

KATE BROWN
SECRETARY OF STATE



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December 23, 2009

To All Interested Parties:

Secretary of State Kate Brown is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#70), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #70 was filed in our office on December 22, 2009, by William Thorndike, Jr., Mary Susan Pape and Brian Booth, for the General Election of November 2, 2010.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division. Your comments, if any, must be received by the Elections Division no later than January 15, 2010, in order for them to be considered in the review.

KATE BROWN
Secretary of State

BY:

Lydia Plukchi
Compliance Specialist

PREAMBLE: The people of the State of Oregon find that renewing the current dedication in the Oregon Constitution of fifteen percent of lottery revenues to parks, water quality and fish and wildlife habitats will provide lasting social, economic, environmental and public health benefits.

The people of the State of Oregon also find that renewal of the Parks and Natural Resources Fund will support voluntary efforts to:

- (1) Protect and restore water quality, watersheds and habitats for native fish and wildlife that provide a healthy environment for current and future generations of Oregonians;
- (2) Maintain and expand public parks, natural areas and recreation areas to meet the diverse needs of a growing population and to provide opportunities for to experience nature and enjoy outdoor recreation activities close to home and in the many special places throughout Oregon;
- (3) Provide jobs and economic opportunities improving the health of our forests, prairies, lakes, streams, wetlands, rivers, and parks, including efforts to halt the spread of invasive species;
- (4) Strengthen the audit and reporting requirements, identify desired outcomes and specify allowable uses of the fund in order to provide more strategic, accountable and efficient uses of the Parks and Natural Resources Fund; and
- (5) Enhance the ability of public land managers, private organizations, individuals and businesses to work together in local, regional and statewide partnerships to expand recreation opportunities, improve water quality and conserve fish and wildlife habitat.

Be it therefore enacted by the people of the State of Oregon that the Oregon Constitution is amended as follows:

PARAGRAPH 1. Sections 4, 4a and 4b, Article XV of the Constitution of the State of Oregon, are amended by adding new language (shown in boldface type) and deleting existing language (shown in *bracketed italics*), so that such sections read as follows:

Section 4. (1) Except as provided in subsections (2), (3), (4), (10) and (11) of this section, lotteries and the sale of lottery tickets, for any purpose whatever, are prohibited, and the Legislative Assembly shall prevent the same by penal laws.

(2) The Legislative Assembly may provide for the establishment, operation, and regulation of raffles and the lottery commonly known as bingo or lotto by charitable, fraternal, or religious organizations. As used in this section, charitable, fraternal or religious organization means such organizations or foundations as defined by law because of their charitable, fraternal, or religious purposes. The regulations shall define eligible

organizations or foundations, and may prescribe the frequency of raffles, bingo or lotto, set a maximum monetary limit for prizes and require a statement of the odds on winning a prize. The Legislative Assembly shall vest the regulatory authority in any appropriate state agency.

(3) There is hereby created the State Lottery Commission which shall establish and operate a State Lottery. All proceeds from the State Lottery, including interest, but excluding costs of administration and payment of prizes, shall be used for any of the following purposes: creating jobs, furthering economic development, financing public education in Oregon or restoring and protecting Oregon's parks, beaches, watersheds and *[critical] native fish and wildlife [habitats]*.

(4)(a) The State Lottery Commission shall be comprised of five members appointed by the Governor and confirmed by the Senate who shall serve at the pleasure of the Governor. At least one of the Commissioners shall have a minimum of five years experience in law enforcement and at least one of the Commissioners shall be a certified public accountant. The Commission is empowered to promulgate rules related to the procedures of the Commission and the operation of the State Lottery. Such rules and any statutes enacted to further implement this article shall insure the integrity, security, honesty, and fairness of the Lottery. The Commission shall have such additional powers and duties as may be provided by law.

(b) The Governor shall appoint a Director subject to confirmation by the Senate who shall serve at the pleasure of the Governor. The Director shall be qualified by training and experience to direct the operations of a state-operated lottery. The Director shall be responsible for managing the affairs of the Commission. The Director may appoint and prescribe the duties of no more than four Assistant Directors as the Director deems necessary. One of the Assistant Directors shall be responsible for a security division to assure security, integrity, honesty, and fairness in the operations and administration of the State Lottery. To fulfill these responsibilities, the Assistant Director for security shall be qualified by training and experience, including at least five years of law enforcement experience, and knowledge and experience in computer security.

