

**HOUSE COMMITTEE ON ELECTIONS AND RULES**

**March 11, 2005 Hearing Room EUGENE**

**5:00 P.M. Tapes 16 - 17**

**MEMBERS PRESENT:           Rep. Derrick Kitts, Chair**

**Rep. Kim Thatcher, Vice-Chair**

**Rep. Paul Holvey**

**Rep. Billy Dalto**

**Rep. Debi Farr**

**Rep. Mitch Greenlick**

**Rep. Steve March**

**VISITING MEMBER:           Rep. Phil Barnhart**

**STAFF PRESENT:           Cletus Moore, Committee Administrator**

**Annetta Mullins, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**SB 162 – Public Hearing**

**HB 2551 – Public Hearing**

**HB 2583 – Public Hearing**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 16, A</b>		
004	Chair Kitts	Calls meeting to order at 5:00 p.m.
	Members	Introduce themselves.
	Chair Kitts	Outlines the agenda for the evening and opens public hearing on SB 162.

**SB 162 – PUBLIC HEARING**

060	Cletus Moore	Committee Administrator. Reads summary of SB 162.
67	Stewart Fergenson	Eugene resident. Testifies in opposition to SB 162. States during the last election he was the integrity manager for the election office and saw the election first hand. States he is not in favor of vote by mail. It seems to be one for convenience so people don't have to come down to the Election office but thinks there are many areas subject to fraud and problems outside the Election office. Things were run pretty well in the Election office. The only checking done when the ballot comes in is the signature. Some signatures were questionable and some were not good but that comes down to a decision that somebody has to make to find out if the person was a registered voter or not. Thinks a lot of things may have gone on outside the election office before the ballots reached the ballot box. Thinks the polling places provide a more fair method of voting and there is a lot less chance of something going wrong.
120	Rep. Holvey	Asks if Fergenson is aware of any specific integrity issues or violations to cause his concerns.
	Fergenson	Responds not this time. States he heard there were things that went on in previous elections that were very bad. They had observers at every drop box so that people were not stuffing invalid ballots in there. States he did not see anything going on in the Election office that was suspect but there are so many areas that need to be looked at carefully before they get to the election office. States he would feel better with a voting situation where the names are listed, the people show proof of who they are and they make their vote. Adds that in

states where people are too old to drive or the weather was bad or they had some problem, there were enough volunteers around to pick them up and take them to vote.

- 149 Rep. Greenlick Asks if Fergenson thinks helping as many people vote as possible is a value and how much of that value would he trade off.
- Fergenson Responds that he thinks it is a citizen's responsibility to vote and they should look upon election day as a special day in their lives. Adds that there should be absentee ballots for those who are traveling abroad or other reasons.
- 138 Rep. March Asks Fergenson if he carries his naturalization card on him.
- Fergenson Responds, no, he is a citizen of the United States. States he used to carry it for some years but there is no need to carry it any more.
- 145 Rep. Dalto Asks what an election integrity manager is.
- Fergenson Explains that they observed the election process to make sure it went as it was supposed to, and they did very well.
- Rep. Dalto Asks if that is a position.
- Fergenson Explains that both parties had observers at the Election office during the election to make sure that things were done correctly.
- 192 Rep. Dalto Asks how they would be able to separate valid and invalid ballots by watching someone at the drop site.
- Fergenson Explains that they had observers at the drop boxes on election day. That was primarily to make sure that there were no last minute shenanigans going on. Also at 8:00 p.m. there are to be no more ballots put in the ballot box. Their people were there to make sure that stopped and it worked. If anyone came up after 8:00 p.m. the official would take the ballot but the vote would not be counted. It will go on their record for next time that they did vote but their vote was not valid for this election. They wanted to make sure that things went according to the book at 8:00 p.m. and they did.
- 223 Rep. Thatcher Asks if there were problems only at the drop sites or was there something else.

