



March 23, 2017

Oregon Progressive Party
Position on Bill at 2017
Session of Oregon Legislature:

HB 3140: Support, if improved

Dear Committee:

The Oregon Progressive Party (OPP) would support this bill, if it were improved in the ways we suggest.

HB 3140 offers a very interesting and potentially promising way to for NAVs to meaningfully participate in the primary election process of choosing candidates to appear on the general election ballot. If designed carefully, the "People's Primary" could open the ballot to new candidates and new ideas. Careful design would require these improvements. We believe that some of them are acceptable to the sponsor of the bill:

1. HB 3140 allows members of major parties to become candidates in the "People's Primary" by "Fulfill[ing] all requirements necessary to appear as a candidate for the specified partisan public office on the primary election ballot of a major political party." Doing that is easy and can be done by filling out a form and paying a fee ranging from \$25 for State Senator or State Representative to \$150 for U.S. Senator. But this route is available under the "People's Primary" only to a person who has been a member of the same major party continuously for 180 days prior to the primary election candidate filing deadline, since such party membership is one of the "requirements necessary to appear as a candidate for the specified partisan public office on the primary election ballot of a major political party" under ORS 249.046.

HB 3140 has no mechanism for members of minor parties to become candidates in the "People's Primary," other than the petitioning process also open to NAVs, described below.

The petitioning process is far more difficult than filling out a form and paying a small fee. For U.S. Representative or State Senator, for example, a person must submit a number of signatures equal to 1% of the number of votes cast in the district for President at the last general election. That is about 0.75% of all registered voters. Since there are about 90,000

registered voters in each State Senate district, it would require about 675 valid signatures of voters who reside in the district. That would probably require a door-to-door canvass, since folks attending large events would not necessarily live in the targeted district. That is much harder than paying a \$25 fee.

In addition, the canvassers would need to carry separate signature sheets for each county, because ORS 249.740 (which HB 3140 incorporates) requires that the county clerks, not the Secretary of State, verify the signatures under ORS 249.008.

A likely result of HB 3140, as introduced, would be that mostly long-time members of major parties would qualify for the "People's Primary" ballot, and most of them would likely be the same persons who are running the Democratic and Republican primaries for the same office. This seems inconsistent with the idea of shaking up the status quo and might be seen as a way for establishment candidates to capture the label of "People's Primary Winner" on the general election ballot.

HB 3140 should be amended so that the burden in time and money on every person seeking to run in the "People's Primary" is the same.

2. Say that a candidate loses a major party primary but wins the "People's Primary" for the same office. HB 3140, Section 2(6), incorporates ORS 249.048, which says that a person who loses a major party primary is disqualified from the general election ballot for that office, period. Then who wins the "People's Primary" for that office?

I suggest eliminating the disqualification of major party primary losers from winning the "People's Primary" and thus appearing on the general election ballot. If that is not desired, then the bill should be amended to provide that the winner of the "People's Primary" would be the highest vote getter who did not simultaneously lose in the major party primary for the same office.

3. The bill should specify that there would there be a separate Voters' Pamphlet section for candidates in the "People's Primary," so that candidates in the "People's Primary" would be seen together and not mixed in with major party primary candidates. Candidates in the "People's Primary" who are not also candidates in a major party primary for the same office should get their space in the Voters' Pamphlet for free. After all, the major party candidates will already be in the Voters' Pamphlet in their major party primaries, so to them there is no incremental Voters' Pamphlet cost to running also in the "People's Primary"--unless the "People's Primary" gets its own separate Voters' Pamphlet section that requires a separate fee.

4. HB 3140 would provide a "People's Primary" ballot in which no candidate would be identified as to her political party membership or endorsements. Research shows that party label is the single most important piece of information to voters.¹ Voters in the "People's Primary" should not be led to believe that they are choosing from among renegade candidates who have no party ties. Each candidate should be identified on the "People's Primary" ballot with her party membership. At a minimum:
 - A. Each candidate's party registration should be stated in the Voters' Pamphlet.
 - B. If a candidate in the "People's Primary" is also running for a major party nomination for the same office, there should be an asterisk next to his name on the ballot and a legend to that effect on every page of the ballot.
 - C. Each candidate who is the incumbent for the office sought should also be identified on the ballot. Typically, it is thought that identifying the incumbent on a ballot benefits the incumbent. On the "People's Primary" ballot, I doubt that would be the result.

1. Professors Chris Elmendorf and David Schleicher wrote in *Informing Consent: Voter Ignorance, Political Parties, and Election Law* (2013) (Faculty Scholarship Series, Paper 4958) (http://digitalcommons.law.yale.edu/fss_papers/4958):

Party labels can help rational, low-information voters by providing them with credible, low cost, and easily understood signals of candidates' ideology and policy preferences.

Political scientists have studied the performance of nonpartisan elections, primary elections, and ballot-initiative and referendum elections. What they have found largely confirms the hypothesis that party cues play an absolutely central role in enabling citizens to choose ideologically congenial candidates, and to hold the government accountable for performance.

Virtually everything we know about these races indicates that voters are harmed by the lack of relevant party information. Turnout is lower in nonpartisan elections, and incumbents are stronger, suggesting that informed voting is costly and voters rely more on name recognition and familiarity when denied information about party. Voters deprived of easy access to partisan cues also give much more weight to candidates' race, ethnicity, religion, and social status.