

An analysis of campaign finance efforts in Oregon

Do contribution limits work?

by Samantha Sanchez

The struggle for a fairer way to finance elections is a major part of the work we do here at the Western States Center. The current system, which requires candidates to focus overwhelmingly on fundraising, too often leaves the elected official beholden to his or her big money contributors. Our Money in Western Politics Project has the best data in the country on state level elections. In the past decade, a variety of approaches to campaign finance reform have been tried. The analysis excerpted below looks at the positive and negative impacts of one type of reform effort. We think it's important to provide this kind of analysis so future efforts at reform benefit from lessons learned.

In 1994, the citizens of Oregon approved an initiative called Measure 9 with 72% of the vote. It imposed the first limits of any kind on contributions in Oregon state elections. Measure 9 was a hybrid reform that

16-fold in just 12 election cycles.

Second, the state has comprehensive records of contributions from past elections, records which the Money in Western Politics Project has analyzed over several recent cycles. Finally, the state's lack of any previous restrictions that might have already changed the behavior of political supporters presents a clean before-and-after comparison.

Impact on overall campaign funds

Measure 9 substantially reduced the money given to candidates during the election cycle. The total of funds contributed to legislative candidates was reduced from \$10.7 million to \$3.4 million, a remarkable decline of 68% in one election cycle.

However, the low contribution limits also spawned a number of circumvention practices, such as independent expenditures by the business community and labor unions on behalf of candidates. In another tactic, the state Republican party created initiative PACs, which were not subject to the contribution limits, to collect money to advertise Republican candidates and their positions on the initiative. In both cases the funds were clearly spent to influence the outcome of legislative elections.

When those sums are added to the amount contributed to candidates, the actual change in the funding of the legislative candidates shows a 44% decline in the total of funds contributed to the 1996 legislative elections, still a substantial impact.

In addition, the 1996 contributor file shows ample evidence of the bundling or grouping of contributions by certain industries, a practice intended to maximize the visibility of their contributions by aggregating many smaller contributions into one package or sending them on the same day. While this



combined strict contribution limits with voluntary spending limits, and modified use of an existing tax credit for contributors. The new law imposed contribution limits of \$100 per election (primary and general elections).

The initiative was immediately challenged in court and held unconstitutional by the Oregon Supreme Court in February 1997, shortly after the completion of the 1996 election cycle with the new limits in effect. Thus, the 1996 election cycle will stand alone as evidence of what campaign finance reform of that kind could achieve.

Oregon offers a good laboratory for the study on contribution limits for several reasons. First, campaign costs were climbing at an alarming rate, having increased nearly

does not increase the money contributed, it is intended to defeat the reform goal of stopping the checkbook influence of special interest groups.

Impact on the races

It is predictable that the higher-spending candidate has a better chance of winning, but the advantage declined slightly in 1996. In contested races, the higher-spending candidate won 85% of the time in 1992, 88% in 1994 and 82% in 1996. The advantage of money is still substantial even when the level of funding is reduced by two-thirds.

It is clear that lowering the overall funding for politics in Oregon did not affect the great disparity between winners and nominees. Fundraising skills and contacts still constitute a substantial advantage in the election.

Incumbency

Incumbency is often the single greatest advantage a candidate can have in getting re-elected. In fact, there have been recent election years in which the chances of dying while a member of the U.S. Senate were greater than the chances of being unseated by a challenger. Oregon state politics are no exception to the general rule and the value of incumbency was not changed by Measure 9. In 1992, 90% of incumbent candidates won, 96% won in 1994 and 94% won in 1996.

Measure 9 also did not change the funding ratio of challengers and incumbents: on average challengers had just 46% of the funds that incumbents had in 1992, 43% in 1994 and 47% in 1996. Just one incumbent lost while outspending his opponent.

Uncontested races

The number of uncontested races did not decline as might have been expected when the cost of running is reduced dramatically. Generally, uncontested races occur when a popular incumbent runs for re-election. Remarkably, in 1996, two open seats were uncontested, whereas in prior years all uncontested races were won by incumbents.

The number of open seats did not change appreciably either. Open seats often produce

the most spirited competition and, therefore, more costly races. Limits on contributions ought to help newcomers compete for funds that otherwise might have gone to incumbents, but they did not.