	Fergenson	States there were other problems but they had nothing to do with the election process. It was part of a campaign and does not want to get into that now because it is not relevant to this discussion.
233	Rep. Thatcher	Asks if it is valid for someone from a college dorm to gather up ballots and take them down to the drop site.
	Fergenson	Responds they do not like to see that on election night.
214	Chair Kitts	Comments that Fergenson said he does not carry his naturalization card. Asks if he could provide it if asked.
	Fergenson	Responds he could. It is irrelevant because he is now a citizen and it is not an issue.
	Eleanor Mulder	League of Women Voters of Oregon and Eugene resident. Testifies in support of SB 162. Comments on the expense of running both kinds of elections and the cost to check signatures. Comments on difficulties of going to polling places.
302	Rep. Thatcher	Asks what the delays were under the old method on crosschecking.
	Mulder	Responds they had to make sure people were not voting twice. They looked at the poll books and the mailed in ballot and that sometimes caused a day or two delay in the results. States that there was no proof at the polling that the person was the name they signed. Unless someone raised an issue, they did not check the signatures.
325	Rep. Thatcher	Asks if there is a check now to make sure people do not vote twice.
	Mulder	Responds that Annette Newingham can answer the question.
337	Jason Leon	American Federation of State County and Municipal Employees (AFSCME). Testifies in support of SB 162. States he believes the people are harkening back to the days when people went to their local schools to vote. We have seen an increasing number of Oregonians participating in elections. They have not seen evidence of problems in the vote by mail system.
372	Rep. Farr	Asks if it is true that the percentage of voter participation just increased slightly and then flattened out over a period of time.

- Leon Responds that they have not had 86.48 percent of voter participation in the history of Oregon.
- Rep. Farr Asks if it was true prior to the last presidential election.
- Leon Responds he believes in the 2000 election we had higher participation than in the previous 1992 presidential election. The new number for the last presidential election was the highest in the state.
- 391 Rep. Holvey Comments that John Lindback and Annette Newingham are in the audience and could answer questions the members have asked.

The following material is submitted for the record without public testimony:

- Ruth Bendl & Mike Balanesi Submit via email a statement in opposition to SB 162 (**EXHIBIT D**).
- 401 Chair Kitts Closes the public hearing on SB 162 and opens a public hearing on HB 2551.

### **HB 2551 – PUBLIC HEARING**

- 407 Cletus Moore Committee Administrator. Reads summary of H B 2551.
- Janet Calvert League of Women Voters of Lane County. Speaks in opposition to HB 2551. States that their State President has submitted testimony against this bill for the League. States that it does not make sense to place this unnecessary short timeframe and pressure for election results on the election staff. Requiring ballot sites to be staffed 24 hours, seven days a week for the duration of the election period is expensive and simply not necessary. HB 2551 is simply a bad solution to a non-existent problem.

### **TAPE 17, A**

- 020 Donna Elder Eugene resident. Testifies in opposition to H B 2551. States she works during the elections and has worked at the election board in the back room for the past six years. States she would like everyone to be aware of the care and concern they use when they handle the ballots. They take a lot of pride in what they are doing and while their job is not very glamorous, they know it is very important. Believes the last

election which had the highest every turnout was the smoothest election she had ever been a part of.

- 038 Rep. March Asks if there are members of both parties present.
- Elder Responds yes and there are representatives of two parties that go to the drop sites to pick up the ballots.
- 042 Rep. Thatcher Asks if a seal was put on the boxes of ballots before they were counted.
- Elder Responds that she does not take part in that and that Annette Newingham can probably answer the question.
- 047 Rep. Dalto Comments he would be curious to hear how they process the ballots once the ballots are received by the Elections office.
- 053 Annette Newingham Lane County Elections Clerk. Explains process ballots go through once they reach her office:
- Check to make sure there is a signature on the envelope
  - They scan the bar code, put the ballots in trays and upload to the voter registration system; the system says a ballot has been received from the voter. It is the method to ensure that people do not vote more than once.
  - The signatures are then viewed. If the signature does not match they pull it out and it goes to more experienced staff for analysis.
  - The good ballots are sent to the back room. They are kept in batch order. Some counties keep them in precinct order.
  - They are kept in half trays and the ballots are not opened.
  - When they can open the ballots, they are slit open and kept in a certain type of container. They keep track of when the trays go out and come back. They do the process of opening and separating the envelopes. When they process the ballots they do not know what envelope it came out of.
  - The teams make sure there are not multiples; they have very detailed instructions on what to do if there are exceptions.
  - They separate the ballots from the secrecy envelopes and the ballots are then put into a different kind of box. The boxes are different than the half trays so they know where they are in the process.
  - When they go through the inspection process they are put in a different kind of box that is marked differently so they know the difference between one and the other. At every stage they

have very clear identifiers and they are stored in different parts of the back room.

- If there are problems with the ballots such as circling the yes and no instead of marking the arrows, those are set aside and special teams that have a great deal of experience review those to determine voter intent.
- They keep audit trails that are done with ballots if there are duplications so they can reconstruct where they came from should there be a recount.
- The back room is locked and only a few people have access, not even the janitors have access to the back room. Even though the ballots are not sealed individually, the room is secure.
- The last box has the batch number.
- They are taken downstairs for counting. The ballot counting room also is specially locked and there is no access even by the janitors.
- When the ballots are counted they go into the secured ballot counting room.

