

TESTIMONY OF SAL PERALTA ON SB 270A
House Rules Committee
March 28, 2011

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Distinguished Chairs, honorable Representatives;

My name is Sal Peralta, and I am here today to speak in opposition to SB270a.

My objection to this bill centers on the provisions enumerated in section 6 that cap civil penalties for campaign finance reporting violations at \$5,000 per month.

The rationale for the current system, which assigns maximum civil penalty of 10 percent per transaction, is that it creates a strong disincentive for both large and small committees to avoid disclosing their political activity under the state's campaign finance disclosure laws.

Under the provisions of the legislation Mr. Neely is proposing, large and well-funded PACs that would rather not participate in our campaign finance reporting system can simply opt out of all disclosure requirements for any given month, by simply paying a fine of \$5,000.

Hopefully, we can all agree that it is not in the public interest to create this kind of gaping hole in our state's campaign finance disclosure laws.

I have a couple of comments on Mr Neely's testimony:

First, he said that the \$5,000 maximum monthly liability was based on the fact that prior to the implementation of ORSTAR, the maximum liability during the 12 months surrounding an election was \$60,000. That number is not accurate. Those of you who had committees in 2006 or earlier may remember that most committees were required to file 10 reports in an election year, not 6. These were first and second pre election, post election. First and second supplemental reports were required for committees that received more than \$500 in contributions in each of the 2 periods immediately preceding the election. So the maximum liability during an election year was \$100,000, not \$60,000.

More importantly, 80 percent of that liability came during an 8 week period prior to and immediately after the primary and the general election. And the reason for that is that the state has generally supported enhanced disclosure when campaign activity is at its peak.

Second, Mr. Neely has testified that one of the main reasons to pass this legislation is to protect volunteer treasurers. Of the 8 campaigns that have received fines exceeding \$5,000 since this statute was implemented, only one appears to have involved someone other than professional staff acting as treasurer.

It is fair to say that most campaigns that have volunteer treasurers tend to be smaller ones, and those types of committees are largely unaffected by these proposed changes to statute.

If the goal really is to reduce the liability for campaigns that utilize non-professional treasurers, I would argue that there are better ways to accomplish it than by opening a hole that primarily benefit the state's largest and best-funded campaigns.

I have given you a handout that shows the state's top spending pacs, the cost of compliance for some of the larger pacs, and how this legislation, if passed, would affect political committees at various levels of contributions and expenditures.

As table 1 clearly indicates, committees that spend less than \$50,000 in a single month will be unaffected by these proposed changes, but committees that spend millions will receive a tremendous strategic advantage both in terms of greatly reduced liability, and because these low limits invite them not to comply with the state's campaign finance reporting requirements.

In conclusion, there are basically two questions before this committee, this first is policy-related:

- Is the public interest served by having a system of campaign finance reporting that allows the largest political players in Oregon -- by definition those with the greatest ability to influence our elections -- to hide all of their campaign contributions and expenditures with relatively little expense?

The second is political:

- Would you, as candidates or as leaders of caucus committees, like to compete in an environment where your largest and most powerful opponents can spend \$5,000 to effectively opt-out of the state's reporting requirements?

Though I certainly agree that statutes should not be written to create "gotchas" that target people who are working in good faith or that discourage volunteer activism, I would argue that our campaign finance reporting laws need to be sufficiently punitive to discourage people from acting in bad faith. This proposed statute does not accomplish that latter goal. I strongly recommend a "no vote" on this legislation unless the \$5,000 cap on civil penalties is removed or substantially raised, particularly for contributions and expenditures that come during the two-month window immediately before and after our elections.

SUBJECT: CONTRIBUTOR/CURRENT & PROPOSED FINE MATRICES
 FROM: Sal Peralta
 DATE: Monday, March 28, 2011
 FOR: Rules Committee Testimony

TABLE I. CURRENT & PROPOSED FINE MATRIX

MONTHLY EXPENDITURE	CURRENT MAX FINE AMT	PROPOSED MAX FINE AMT.	PROPOSED MAX FINE PCT	CURRENT MAX FINE PCT
\$50,000	\$5,000	\$5,000	10.00%	10%
\$500,000	\$50,000	\$5,000	1.00%	10%
\$2,000,000	\$200,000	\$5,000	0.25%	10%
\$2,500,000	\$250,000	\$5,000	0.20%	10%