Third parties

The number and funding of third party candidates did not increase after Measure 9, although a goal of reform is to open the system up to non-traditional candidates and broaden the terms of the political debate. A summary of the candidates who were neither Democrat nor Republican, and who did raise some funds, shows their average funding actually declined in 1996:

- 1992: 4 candidates, average \$1,403, ranging from \$992 to \$2,215
- 1994: 8 candidates, average \$3,288, ranging from \$535 to \$7,593
- 1996: 8 candidates, average \$2,793, ranging from \$505 to \$7,841

Impact on contributors to candidates

The average contribution declined from \$280 in 1992 and \$349 in 1994 to \$87 in 1996. The total number of contributors increased dramatically in the 1996 cycle, from approximately 9,000 in the two prior cycles to 12,000. These numbers include all contributors, individuals as well as PACs, but do not count party contributions nor the many "small" donors of \$50 or less whose contributions are recorded as aggregate sums without names. Curiously, despite the new emphasis on small contribution fundraising, the actual dollars received in small contributions declined 10% after Measure 9.

While broadening of the base of contributors may reduce the concentration of political giving, the contributors still represent a very small part of the population of the state, just 0.43%, or less than one-half of one percent.

Some groups harder hit

While Measure 9 successfully cut candidates' campaign coffers by two-thirds, the impact on contributors was not even handed. As expected, the contributors most affected by the limits were PACs, which serve to aggregate the



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contributions of many contributors but are still limited to the same \$200 per election cycle that a single individual would be. When contributors are grouped by their economic interest, and contribution levels before Measure 9 are compared to levels after, some interest groups declined 93% while others fell 55%.

Party differences

Republican candidates raised one-third more money in 1996 than did Democrats, reflecting an advantage similar to previous years. Interestingly, while Measure 9 changed the entire fund-raising system in fundamental ways, the parties' candidates weathered the process without changing their relative positions in funding.

In Oregon both parties suffered the decline equally and kept their relative positions with just 31% as much money as they each had in 1994. The number of winners in each party did not change much either. In 1992, the Republicans won 42 seats and the Democrats won 34, in 1994 the Republicans won 41 and the Democrats won 34, and in 1996, the Republicans won 42 and the Democrats, 33.

Impact on self-financed races

Measure 9 also changed the level of support that candidates gave their own campaigns out of their personal funds. When a campaign reform measure makes it difficult to raise contributions, self-funded candidates have an advantage because the contributions a candidate makes to his or her own campaign cannot be limited. The candidate with the largest campaign fund in 1996, Cedric Hayden, supplied \$89,164 of his own money and raised only \$3,754 from supporters.

Prior to Measure 9 Republicans enjoyed a large advantage in self-funding, with the average Republican candidate contributing 4.4 times as much as the average Democrat in 1992, and 5.4 times as much in 1994. While Measure 9 could not limit the candidate contributions without running afoul of the Constitution, it did allow the opponent of a self-funded candidate who exceeded \$10,000 in contributions from themselves to be

exempted from the contribution limits, as a disincentive to wealthier candidates to pour excessive amounts of their own money into their races. In 1996, the average Republican candidate contributed just 28% more than the average Democrat to his or her own campaign.

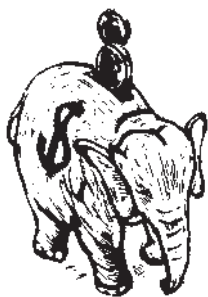
Candidate contributions declined 49% for Republican candidates from \$451,832 to \$230,519 but increased 71% for Democratic candidates from \$109,093 to \$186,424. The change brought the per-candidate averages closer together: \$2,115 from Republicans and \$2,095 from Democrats. The disincentive effect of Measure 9, therefore, impacted the Republican candidates by reducing their level of self-funding. On the other hand, the difficulty of raising funds from outside sources seems to have encouraged Democrat candidates to contribute more to their campaigns.

Loopholes and dodges

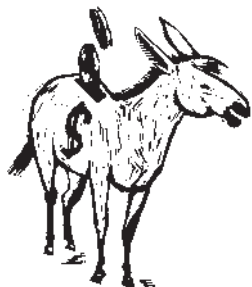
During the election, several techniques were used to avoid the limits of Measure 9. Two of them, independent expenditures and the use of initiative PACs to advertise candidates, added \$2,596,081 to the 1996 campaign funds.

a. Independent expenditures were not limited by Measure 9; indeed expenditures in support of political expression have been held by the Supreme Court to be protected by the free speech protections of the First Amendment. Measure 9 did anticipate that this route would be used and instituted requirements for the reporting of such expenditures, although there were complaints that the reporting requirements were not comprehensive enough.

