oregon for 45 years. The thrust of the initiative process is to provide "everyone" in the state the right to vote, not to cleverly manipulate how citizens gather signatures.

OCF joins in support of the attached in depth analysis, provided by the Oregon Progressive Party's position papers on HJR 3 and HJR 11, authored by attorney Dan Meek, and we ask that these bills be tabled in committee. The initiative process is Oregon's coequal branch of government serving as an important check and balance to the Oregon Legislature.

Respectfully,

Cathryn Chudy

March 9, 2025

Position on Bills at 2025 Session of Oregon Legislature:

HJR 3 : Oppose



The Oregon Progressive Party opposes HJR 3, which 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. That would give the voters of Wheeler County (with 1,038 registered voters) and Gilliam County (with 1,445 registered voters) and Sherman County (with 1,514 registered voters) (etc.) each 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.

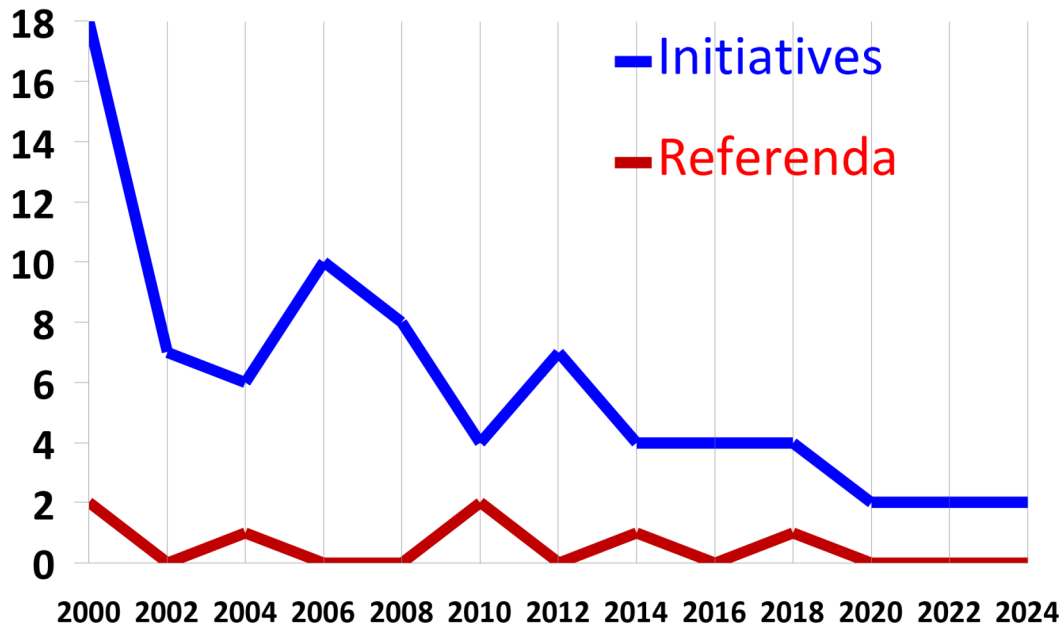
HJR 3 would also greatly increase the cost of obtaining sufficient signatures. Oregon's lesser populated counties do not have mass gatherings where volunteers can gather signatures. It would basically require petitioners to go door-to-door in those counties, where they would encounter mean dogs and other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

It is already hard enough to qualify statewide measures for the ballot. The chart below shows that 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. It also reflects changes in society, with more online time and less personal interaction. In-person meetings are replaced with Zooms. Many office workers do their jobs from home. Shopping at stores is replaced by online shopping. The Oregon Legislature has adapted to these changes by enabling online meetings and testimony. But it has not modernized the 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 by

necessitating paid signature gathering in every rural county.

Oregon Statewide Measures 2000 - 2024



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. In the words of 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.

