

EDITORIAL

All or Nothing

In a recent *Wall Street Journal* editorial, “Property-Rights Showdown: The legislature vs. the will of the people,” Lewis & Clark law professor and former dean Jim Huffman explains contemporary Oregon politics to the rest of the nation:

This fight has hit the ballot box, twice. The first time was in 2000, when voters approved an amendment to the constitution forcing the state to pay for the loss of value property owners suffer at the hands of land use and environmental regulations. The amendment was bogged down in litigation and was tossed out by the state Supreme Court.

Three years ago voters tried again. This time 61% of them voted to enact “Measure 37,” a law that does what the constitutional amendment attempted to do – force the government to pay for the environmental regulations it imposes on landowners. The law, which has withstood court scrutiny, allows the government to waive regulations when it prefers not to compensate a landowner. But in recent weeks, the Democratically controlled legislature, voting along party lines, moved to “reform” Measure 37 – a euphemism for emptying the law of any real meaning. The legislature has put the bill on the November ballot.

Both Prof. Huffman and Oregonians in Action Executive Director Dave Hunnicutt recently wrote in the pages of *BNW* about the November ballot measure pushed by House Speaker Jeff Merkeley. Measure 49 would gut the reforms passed by Oregon voters through Measure 37. Beyond the myriad technical procedures suggested by Merkeley and the legislature — and far more urgent and more interesting — are the political motivations and powers behind this aggressive attempt to thwart the popular will of Oregonians statewide.

Huffman notes in his *WSJ* piece that Merkeley and Senate President Peter Courtney argued for going to the November ballot because they claim that Measure 37 as implemented bears no relation to what was actually passed. But as Huffman puts it, what Merkeley and Courtney *really* believe is that “voters need to be saved from themselves.”

For Oregon conservatives (that endangered species), the attempt by liberals to erase Measure 37 from Oregon’s political memory seems, as Oregonians In Action co-founder Bill Moshofsky puts it, “outrageous,” plain and simple.

In the last two decades, Oregon Republicans have won next to nothing politically, and as a result Oregon is now the least politically competitive state in the nation. No contest. Conservatives in this state now cling to their one political achievement in a generation — Measure 37.

And that’s exactly the problem for Oregon liberals. Measure 37 is the big stink bomb at their party. To implement Measure 37 is to crack a hammer down on their carefully crafted shell of provincial planning and control.

Implementing Measure 37 is dangerous for the liberal vision of Oregon's ruling political establishment. Their worry isn't that Measure 37 won't work; their real concern is that *it will work*. And the fissures and cracks in their slow-growth, isolationist agenda will broaden and deepen.

As this magazine has painstakingly pointed out, it's no secret which key public policy components prevent Oregon from competing dynamically in the world economy: rigid land use laws, a poor transportation system, an inferior higher-ed system, an archaic tax system, and a bloated public employee sector. Liberal Oregonians are actually proud of some of those policies: our land-use laws and poor transportation infrastructure. Some items, however, liberals are not so proud of: our higher-ed system and our tax structure. But as for those elements that liberals hold dear, they *do not* want to see them challenged.

Land use laws and transportation planning are the keys to Oregon holding itself aloof from the world economy. But no matter how much our planning class wants to deny it, Measure 37, passed twice by voters, is the opening vote of no-confidence in the slow-growth or no-growth vision. Crack open the planning dream and it falls apart, piece by piece. Our antiquated, slow-motion transportation model collapses under competitive scrutiny. Refuse to build one light rail line, and the entire vision begins to look absurd.

Current voter registration runs at around 39 percent Democrat, 36 percent Republican, and 22 percent Non-Affiliated. But election results are more like 100 to 1 for liberal causes and politicians. So conservatives hang on to their one Measure 37 victory after an avalanche of losses. We are, after all, a democracy. Public policy doesn't have to be an all or nothing battle.

But not everyone agrees. Liberals see Measure 37 as an opening crack in the fragile shell of isolation they have built around the state. If the crack gives way, they worry, the state's rotten infrastructure will be exposed, and their entire vision might evaporate in the bright competitive light of the world community.

And you know, they might be right. Why else would the *Wall Street Journal* be keeping such a close eye on the Beaver state?