The most striking example was an anonymous advertisement late in the race encouraging voters to "Stop the unions from buying control of the legislature." It featured photos of a dozen candidates supported by labor unions' independent expenditures. Even though the ads were obviously political and related to specific candidates and races, they did not use the words "vote" or "support," so the Secretary of State determined, in an advance private ruling, that they were not independent expenditures within the statute and did not need to be reported. The funds that created the ads and



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paid for the media are, therefore, not included in the totals reported below, nor have the people responsible for the ad been identified, even though the effectiveness of the ads as a political message is not disputed by any of the participants.

b. Initiative PACs were set up during the elections by Republicans to raise funds outside of the Measure 9 limits and use them to “employ the party’s candidates as ‘spokespersons.’” According to an interview with *The Oregonian*, Senate Majority Leader Brady Adams, R-Grants Pass, 10 to 20 spokespersons would appear in brochures to be mailed statewide. There would be different versions of the mailings, with spokespersons appearing in the mailings that hit their hometown. “Coincidentally,” Adams said, “many of those individuals will be candidates and/or sitting legislators.”

nature of the races as might be expected: the funding advantages of incumbents remained the same, as did the likelihood of successfully challenging one. It did not divert funds into open seat races, often the hardest fought campaigns, nor did it encourage more independent candidates or increase their funding.

Analysis of the impact of Measure 9

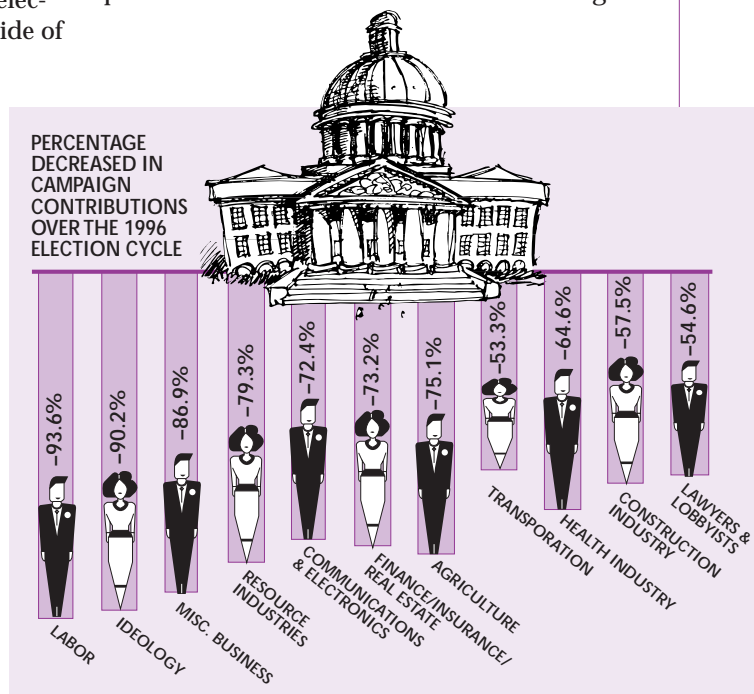
Whether Measure 9 had a positive or negative impact on the democratic process would take more than one set of election numbers to determine.

However, there are several results that are immediately visible, not all of them positive.

The amount of money flowing to candidates was cut substantially, even when the additional independent expenditures and initiative expenditures are added in. This is clearly a positive step toward reducing the impact of private interest money in our politics. However, it did not relieve candidates of the burden of raising funds and courting contributors; rather it increased it. The solicitation of many small contributions is more time consuming than the solicitation of a few large contributions.

And, analysis of the sources of contributions before and after Measure 9 indicates that the reduction was not evenly felt across the array of contributors. For example, organized labor’s contributions declined more than 93%, while lawyers’ contributions declined 55%.

Overall, the radical reduction in the size of the average campaign fund did not change the



The number of uncontested races rose slightly and the amount collected as small contributions (under \$50) actually declined. The number of third party candidates remained the same but their funding dropped, on average, 15 percent. The total number of seats won by each party stayed about the same; only one seat changed hands.

Contribution limits did encourage several avoidance techniques which added another \$2.6 million to the total expenditures. It also encouraged bundling by members of different industries, which did not increase the total spent but was used to enable groups of businesses to maximize their visibility and their importance to the candidates. ■