

Campaign Finance Reform in Oregon

A Brief History

By Melinda Settevendemie

U ntil 1994, Oregon was one of only seven states in the nation without legislation governing c a m p a i g n

finance. Oregonians voted to approve two campaign finance reform measures on the November 1994 ballot. Measure 6, a proposal to establish geographical limits for campaign contributors, was overturned almost immediately, by a July 1995 ruling in U.S. District Court. The court declared the measure unconstitutional due to infringement upon the First Amendment right to freedom of speech. Measure 9, which placed limits on the size of contributions and on campaign expenditures, passed by an impressive margin, with 72 percent of the vote. Spending in the 1996 elections decreased substantially as a result. But the measure's impact was short lived: in February 1997, the Oregon Supreme Court ruled that the contribution limits required by Measure 9 restrict Oregonians free speech rights.

This year's General Election once again could result in significant change for campaign finance in Oregon. Measure 6, the Oregon Political Accountability Act, is a proposal to provide public funding to candidates who voluntarily refuse to accept private contributions and agree to spending limits. In this issue, two advocates of public financing of campaigns, Phil Keisling and Paula Krane, make a case for Measure 6, which is designed to reduce candidates reliance on large private donations. Richard LaMountain argues against the measure, claiming that it would weaken the link between the people and the government and would be likely to double or triple the cost of campaigns.

Several other campaign finance

reform initiatives did not make it onto the ballot due to lack of a sufficient number of signatures. One of them, Initiative 162, was an attempt to revive many of the reforms that were included in 1994's Measure 9, such as campaign finance disclosure requirements, and limits on the size of contributions. Less restrictive contribution limits were intended to defuse the First Amendment challenges that were Measure 9's downfall.

The Short & Eventful Life of Measure 9

The main purpose of Measure 9 was to limit the amount of money contributed and spent in Oregon's campaigns. It capped individual contributions at \$1000 to political committees associated with political parties, \$500 to statewide candidates, \$100 to PACs per year, and \$100 to legislative candidates. Political parties could donate only \$25,000 to gubernatorial candidates, \$10,000 to statewide candidates, and \$5000 to legislative candidates. Direct corporate and union contributions were banned entirely. Violations of the contribution regulations resulted in a fine of \$1000 or three times the amount of the contribution that was over the limit.

Spending limits were voluntary under Measure 9. If candidates chose not to stay within the limits, tax credits for contributors to those campaigns were eliminated. The expenditure limits were waived if a candidate's opponent spent more than \$25,000 of their personal money for statewide elections or \$10,000 for legislative elections. The Voter's Pamphlet listed which candidates expenditures remained within the limits. Candidates were forbidden to use cam-

paign cash for personal purposes.

Supporters argued that Measure 9 would help to decrease the influence of special interest groups and improve public access to accurate information, as well as leveling the playing field among candidates. They also pointed out that Measure 9 would save tax dollars by eliminating tax credits to PACs and other large contributors.

First and foremost, those opposed to Measure 9 (and to contribution and spending limits in general) criticized the measure as a threat to freedom of speech. Jeff Milyo in Reason magazine notes that the U.S. Supreme Court determined that party building activities are part of freedom of speech, as defined in the First Amendment (v29, n3, p.47). Others made arguments that there is no strong causal connection between campaign spending and campaign winning. Interestingly enough, the 1994 Voter's Pamphlet carried ten arguments

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Justice Michael W. Gillette

in favor and only one argument against the measure.

After Measure 9 passed, candidates discovered some loopholes in the law, which allowed what has been called creative financing (Oregonian, 11/26/95, A1). Jeff Mapes of the Oregonian outlined a few different ways he saw candidates working to circumvent the regulations of Measure 9. For

example, Mapes observed that candidates began to form PACs to support ballot measures, which were exempt from Measure 9's limits. The candidates could then increase their visibility by speaking out about ballot measures. Other tactics included independent groups running advertisements for candidates, which was permissible as long as candidates and the supporting groups were not communicating. Still, campaign spending for the 1996 election year was reduced by half compared to 1994. (Oregonian, Suo, 02/07/97, A1).

In February 1997, the Oregon Supreme Court reached a unanimous decision declaring Measure 9 unconstitutional. Justice Michael W. Gillette wrote, Making a political contribution is the equivalent of standing on a street corner to advocate for a candidate. And...there is no proof that political giving corrupts (Steve Suo, Oregonian, 2/7/97, A1). The Court removed all limits on contribution size, saying that any contribution is permitted as long as it is publicly reported.

The only piece left of Measure 9 is voluntary spending limits. The Voter's Pamphlet currently notes which candidates have signed in agreement with the voluntary limits, and contributors to those campaigns will receive a tax credit. But if one candidate chooses not to sign the pledge or exceeds the limit, none of the candidates is held to the limits. The first candidate to break the pledge must pay a fine of double the amount that exceeded the limits. Tax credits for contributors remain in effect even if campaign spending is not limited. In February 1997, both supporters and opponents of Measure 9 agreed ... that candidates are unlikely to abide by those limits now (Oregonian, Suo, 2/7/97, A1)

Oregon & the Big Picture

To date, there are no mandatory limits on campaign expenditures for federal candidates due to the Supreme Court's 1976 ruling in Buckley v. Valejo. This landmark case, which challenged spending limits put in place in 1974, held that unlimited spending is a right guaranteed by the First Amendment. There are voluntary limits for federal

Although the First Amendment of the US Constitution states, "Congress shall make no law...abridging the freedom of speech", there are restrictions on how much can be contributed to congressional or presidential candidates. The Federal Election Commission's contribution limits for candidates running for federal office are as follows:

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| | <p>mittee donor</p> <p>To a candidate or candidate committee per election</p> | \$1,000 | \$20,000 | \$5,000 |
| Individual Donor | | To a national party committee per calendar year | To any other political committee per calendar year | \$5,000 |
| Multi-candidate committee donor | \$1,000 | \$20,000 | | Total per calendar year |
| Other Political com- | \$5,000 | \$15,000 | \$5,000 | \$25,000 |

Contributions from corporations, unions, federal government contractors and foreign nationals are prohibited. (Please see the FEC's website at www.fec.gov/pages/fecfec/htm and choose "Contribution and Solicitation Limitations" for exceptions and more in-depth information.)

campaigns, which are noted as part of public record, as in Oregon's Voter's Pamphlet. As far as contributions go, the Supreme Court allows limits...on campaign contributions only when narrowly drawn to prevent quid pro quo corruption or the appearance of quid pro quo corruption and maintains disclosure requirements for contributions. Buckley v. Valejo has been influential in campaign finance reform cases since 1976.

Missouri passed campaign finance legislation in 1994 that was very similar to Measure 9, allowing only \$100, \$200 and \$300 contributions for state House, Senate and statewide candidates, respectively (Oregonian, Mapes, 07/02/96, A5). In July of 1996, the U.S. Supreme Court let stand an earlier ruling that overturned the Missouri law. The Supreme Court determined that Missouri's campaign contribution limits clashed with the right to freedom of speech.

A glance at the Federal Election Commission's chart of all states' laws

governing campaign finance reveals that most other states place some limits on political contributions. In contrast, any contribution from any person, corporation, labor organization, or PAC is legal in Oregon. States like New Mexico are nearly as unlimited as Oregon in terms of contributions but may have a few rules, such as the prohibition of union contributions. Oregon's Constitution is generally viewed as being less flexible than the U.S. Constitution and many other states' constitutions when it comes to protecting free speech: No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right (Article I, Section 8). This statement (or the courts' interpretation of it) appears to be the primary reason that campaign finance reform is not currently in place in Oregon.

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