(c) The Director shall implement and operate a State Lottery pursuant to the rules, and under the guidance, of the Commission. The State Lottery may operate any game procedure authorized by the commission, except parimutuel racing, social games, and the games commonly known in Oregon as bingo or lotto, whereby prizes are distributed using any existing or future methods among adult persons who have paid for tickets or shares in that game; provided that, in lottery games utilizing computer terminals or other devices, no coins or currency shall ever be dispensed directly to players from such computer terminals or devices.

(d) There is hereby created within the General Fund the Oregon State Lottery Fund which is continuously appropriated for the purpose of administering and operating the Commission and the State Lottery. The State Lottery shall operate as a self-supporting revenue-raising agency of state government and no appropriations, loans, or other transfers of state funds shall be made to it. The State Lottery shall pay all prizes and all of its expenses out of the revenues it receives from the sale of tickets or shares to the public and turnover the net proceeds therefrom to a fund to be established by the Legislative Assembly from which the Legislative Assembly shall make appropriations for the benefit of any of the following public purposes: creating jobs, furthering economic development, financing public education in Oregon or restoring and protecting Oregon's parks, beaches, watersheds and *[critical] native fish and wildlife [habitats]*. Effective July 1, 1997, 15% of the net proceeds from the State Lottery shall be deposited, from the fund created by the Legislative Assembly under this paragraph, in an education stability fund. Effective July 1, 2003, 18% of the net proceeds from the State Lottery shall be deposited, from the fund created by the Legislative Assembly under this paragraph, in an education stability fund. Earnings on moneys in the education stability fund shall be retained in the fund or expended for the public purpose of financing public education in Oregon as provided by law. Except as provided in subsections (6) and (8) of this section, moneys in the education stability fund shall be

invested as provided by law and shall not be subject to the limitations of section 6, Article XI of this Constitution. The Legislative Assembly may appropriate other moneys or revenue to the education stability fund. The Legislative Assembly shall appropriate amounts sufficient to pay lottery bonds before appropriating the net proceeds from the State Lottery for any other purpose. At least 84% of the total annual revenues from the sale of all lottery tickets or shares shall be returned to the public in the form of prizes and net revenues benefiting the public purpose.

(5) Notwithstanding paragraph (d) of subsection (4) of this section, the amount in the education stability fund created under paragraph (d) of subsection (4) of this section may not exceed an amount that is equal to five percent of the amount that was accrued as revenues in the state's General Fund during the prior biennium. If the amount in the education stability fund exceeds five percent of the amount that was accrued as revenues in the state's General Fund during the prior biennium:

(a) Additional net proceeds from the State Lottery may not be deposited in the education stability fund until the amount in the education stability fund is reduced to less than five percent of the amount that was accrued as revenues in the state's General Fund during the prior biennium; and

(b) Fifteen percent of the net proceeds from the State Lottery shall be deposited into the school capital matching subaccount created under subsection (8) of this section.

(6) The Legislative Assembly may by law appropriate, allocate or transfer any portion of the principal of the education stability fund created under paragraph (d) of subsection (4) of this section for expenditure on public education if:

(a) The proposed appropriation, allocation or transfer is approved by three-fifths of the members serving in each house of the Legislative Assembly and the Legislative Assembly finds one of the following:

(A) That the last quarterly economic and revenue forecast for a biennium indicates that moneys available to the state's General Fund for the next biennium will be at least three percent less than appropriations from the state's General Fund for the current biennium;

(B) That there has been a decline for two or more consecutive quarters in the last 12 months in seasonally adjusted nonfarm payroll employment; or

(C) That a quarterly economic and revenue forecast projects that revenues in the state's General Fund in the current biennium will be at least two percent below what the revenues were projected to be in the revenue forecast on which the legislatively adopted budget for the current biennium was based; or

(b) If the proposed appropriation, allocation or transfer is approved by three-fifths of the members serving in each house of the Legislative Assembly and the Governor declares an emergency.

(7) The Legislative Assembly may by law prescribe the procedures to be used and identify the persons required to make the forecasts described in subsection (6) of this section.

(8)(a) There is created a school capital matching subaccount within the education stability fund created under paragraph (d) of subsection (4) of this section.

(b) The Legislative Assembly may by law appropriate, allocate or transfer moneys or revenue to the school capital matching subaccount.

(c) To the extent funds are available, the Legislative Assembly may appropriate, allocate or transfer moneys in the school capital matching subaccount and earnings on moneys in the subaccount for the purpose of providing state matching funds to school districts for capital costs incurred by the school districts.