137 Newingham States that the details are much more in depth and feels this does not do it justice but hopes it gives a picture.

148 Rep. Greenlick Asks if they ever counter check the number that has gone in with the numbers that are ultimately counted.

Newingham Explains the count can change but they keep track of all the ballots and make sure the ones that are pulled out are accounted for. States that when they first started to optical scan, she had the workers count every ballot at the front end and match the totals. They quit doing it after the majority of one day because humans have a hard time counting accurately.

167 Rep. Greenlick Asks if they reconcile the numbers.

Newingham Responds affirmatively.

186 Chair Kitts Asks what percentage of ballots either require a verification of the signature because it does not match or do not have a signature from the very beginning.

Newingham Responds it is a very small percentage.

203 Chair Kitts Asks if equal emphasis is placed on ballots that are not signed and those that do not match.

	Newingham	Responds they do not put more emphasis on one or the other. They hired almost 250 extra help employees at the last general election. All the people know what they are supposed to be doing. You cannot put emphasis on one thing; you must be sure you are paying attention to all the details.
244	Rep. Thatcher	Asks if they try to call people if the signature does not match.
	Newingham	Responds they are required by law to contact the person. States they do not try to call the people; they send a letter. They have up to 10 days after the election to try to resolve the issue.
230	Rep. Dalto	Comments on personal information that is available and asks if Newingham has comments about the availability of signatures to those who are comparing signatures.
	Newingham	Comments she is not sure where Rep. Dalto's concerns are. Questions if the concern is that staff have access to the signatures and would somehow misuse it. States that all the people who work in her office take an oath, as do all those in the offices throughout the state. There is a high level of integrity and they would not hire people if they did not have that kind of integrity.
	Rep. Dalto	Asks who has access to the signatures and how the signatures are protected as personal information.
	Newingham	Responds that in any circumstance if there was someone who broke the law, they would be prosecuted to the highest degree.
290	Rep. Dalto	Asks if they have volunteers looking at the signatures in the initial processing of the ballots.
	Newingham	Responds that all the employees that work for them are paid a wage.

The following material is submitted for the record without public testimony:

	Ruth Bendl & Mike Balanesi	Submit via email a statement in support of HB 2551 ( <b>EXHIBIT E</b> ).
310	Chair Kitts	Closes the public hearing on HB 2551 and opens a public hearing on HB 2583.



## **HB 2583 – PUBLIC HEARING**

- 353 Cletus Moore Committee Administrator. Reads summary of HB 2583.
- 358 Joy Veysey Student at Lane Community College and intern with the Oregon Student Association. Submits and reads a prepared statement in opposition to HB 2583 (**EXHIBIT A**).
- 409 Rep. Farr Asks if students would have a social security card if they are citizens.
- Veysey Responds they possibly could but recalls in high school never having access to her social security card. States that proof of citizenship is very sensitive; it is not something one wants to have in their backpack or wallet. Adds that when in Europe no one carries their passport because it is dangerous.
- 434 Rep. Farr Comments that she also keeps her children's social security cards and passports and if they need them, she would be able to supply them to them to prove their citizenship.
- 438 Veysey Responds that not all students in Oregon are from Oregon. If the information was difficult to track down or if they had to get a passport themselves, the \$100 or \$150 would be a lot of money for a student. States she does not feel it is right to force the students to pay for the right to vote.
- 466 Rep. Dalto Recalls his mother sending him information while he was in college to get his passport and it didn't seem to be a huge problem and it did not seem to be a problem carrying his passport in Europe last year.

## **TAPE 16, B**

- 015 Veysey Comments on financial difficulties for students in college.
- 029 Chair Kitts Comments that for someone to get their birth certificate to prove their citizenship is about \$18. States that HB 2583 is not requiring a person to carry that information; it is saying when a person registers the first time, they must prove they are a United States citizen.
- 036 Veysey States that voter registration drives are essential to student. It gets people involved not only in the process of being registered to vote,

but seeing everyone else who will be involved in the process in the future, which is our duty. States that from her personal view, any amount of money implies some sort of tax and feels the signature on the card is enough.