Consider it in another way: There are 1,038 registered voters in Wheeler County and 570,567 in Multnomah County. Under HJR 3, petitioners on a statewide statutory initiative must obtain signatures from 6% of the voters in each county. Thus, they must obtain 63 signatures in Wheeler County and 34,235 signatures in Multnomah County. That means that the signature of a Wheeler County voter is worth 543 times as much as a signature of a Multnomah County voter. Instead of one-person-one-vote, we would

have 543 voters in Multnomah County = one voter in Wheeler County.

If this is such a good idea, then let's apply it to votes in the Oregon Legislature: In order to pass, a bill must 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 "eye candy" 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 the 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.

HJR 3 is profoundly undemocratic.

Oregon Progressive Party

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March 9, 2025

Position on Bills at 2025 Session of Oregon Legislature:

HJR 11: Oppose



The Oregon Progressive Party opposes HJR 11, which would refer to voters an amendment to the Oregon Constitution to increase the number of signatures that must be gathered to qualify an initiative for the Oregon ballot.

The current signature requirement is 6% of the number of voters who voted in the last Governor election for statutory measure and 8% of that number for a measure proposing to amend the Oregon Constitution. HJR 11 would increase those to 8% and 10%, 33% increase for statutory measures and a 25% increase for measures proposing constitutional amendments.

HJR 11 also requires that petitioners for every initiative must obtain those percentage numbers in each of Oregon's 6 Congressional Districts (CDs) separately. That would give the voters in each CD the power of veto over all statewide ballot measures by simply not signing enough petitions of voters registered within the CD.

Oregon has 3.04 million registered voters. The number who voted in the most recent election for Governor was 1.953 million, so about 2/3 of registered voters. Each CD has between 477,610 and 540,735 registered voters, according to the Secretary of State. Let's say the average is 500,000. So the number who voted in the recent Governor election was about 333,000 per CD. That means petitioners would have to gather for a statutory measure 26,640 signatures in each of the 6 CDs and for a constitutional amendment 33,000 signatures in each of the 6 CDs.

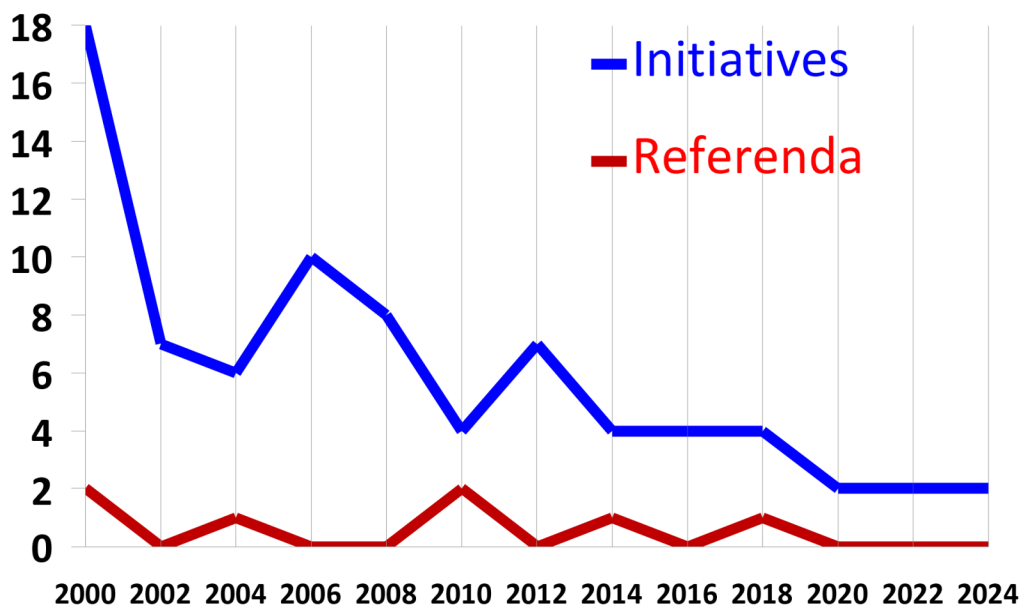
Even if petitioners on a statutory initiative were to gather 2.9 million signatures (from Oregon's 3.04 million registered voters), the statutory measure would not qualify for the ballot--unless 26,400 of those signatures were gathered in each CD. Same for a constitutional amendment initiative, except that would need 33,000 signatures in each CD. In essence, CD 2 would have veto power over progressive proposed initiatives, and CD 3 would have veto power over conservative proposed initiatives.

