

TESTIMONY ON HB 2983A

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for
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HB 2983A would require nonprofit corporations and some other entities to file with the Secretary of State a list of some of their largest donors, if the nonprofit corporation or entity exceeds certain threshold amounts in funding communications in support of or opposition to a candidate or measure.

The disclosure requirements of the bill are very weak and easily evaded.

Monetary Thresholds are Far Too High

We agree with other that the monetary thresholds are far too high. The bill would require disclosures only by entities spending:

- > \$100,000 or more regarding any ballot measure, except a city or county measure in a city or county with population of less than 60,000
- > \$100,000 or more regarding a statewide candidate
- > \$25,000 or more regarding a candidate for the Oregon Legislature

The bill apparently requires no disclosures when the spending pertains to any other candidate for public office.

Once the overall monetary threshold on spending is reached, the organization is required to report only the names of its contributors of \$10,000 or more each.

We recommend that the spending thresholds be reduced by a factor of 5 and the donor threshold by a factor of 10 (the same recommendation as the League of Women Voters of Oregon). We also recommend that the disclosure requirement apply to advertisements supporting or opposing candidates for local public office.

No Drill Down to the Actual True Funders of the Advertisements.

HB 2983A requires that the nonprofit corporation or other entity identify only its funders of \$10,000 or more. If those funders are nonprofit corporations or unincorporated associations or other entities, HB 2983A does not require any further disclosure of their actual sources of funds.

This makes it very easy to evade the requirements. The Good Things for Oregon Nonprofit Corporation could accept infinite donations from the Better Things for Oregon Nonprofit Corporation, and HB 2983A would require nothing more than the disclosure of those two corporate names. The Good Things corporation would be the entity making the political expenditure. The Better Things corporation would be its top funder. HB 2983A does not require that the Better Things corporation identify any of its funders.

In Oregon it takes 5 minutes and costs \$100 to form a nonprofit corporation, and HB 2983A would allow any entity making political expenditures to avoid disclosing anything more than the name of the nonprofit corporation providing its funding, regardless of where the nonprofit corporation is incorporated or whether the state law regarding incorporation requires disclosure of any of the principals of the corporation. The result will be that HB 2983A will provide very little useful information to voters.

There needs to be some level of drill down to the true original sources of the funds. Portland Measure 26-200 (2018) (enacted by an 87.4% "yes" vote) provides:

If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee) or nonprofit organization, the prominent disclosure shall include its top three funders during the current Election Cycle.

This would make it more difficult to avoid disclosing the true sources of the funds by requiring at least one level of drill down.

Washington Chapter 261, Laws of 2019, also includes a drill down provision very similar to the one in the Portland charter amendment, Measure 26-200 (2018). It states:

- (2) If one or more of the top five contributors identified under subsection (1) of this section is a political committee, the top three contributors to each of those political committees during the same period must then be identified, and so on, until the individuals or entities other than political committees with the largest aggregate contributions to each political committee

identified under subsection (1) of this section have also been identified. The sponsor must identify the three individuals or entities, not including political committees, who made the largest aggregate contributions to any political committee identified under subsection (1) of this section in excess of the threshold aggregate value to be considered an independent expenditure in an election for public office under RCW 42.17A.005(29)(a)(iv) reportable under this chapter during the same period, and the names of those individuals or entities must be displayed in the advertisement alongside the statement "Top Three Donors to PAC Contributors.

This approach could be applied to the nonprofit disclosures in HB 2983A. If any of the \$10,000+ funders is itself a nonprofit organization, then its top 3 funders must also be disclosed, "and so on, until the individuals or entities other than political committees [and nonprofit organizations] with the largest aggregate contributions . . . have also been identified."

I provided another solution to legislative staff on May 7:

If one of the top 5 contributors is a nonprofit corporation, then in place of the name of the nonprofit corporation the disclaimer would name the single largest donor of funds (that can be used for political purposes, not 501c3 funds or restricted funds) to the nonprofit corporation in the current election cycle; provided, that the donor is itself not a nonprofit corporation or political committee. If it is, then its name would be replaced with its own largest donor of funds, and so on.

In other words, it would be a drill down with a width of one.

The managers of HB 2983A on the House side declined to incorporate any drill down requirement.

Need to Have Nature of Business Disclosed.

HB 2983A does not require identification of the business(es) engaged in by any of the donors to the nonprofit corporation or other entity funding the communications. Many corporations have names that do not identify their businesses. For both reasons, the Portland charter amendment requires that the disclaimer include:

The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with

each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).

Every corporation has an NAICS code, as it is required for federal tax filings.