- 052 Adam Petkum Board Chair, Oregon Student Association. Submits and reads a prepared statement in opposition to HB 2583 (**EXHIBIT B**).
- Chair Kitts Asks Petkum where his birth certificate is.
- Petkum States that it is in his apartment but usually is at his home in Portland. Comments on having to get a new birth certificate from Los Angeles County because the form of the previous document is no longer used.
- 118 Amy Dufour A registered voter and student at the University of Oregon. Testifies in opposition to HB 2583. Comments on helping coordinate the largest campus-based voter registration drive in the history of the University of Oregon and the state. States that if HB 2583 passes, it will be a detriment to get people to vote.
- 156 Jason Leon American Federation of State County and Municipal Employees, Council 75 (AFSCME). Submits prepared statement and testifies in opposition to HB 2583 (**EXHIBIT C**).
- 200 Leon Comments that from 2000 to 2002, he was an aide to Congresswoman Darlene Hooley and worked primarily on immigration issues. States that part of the naturalization and legal, permanent resident status process is that individuals would apply for and were granted the status. The person was issued a social security number and a social security card. It was the gateway to getting home loans, car loans. States he does not know if the practice has changed since 9-11, but it may be something the committee wants to look at. Continues presentation of prepared statement.
- 260 Chair Kitts Comments he agrees it is a right to vote if you are a citizen.
- Rep. Dalto Asks Leon if it is pretty easy to vote now.
- Leon Responds he believes it is extremely user friendly for citizens of this country and of Oregon.
- 270 Rep. Dalto Asks if there is anything the legislature can do to make it easier.

Leon		Responds he believes that Oregon and the Secretary of State have been forward thinking in developing bi-lingual voting material even though according to the 1964 Voting Rights Act, in order to make a state law to develop that material, there must be a certain percentage of the population eligible to register to vote that needs information in another language. Even though Oregon does not meet that threshold, our Secretary of State has taken that step. Believes this committee could make a recommendation that other languages be included in the registration process. Currently, in the Vietnamese community, there are five different dialects. If there is a starting place to make it easier for Asian-Americans to access voting and voting information in Oregon, it would be important because there is a growing community in Oregon.
294	Chair Kitts	Acknowledges Sen. Floyd Prozanski in the audience.
308	Kappy Eaton	League of Women Voters. Comments that the committee has written testimony, which their State President submitted at the North Plains meeting, but there was not an opportunity to have it presented. Comments on barriers a friend experienced in North Carolina, and on behalf of her friend asks that the Oregon system not be changed by HB 2583.
	Eaton	Comments that she sat on the Help America Vote Act (HAVA) steering committee. They had discussions about what is required under HAVA with regards to registration. Registration is very simple. If you are going to register by mail, the person has to send in something that shows who they are, a bank statement with the person's name and address, a rent receipt with the name and address, a copy of the person's driver license.
355	Chair Kitts	Comments that Eaton lists a few of the things. States that according to the registration form, one of the things that could suffice is a government document. Asks what a government document is.
	Eaton	Responds that a driver license is a government document.
362	Chair Kitts	Comments that a letter on an official letterhead is an official government document. It states their name and address on a government document. States the government document he is looking at is the document that is sent out to those that failed to register properly. Asks if someone could mail the government document back as proof because the official government document would have the name and address on it.

376 Eaton States if the information provided is not true, the person can be fined up to \$100,000 and go to prison for five years. The form says the person attests to the fact that the person is a citizen and is 18 years of age, and if they send it in by mail, they have to also show a receipt with their name and address or a bank statement with the name and address or a drive license with their name on it. States that certain documents are considered to be proof of one's identity. Asks if Newingham would consider the document suggested by Chair Kitts.

401 Annette Newingham Lane County Elections Chief. Responds they have never had anyone submit anything like the letter Chair Kitts mentioned. States they could submit something from an agency if they are getting assistance or something.

440 Chair Kitts Comments that "a government document" is very vague and gives no examples. Believes the committee may need to define what "a government document" is. States that there may be an open door that could allow fraud.

#### **TAPE 17, B**

017 Newingham Responds that the Association of County Clerks works closely with the Secretary of State's office. When the federal legislation was enacted one of the things done was to analyze and determine what those requirements were, and how they could uniformly follow them. When the counties have situations that are unclear, they often times seek assistance from the Secretary of State's office, who in turn has gone to the Attorney General's office to obtain clarification on how they should be interpreting the law. Stats that she does not know of any clerk that would accept such a letter as evidence. They would probably go to the Secretary of State's office and seek further guidance.

032 Rep. March States the presumption is if a person has a letter sent to him at an address it does prove the person is at that address.

Newingham Responds that if the letter came back undeliverable, they would take action because by statute if they have evidence that the person does not live at a particular address, they would be inactivated and it would generate a confirmation notice to inform them they have been inactivated.

