



April 3, 2019

## Oregon Progressive Party Position on Bill at 2019 Session of Oregon Legislature:

### SB 226: Support

Dear Committee:

The Oregon Progressive Party and Independent Party of Oregon (IPO) support this bill.

It would allow IPO to have a state-run primary election, even if IPO slips into minor party status. IPO's over 125,000 members should be enabled to cast votes for candidates in the IPO primary election in the familiar vote-by-mail state-run primary instead of by means of an online voting system that IPO would otherwise devise (and did use in 2010, 2012, and 2014).

SB 226 would also alleviate constitutional problems with the proposed public funding of campaigns bill, SB 1014, which would provide some amounts of public funding for candidates running in primary elections. Under existing law, minor parties are not part of any primary election, and minor party candidates would be left out of the distribution of public funds in the primary phase. The federal courts invalidated several provisions of Connecticut's public funding system in Green Party of Connecticut v. Garfield, 616 F3d 213 (2d Cir 2010). The Green Party's challenge based upon the fact that the law allowed public funding grants only to primary candidates of the major parties was negated by the state's uncontradicted contention that it would provide such grants to Green Party candidates, if the Green Party decided to have a primary election. But there is no such provision in SB 1014, and without this SB 226 there is no provision in Oregon law for a minor party to conduct a state-recognized official primary election. Providing public funding only to major party candidates in primary elections is likely to run afoul of the U.S. Constitution.

Section 34 of SB 226 would change the denominator in determining whether an assembly of electors qualifies as a major party. The denominator under current law is the number of registered voters. Section 34 would change that to the number of registered voters "who are affiliated with a major political party of a minor political party." The current denominator is being inflated by the new Motor Voter registration system. The current numerator for IPO (its total number of registrants) is not being similarly inflated. The new massive influx of NAVs, inflating the denominator, is the result of divorcing two processes that were previously married: registering to vote and choosing a party. New registrants were previously offered the opportunity to do both at the same time. Under the revised Motor Voter system, however, new registrants are not offered the opportunity to choose a party, except by means of a letter mailed several weeks after the event triggering the registration (business at DMV). Before the new Motor Voter system, 76% of Oregon registered voters had officially joined political parties. Under the new system, only 12.7% of 2018's new registrants joined parties (12.1% in 2017).

Under current law, a major party is required to maintain membership equal to at least 5% of all registered voters. Since only about 12% of new voters are joining any party, current law requires that IPO in effect consistently register as its members 42% of all new party-joining voter registrants--an obviously impossible standard.

Under current law, IPO's 125,461 members constitute 4.53% of all Oregon registered voters, and IPO will lose its major party status for the 2020 election cycle. Under SB 226, they would constitute 6.7% of all Oregon registered voters who are affiliated with a major or minor political party.

In the 2018 election cycle, IPO's membership was 4.6% of all registered voters in August 2017, the time when state law required it to be 5%. But the 2016 Legislature adopted a temporary fix by freezing the denominator at the level of all Oregon registered voters as of July 1, 2015, before the start-up of the new Motor Voter system. With the denominator so frozen, IPO's membership in August 2017 amounted to 5.5% of all Oregon registered voters, and IPO remained a major party in the 2018 cycle. That fix has expired and does not apply to the 2020 election cycle.

Section 42 of SB 226 allows any party participating in the primary election to

file a rule requiring that a write-in candidate obtain a minimum vote threshold in order to secure the nomination of the party. Under current law, write-in nominations can be won with as few as one vote, which makes a mockery of the political party system. A party should be able to specify that a write-in candidate demonstrate some significant level of voter support before being awarded the party's nomination.

## **Oregon Progressive Party**

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