(9) Notwithstanding paragraph (d) of subsection (4) of this section, on May 1, 2003, the State Treasurer shall transfer \$150 million from the education stability fund created under paragraph (d) of subsection (4) of this section to a fund created by law and known as the State School Fund. Moneys transferred under this subsection may be used in the manner provided by law for moneys in the State School Fund.

(10) Effective July 1, 1999, 15% of the net proceeds from the State Lottery shall be deposited in a parks and natural resources fund created by the Legislative Assembly. Of the moneys in the parks and natural resources fund, 50% shall be deposited in a parks subaccount and distributed for the public purposes of financing the protection, repair, operation, and creation of state, regional and local public parks, ocean shore and public beach access areas, historic sites and recreation areas, and 50% shall be deposited in a natural resources subaccount and distributed for the public purposes of financing the restoration and protection of native [salmonid] fish and wildlife [populations], watersheds, fish and wildlife habitats and water quality in Oregon. The Legislative Assembly shall not limit expenditures from the parks and natural resources fund, or from the parks or natural resources subaccounts. The Legislative Assembly may appropriate other moneys or revenue to the parks and natural resources fund.

(11) Only one State Lottery operation shall be permitted in the State.

(12) The Legislative Assembly has no power to authorize, and shall prohibit, casinos from operation in the State of Oregon.

Section 4a. *[Any state agency that receives moneys from the parks and natural resources fund established under section 4 of this Article for the public purpose of financing the protection, repair, operation, creation and development of state parks, ocean shores and public beach access areas, historic sites and recreation areas shall have the authority to use the moneys for the following purposes:]* (1) In each biennium the Legislative Assembly shall appropriate all of the moneys in the parks subaccount of the parks and natural resources fund established under section 4 of this Article for the uses allowed in subsection (2) of this section, and to achieve all of the following:

(a) Provide additional public parks, natural areas or outdoor recreational areas to meet the needs of current and future residents of the State of Oregon;

(b) Protect natural, cultural, historic and outdoor recreational resources of state or regional significance;

(c) Manage public parks, natural areas and outdoor recreation areas to ensure their long-term ecological health and provide for the enjoyment of current and future residents of the State of Oregon; and

(d) Provide diverse and equitable opportunities for residents of the State of Oregon to experience nature and participate in outdoor recreational activities in state, regional, local or neighborhood public parks and recreation areas.

(2) The moneys in the parks subaccount shall be used only to:

[1)](a) Maintain, construct, improve, develop, manage and operate state parks, ocean shores, public beach access areas, historic sites, natural areas and outdoor and recreation [facilities, programs and] areas[.];

[2)](b) Acquire real property, or interests therein, that has significant natural, scenic, cultural, historic or recreational values, [deemed necessary] for the creation or [and] operation of state parks, ocean shores, public beach access areas, outdoor recreation areas and historic sites [or because of natural, scenic, cultural, historic and recreational values]; and

[3)](c) Provide [Operate] grants [programs for] to regional or local government entities [deemed necessary to accomplish the public purposes of the parks and natural resources fund established under section 4 of this Article] to acquire property for public parks, natural areas or outdoor recreation areas, or to develop or improve public parks, natural areas or outdoor recreation areas.

(3) In each biennium the Legislative Assembly shall appropriate no less than twelve percent of the moneys in the parks subaccount for local and regional grants as authorized under paragraph (c) of subsection (2) of this section. However, if in any biennium the amount of net proceeds deposited in the parks and natural resources fund created under section 4 of this Article increases by more than fifty percent above the amount deposited in the 2009-2011 biennium, the Legislative Assembly shall appropriate no less than twenty-five percent of the moneys in the parks subaccount for local and regional grants as authorized under paragraph (c) of subsection (2) of this section. The grants shall be administered by a single state agency. The costs of the state agency in administering the grants shall not be paid out of the portion of the moneys in the parks subaccount appropriated for local and regional grants.

Section 4b. *Moneys disbursed for the public purpose of financing the restoration and protection of wild salmonid populations, watersheds, fish and wildlife habitats and water quality from the fund established under section 4 of this Article shall be administered by one state agency. At least 65% of the moneys will be used for capital expenditures. These moneys, including grants, shall be used for all of the following purposes:*

(1) *Watershed, fish and wildlife, and riparian and other native species, habitat conservation activities, including but not limited to planning, coordination, assessment, implementation, restoration, inventory, information management and monitoring activities.*

(2) *Watershed and riparian education efforts.*

(3) *The development and implementation of watershed and water quality enhancement plans.*

(4) Entering into agreements to obtain from willing owners determinate interests in lands and waters that protect watershed resources, including but not limited to fee simple interests in land, leases of land or conservation easements.]