051 Chair Kitts Comments that the Vote by Mail Manual states, "if this is a new voter who registers for the first time within your county by United States postal service mail, they must provide a copy of one of the

following...” and it goes on to say, “a current utility bill, bank statement, government check, paycheck, or other government document that shows their name and address”. States that it does not say what constitutes a government document.

Newingham Responds that it could be brought to the attention of the Secretary of State’s office since it is an administrative rule, and it is a dynamic document they constantly upgrade to make sure it gives the detail that they need to do their jobs.

072 Rep. Dalto Asks what they need to do their jobs. States that voting is a right and it is also a responsibility to be an active citizen and to add value to the citizenship. Asks if Newingham believes that voting is a responsibility, too.

Newingham Responds that she does not make those judgments. States that she is a county clerk that is responsible to administer state law and go by the rules. When the statutes are not clear, they often times bring bills to the legislature to add clarity or change the laws to make sure they have the tools to do their job. Citizens sign an oath and that has worked well in Oregon. States she does not recall having situations where she referred someone to the Secretary of State’s office because they voted and were not a United States citizen. States she can recall one instance where some one came to her and said that people were registering to vote who were not citizens. States she sent letters and challenged their registration based on that and those individual provided her with proof of citizenship.

100 Rep. Dalto States that he separates the two issues with this bill. The first issue is the information Newingham says she needs to do her job and he interprets that as needing a name and address. The other issue is the question of whether or not people who are not citizens are signing up to vote. States he thinks Newingham is saying all she needs is a name and address proved by one of these legal documents defined in administrative rule to do her job. Asks if that is correct.

117 Newingham Comments that she is not totally clear what Rep. Dalto is getting at. States this is a federal requirement they follow. Urges committee to get clarification from the Secretary of State’s office if there are questions on the interpretation of that federal law.

121 Rep. Holvey Asks if they could turn over questionable information to the Secretary of State for prosecution.

Newingham

Responds affirmatively. Explains that the county clerks can challenge registrations and refers to her previous comment on the report to her that people who were not U. S. Citizens were registering to vote. States they would do that because all evidence given is considered seriously.

- 138        Eaton        Following up on comments by Newingham, states that HAVA's requirements are federal law and the federal law does not require anything more than we are requiring. States this is a problem that almost has not come up in Oregon. It is considered that the signature on the registration card, which is attesting to the person being a citizen and is of that age. The penalty is not insignificant and it seems to have been a deterrent.
- 172        Chair Kitts        Comments that the standards set by HAVA are only the bare minimum; the states have the ability to expound on those bare minimum requirements as well.
- 174        Rep. Dalto        Comments he does not disagree with Eaton about the statement on the registration card that should dissuade someone from thinking of committing an illegal act. States he does not believe there is some grand conspiracy to get people to register to vote who should not be voting. Asks if Eaton thinks it is sufficient that all somebody needs is a name and address to be able to register to vote.
- Eaton        Responds that if she puts down her name and address and can bring a document that says she is who she is, then yes.
- 190        Chair Kitts        Asks if that is her personal position or the position of the League of Women Voters.
- Eaton        Responds it is her position, but the League supports what HAVA is giving this country in terms of trying to make it easy and accessible for people to vote.
- 203        Tony Bieda        Lane County Intergovernmental Relations Manager. Testifies in opposition to HB 2583 on behalf of Lane County Commissioner Bill Dwyer. States that Commissioner Dwyer has reviewed the bill and expressed his sentiments that he believes HB 2583 would create additional barriers and decrease access to the voting process.

The following material is submitted for the record without public testimony:

- Ruth Bendl & Mike Balanesi Submit via email a statement in support of HB 2583 (**EXHIBIT F**).
- 219 Chair Kitts Closes the public hearing on HB 2583 and asks if anyone in the audience would like to discuss any other issues relating to elections.
- 233 Rep. Barnhart Thanks Chair Kitts and the committee for holding the meeting in Eugene and for hearing testimony from around the states on these important matters without having to travel to Salem.
- 245 Chair Kitts Announces that the committee will be meeting in Florence tomorrow from 11:00 to 1:00. Adjourns meeting at 6: 38 p.m.

#### **EXHIBIT SUMMARY**

- A. **HB 2583, prepared statement, Joy Veysey, 1 p**
- B. **HB 2583, prepared statement, Adam Petkum, 1 p**
- C. **HB 2583, prepared statement, Jason Leon, 1 p**
- D. **SB 162, email, Ruth Bendl & Mike Balanesi, 1 p**
- E. **HB 2551, email, Ruth Bendl & Mike Balanesi, 2 pp**
- F. **HB 2583, email, Ruth Bendl & Mike Balanesi, 2 pp**