



Hardy Myers  
Oregon Attorney General  
1162 Court Street NE  
Salem, OR 97301

Bill Bradbury  
Oregon Secretary of State  
136 State Capitol  
Salem, OR 97301

Dear Mr. Myers and Mr. Bradbury:

Pursuant to ORS 260.234, we are writing to request an investigation into whether the Oregon Education Association (OEA) violated the Oregon Corrupt Practices Act, ORS 260.532, and/or any other Oregon laws by knowingly or recklessly circulating false statements of material fact about Ballot Measure 65. We take this action to protect the strong public interest in truth and lawfulness in election campaigns. OEA's repeated and deliberate falsehoods about Ballot Measure 65 threaten not only to undermine the will of Oregon voters in relation to Ballot Measure 65, but also violate the standards of lawful election conduct.

**BACKGROUND**

As you know, Ballot Measure 65 is a voter initiative which you have qualified to appear on the 2008 election ballot. Phil Keisling is the chief petitioner of Ballot Measure 65. Ballot Measure 65 has been supported by the Vote Yes on 65 – Make Every Voter Count and the Oregon Open Primary Committee. The members of Vote Yes on 65 – Make Every Voter Count and the Oregon Open Primary Committee are made known to the public by listings with your office and by other sources.

OEA repeatedly has published and circulated false statements about the sponsorship of Ballot Measure 65. In one mailing, OEA falsely stated that Ballot Measure 65 is sponsored by Bill Sizemore. In subsequent mailing, OEA falsely stated that Ballot Measure 65 is sponsored by Bill Sizemore and Kevin Mannix. In fact, neither Bill Sizemore nor Kevin Mannix is in any way affiliated with Ballot Measure 65.

In its mailings, OEA published and circulated deliberate falsehoods about Measure 65 which were calculated to damage the measure's electoral chances. The following facts illustrate that point:

(1) As you know, information about the identity of the chief petitioner and the members of the political committees supporting Ballot Measure 65 is information that is readily available to the public. That information is available from your office, your website, the official voters' pamphlet, and a variety of other sources.

(2) On or around October 20, 2008, OEA published and circulated a flyer with the headline "Banish 'Bad Penny Bill' – Vote No on Bill Sizemore's Measures – No on 58 · 59 · 60 · 61 · 62 · 63 · 64 · 65." The text of the flyer states "OEA members have known for a while that Bill Sizemore is bad news—bad news for kids, bad news for teachers and school employees, and bad news for Oregon. Vote no on Bill Sizemore's measures and hopefully this will be the last we see of 'Bad Penny Bill.'" The footer of the flyer states again "Banish the Bad Penny – Vote No on Measures 58 through 65." A copy of the flyer from OEA is attached to this letter as "Exhibit A."

(3) OEA and defendant Jerry Caruthers, the executive director of OEA, admit that they knew that Measure 65 is not sponsored by or otherwise affiliated with Bill Sizemore at the time when OEA published and circulated the flyer attached to this letter as Exhibit A.

(4) On October 22, 2008, Phil Keisling, the chief petitioner of Measure 65, and Norma Paulus, a director of Vote Yes on Measure 65 – Make Every Voter Count, sent a letter to Jerry Caruthers. In the letter, Keisling and Paulus complained that the flyer from OEA stated a falsehood by linking Measure 65 with Bill Sizemore when, in fact, Measure 65 has no association with Bill Sizemore. To correct this falsehood, Keisling and Paulus asked Caruthers to: (1) issue a public apology to all of Measure 65's supporters; (2) produce a mailing correcting the falsehood and to distribute the corrective mailing to the same mailing list that was sent the flyer; and (3) cease and desist from financing any further campaign advertising with similar or other false claims about Measure 65. A copy of the October 22, 2008 letter from Keisling and Paulus to Caruthers is attached to this letter as "Exhibit B."

(5) On October 23, 2008, Phil Keisling spoke by telephone with Jerry Caruthers, the executive director of OEA. In that telephone conversation, Keisling again informed Caruthers that the flyer from OEA stated a falsehood by linking Measure 65 with Bill Sizemore when, in fact, Measure 65 has no association with Bill Sizemore.

(6) Despite its knowledge that Sizemore is not the sponsor or otherwise affiliated with Measure 65 – and despite complaints from Keisling and Paulus about the falsehood in its first flyer – OEA published and circulated a second flyer on or around October 25, 2008, in which OEA made a similar false claim about Sizemore sponsoring Measure 65. The second flyer is titled "The OEA Ballot Measure Voter Guide: Quick, Simple Information to Help You Decide." The text of the flyer states: "OEA Encourages Members to Vote No on Sizemore & Mannix's Measures that Hurt Educators and Children" and lists Ballot Measures 58, 59, 60, 61, 62, 63, 64, and

65 as the ballot measures with an OEA recommendation of "Vote NO." A copy of the second flyer from OEA is attached to this letter as "Exhibit C."

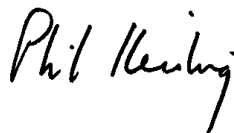
(7) OEA and Caruthers admit that they knew that Measure 65 is not sponsored by or otherwise affiliated with Bill Sizemore or Kevin Mannix at the time when OEA published and circulated the second flyer attached to this letter as Exhibit C.

The above-listed facts show the deliberate nature of the false statements by OEA about Ballot Measure 65. OEA's false statements about Ballot Measure 65 clearly are calculated to mislead voters into believing that Sizemore and/or Mannix sponsored Ballot Measure 65 when, in fact, neither Sizemore nor Mannix is in any way associated with it. The publication and circulation of false statements by OEA about the sponsorship of Measure 65 has damaged the electoral chances of Measure 65 by negatively and falsely representing the measure's sponsors.

Pursuant to your powers under ORS 260.345, we ask that you investigate the conduct of OEA in this matter to determine whether OEA violated any Oregon laws. If such violations are found, then we further ask that you impose any penalties allowed by law to deter OEA and others from engaging in untruthful and unlawful conduct in future elections.

We appreciate your consideration and response to this request.

Sincerely,



Phil Keisling  
Chief petitioner, Measure 65



Norma Paulus  
Co-sponsor, Measure 65