(1) In each biennium the Legislative Assembly shall appropriate all of the moneys in the natural resources subaccount of the parks and natural resources fund established under section 4 of this Article for the uses allowed in subsections (2) and (3) of this section, and to accomplish all of the following:

(a) Protect and improve water quality in Oregon's rivers, lakes, and streams by restoring natural watershed functions or stream flows;

(b) Secure long-term protection for lands and waters that provide significant habitats for native fish and wildlife;

(c) Restore and maintain habitats needed to sustain healthy and resilient populations of native fish and wildlife;

(d) Maintain the diversity of Oregon's plants, animals and ecosystems;

(e) Involve people in voluntary actions to protect, restore and maintain the ecological health of Oregon's lands and waters; and

(f) Remedy the conditions that limit the health of fish and wildlife, habitats and watershed functions in greatest need of conservation.

(2) In each biennium the Legislative Assembly shall appropriate no less than sixty-five percent of the moneys in the natural resources subaccount to one state agency, and that agency shall distribute those moneys as grants to entities other than state or federal agencies for projects that achieve the outcomes specified in subsection (1) of this section. However, if in any biennium the amount of net proceeds deposited in the parks and natural resources fund created under section 4 of this Article increases by more than fifty percent above the amount deposited in the 2009-2011 biennium, the Legislative Assembly shall appropriate no less than seventy percent of the moneys in the natural resources subaccount to one state agency, and that agency shall distribute those moneys as grants to entities other than state or federal agencies for projects that achieve the outcomes specified in subsection (1) of this section. In addition, these moneys shall be used only to:

(a) Acquire from willing owners interests in land or water that will protect or restore native fish or wildlife habitats, which interests may include but are not limited to fee interests, conservation easements or leases;

(b) Carry out projects to protect or restore native fish or wildlife habitats;

(c) Carry out projects to protect or restore natural watershed functions to improve water quality or stream flows; and

(d) Carry out resource assessment, planning, design and engineering, technical assistance, monitoring and outreach activities necessary for projects funded under paragraphs (a) through (c) of this subsection.

(3) In each biennium the Legislative Assembly shall appropriate that portion of the natural resources subaccount not appropriated under subsection (2) of this section to support all of the following activities:

(a) Develop, implement or update state conservation strategies or plans to protect or restore native fish or wildlife habitats or to protect or restore natural watershed functions to improve water quality or stream flows;

(b) Develop, implement or update regional or local strategies or plans that are consistent with the state strategies or plans described in paragraph (a) of this subsection;

(c) Develop, implement or update state strategies or plans to prevent, detect, control or eradicate invasive species that threaten native fish or wildlife habitats or that impair water quality;

(d) Support local delivery of programs or projects, including watershed education activities, that protect or restore native fish or wildlife habitats or watersheds;

(e) Pay the state agency costs of administering subsection (2) of this section, which costs shall not be paid out of the moneys available for grants under subsection (2) of this section; and

(f) [6] Enforc[ement of] fish and wildlife and habitat protection laws and regulations.

PARAGRAPH 2. Section 4c of Ballot Measure 66 (1998) is amended by adding new language (shown in boldface type) and deleting existing language (shown in *bracketed italics*), so that such section reads as follows:

Section 4c. The Secretary of State shall regularly audit a[Any state agency that receives moneys from the parks and natural resources fund established under section 4 of this Article *shall secure an independent audit, pursuant to section 2, Article VI of this Constitution, to measure*] to address the financial integrity, compliance with applicable laws, efficiency and effectiveness *[and performance of the agency receiving such moneys]* of the use of the moneys. The costs of the audit shall be paid from the parks and natural resources fund. However, such costs may not be paid from the portions of such fund, or the subaccounts of the fund, that are dedicated to grants. *[Each agency shall submit]*[The audit shall be submitted to the Legislative Assembly as part of a biennial report to the Legislative Assembly. In addition, each agency that receives moneys from the parks and natural resources fund shall submit a biennial performance report the Legislature Assembly that describes the measurable biennial and cumulative results of activities and programs financed by the fund.

PARAGRAPH 3. Section 4d (Section 5a of Ballot Measure 66 (1998)) of the Constitution of the State of Oregon is repealed and sections 4, 4a, 4b and 4c of Article XV of the Constitution of the State of Oregon, as amended by this Measure, are retained as part of the Oregon Constitution.