TABLE II. TOP 20 CONTRIBUTORS 2010

TABLE 3: Top 20 Contributors

Contributor	Total	% of Total	Sector
OREGON EDUCATION ASSOCIATION	\$2,854,125	4.53%	Labor
REPUBLICAN GOVERNORS ASSOCIATION CORPORATE UNLIMITED ACCOUNT	\$2,528,135	4.01%	Ideology/Single Issue
OREGON PUBLIC EMPLOYEES LOCAL 503	\$2,022,642	3.21%	Labor
CLAIRVEST GROUP INC	\$1,575,383	2.50%	Finance, Insurance & Real Estate
FUTURE PAC HOUSE BUILDERS	\$1,265,791	2.01%	Candidate Contributions
DEMOCRATIC GOVERNORS ASSOCIATION	\$1,185,087	1.88%	Ideology/Single Issue
THE NATURE CONSERVANCY	\$1,122,324	1.78%	Ideology/Single Issue
SERVICE EMPLOYEES INTERNATIONAL UNION	\$992,500	1.58%	Labor
SENATE DEMOCRATIC LEADERSHIP FUND	\$979,312	1.55%	Party
OREGON AFSCME COUNCIL 75	\$926,454	1.47%	Labor
OREGON SENATE REPUBLICAN LEADERSHIP FUND	\$802,461	1.27%	Party
OREGONIANS FOR WATER PARKS & WILDLIFE - A PROJECT OF THE CONSERVATION CAMPAIGN	\$750,000	1.19%	Ideology/Single Issue
OREGON DEMOCRATIC PARTY	\$729,496	1.16%	Party
STIMSON LUMBER	\$710,000	1.13%	Construction
OREGON HEALTH CARE ASSOCIATION	\$706,916	1.12%	Health
AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL EMPLOYEES	\$690,000	1.10%	Labor
AMERICAN FEDERATION OF TEACHERS-OREGON	\$635,165	1.01%	Labor
KNIGHT, PHILIP H	\$550,000	0.87%	General Business
ASSOCIATED OREGON INDUSTRIES	\$525,300	0.83%	General Business
PARKS, LOREN E	\$501,200	0.80%	Health

TABLE III. SAMPLE COMPLIANCE COSTS FOR LARGE PACS

Tran ID	Tran Date	Status	Filer/Committee	Contributor/Payee	Sub Type	Amount
712829	02/26/2010	Original	Vote Yes For Oregon (13975)	C&E Systems	Cash Expenditure	\$15,829.21
127263	10/25/2007	Original	Yes on the Healthy Kids Plan (10787)	C&E Systems	Account Payable	\$11,250.00
128252	10/31/2007	Original	Yes on the Healthy Kids Plan (10787)	C&E Systems	Cash Expenditure	\$11,250.00
959119	11/08/2010	Original	Kitzhaber 2010 (13920)	C&E Systems	Cash Expenditure	\$10,602.72
Tran ID	Tran Date	Status	Filer/Committee	Contributor/Payee	Sub Type	Amount
384519	08/19/2008	Original	Friends of Allen Alley (12878)	Capitol Accounting Service	Account Payable	\$6,335.00
396927	08/26/2008	Original	Friends of Allen Alley (12878)	Capitol Accounting Service	Cash Expenditure	\$6,335.00
804863	06/19/2010	Original	Friends of Allen Alley (12878)	Capitol Accounting Service	Cash Expenditure	\$6,220.00
480681	10/24/2008	Original	Promote Oregon Leadership PAC (682)	Capitol Accounting Service	Account Payable	\$6,150.00
484738	10/31/2008	Original	Promote Oregon Leadership PAC (682)	Capitol Accounting Service	Cash Expenditure	\$6,150.00

TABLE IV. SAMPLE FINES

Case #	Case Title	Penalty Amount
2010-1881	Coalition for a Healthy Oregon (4749) / December 2008	\$36,925.02
2010-3525	Oregon Health Care Association PAC (275) / April 2010	\$21,899.93
2010-1225	If you absolutely, positively, one hundred percent want to put felons in prison its mandatory that you vote yes on 61... (13544) / October 2008	\$18,881.02
2010-1277	Friends of John Nelsen (12536) / October 2008	\$13,271.67
2010-2111	Deschutes County Republican Central Committee (618) / February 2009	\$9,489.74
2010-0866	Iron Workers District Council of the Pacific Northwest (3816) / July 2008	\$8,318.75
2010-3009	Oregon Health Care Association PAC (275) / December 2009	\$6,558.76
2010-3738	Citizen Action for Political Education (33) / May 2010	\$5,090.08