

Date: March 10, 2025
To: House Committee On Rules
From: Melinda Fleming
Re: Testimony In Opposition to HJR 11

Act for Democracy 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 a 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.

By my calculations, under HJR 11, even if petitioners on a statutory initiative were to gather 2.5 million signatures (from Oregon's 3 million registered voters), the statutory measure would not qualify for the ballot unless 40,000 of those signatures were gathered 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.

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.

Even though the Oregon Legislature has adapted to modern changes by enabling online meetings and testimony, it has not modernized 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.

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. According to 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.

It will also be far more difficult to gather sufficient signatures in all the CDs instead of gathering those signatures statewide. Imagine that this geographic distribution requirement was 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.

Currently, 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. To even the playing field, we should change how Oregon elects its statewide officers.

In order to win statewide office, the candidate must win in every CD. Additionally: should HJR 11 be applied 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.

Melinda Fleming