HJR 11 would also greatly increase the cost of obtaining sufficient signatures. Oregon's lesser populated counties, mostly in CD 2, do not have mass gatherings where volunteers can gather signatures. It would basically require petitioners to go door-to-door in those counties, where they would encounter mean dogs and other obstacles.

It is already hard enough to qualify statewide measures for the ballot. The chart below

shows that 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. It also reflects changes in society, with more online time and less personal interaction. In-person meetings are replaced with Zooms. Many office workers do their jobs from home. Shopping at stores is replaced by online shopping. The Oregon Legislature has adapted to these changes by enabling online meetings and testimony. But it has not modernized the signature gathering requirements, which still insist on ink on paper personally witnesses by the circulator. Adding the “per CD” requirement and the 2% kickers on top of these changes would essentially terminate the initiative and referendum powers of the people.

Oregon Statewide Measures 2000 - 2024



HJR 11 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 11 will increase the cost by necessitating paid door-to-door signature gathering in many rural areas.

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. In the words of 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 CD also contradicts the principle of one-person-one-vote. CD 6 has 477,610 registered voters, while CD 5 has 540,735. HJR 11 gives the voters of the least populated CD veto power over the wishes of the vast majority of other voters.

But that does not recognize the true impact of HJR 11's "divide and conquer" strategy. It will be far more difficult to gather sufficient signatures in all the CDs instead of gathering those signatures statewide. Imagine that this geographic distribution requirement were adopted per Oregon House district (60 of them), and the added difficulty becomes more apparent. The more separately-counted subdivisions of voters, the more difficult to complete the task. This is obvious.

HJR 11 would also require petitioners to use different signature sheets for each CD. This will certainly decrease the validity rate, as some volunteers will no doubt gather signatures from persons who live in CD A on the CD B sheet, particularly at public events in or near Portland, attended by persons from the 4 CDs that share the Portland metropolitan area. Validity will further decline, because some voters, particularly in that area, will not know their CD and will sign the wrong signature sheet. My address, for example, has switched from CD 1 to CD 3 in 2011 to CD 5 in 2021.

Without HJR 11, voters throughout Oregon have equal power in deciding whether to enact an initiative or to reject by referendum a law passed by the Oregon Legislature. If that is not sufficient, then we should change how Oregon elects its statewide officers. In order to win statewide office, the candidate must win in every CD.

If HJR 11 is a good idea, then let's apply it to votes in the Oregon Legislature: In order to pass, a bill must be approved by members of the Legislature representing every CD. If the 10 state representatives and 5 state senators who represent districts within any of the 6 CDs do not provide majority votes in favor of a bill, then the bill fails. Thus, representatives and senators within each CD get to veto every bill. That is equivalent to the system proposed by HJR 11.

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 6 CDs, then so should the introduction of bills in the Oregon Legislature. A rule at the Legislature, corresponding to the principle of HJR 11, would require that a bill may not be introduced, unless members representing districts in all 6 CDs must sign on as sponsors. The undemocratic nature of that requirement is the same as the undemocratic nature of HJR 11.

HJR 11 would increase the number of valid voter signatures required by 33% for a

statutory measure and 25% for a proposed amendment to the Oregon Constitution. Oregon already has higher signature requirements, as a percentage of population, than Arkansas, California, Colorado, Illinois, Massachusetts, Mississippi, Missouri, Montana, North Dakota, Ohio, Oklahoma, and South Dakota. HJR 11 would put Oregon close to the highest signature requirements in the United States.

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