

**HOUSE COMMITTEE ON ELECTIONS AND RULES**

**March 18, 2004 Hearing Room BEND**

**4:00 P.M. Tapes 22 - 23**

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

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

**Rep. Paul Holvey**

**Rep. Billy Dalto**

**Rep. Debi Farr**

**Rep. Steve March**

**MEMBER EXCUSED: Rep. Mitch Greenlick**

**VISITING MEMBERS: Sen. Ben Westlund**

**Rep. Chuck Burley**

**Rep. Gene Whisnant**

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

**Annetta Mullins, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 2614 – Public Hearing**

**HJR 1 – Public Hearing**

**HB 2551 – Public Hearing**

**Approval of Legislative Counsel Drafting Request – Work Session**

## Introduction of Committee Measures – Work Session

**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 22, A</b>		
004	Chair Kitts	Calls meeting to order at 4:09 p.m. and asks members and visiting members to introduce themselves.
	Rep. Farr	Introduces herself.
	Rep. Thatcher	Introduces herself.
	Rep. Chuck Burley	A visiting member, introduces himself and thanks Chair Kitts and committee members for coming to Bend to hold a committee meeting. States that Rep. Whisnant is on his way from Salem.
	Rep. March	Introduces himself.
	Sen. Ben Westlund	A visiting member, introduces himself and thanks Chair Kitts for bringing the committee to Bend, and thanks staff for the effort of putting the meeting together.
020	Chair Kitts	Introduces himself and expresses his appreciation to Sen. Westlund and Rep. Burley for requesting that the committee come to Bend for a meeting to hear the concerns of the area citizens. Also introduces staff.
052	Chair Kitts	Reviews the agenda and opens a public hearing on HB 2614.

### **HB 2614 – PUBLIC HEARING**

056	Cletus Moore	Committee Administrator. Reads summary of HB 2614.
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- Chair Kitts Welcomes former State Representative and Majority Leader Tim Knopp in the audience.
- 068 Marie Gibson President, League of Women Voters of Deschutes County and resident of Bend. Reads statement in support of HB 2614 and in support of testimony previously submitted by the League of Women Voters (**EXHIBIT A**).

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

- Robb Reavill Bend resident. Submits letters to Sen. Westlund and Rep. Burley in support of HB 2614 (**EXHIBIT J**).
- 098 Chair Kitts Closes the public hearing on HB 2614 and opens a public hearing on HJR 1.

### **HJR 1 – PUBLIC HEARING**

- Cletus Moore Committee Administrator. Reads summary of HJR 1.
- 110 Dalyte Hartsough League of Women Voters and resident of Bend. Reads a prepared statement in support of HJR 1 and in support of testimony previously presented by the League of Women Voters (**EXHIBIT B**).
- 123 Chair Kitts Comments that the Speaker of the House and President of the Senate are addressing this and other issues with a workgroup related to legislative efficiencies and hopefully will bring forth a proposal that either incorporates HJR 1 and or at least vets it out to some degree.
- 141 Rep. Burley Reads the language on the length and purpose of each session in HJR 1 and asks how flexible the League of Women Voters would be on the length of each annual sessions and what would be covered in each session.
- Gibson Responds that she believes the League could be very flexible and that is why the League supports having a broad discussion to work out the details of the issue.
- 157 Sen. Westlund Comments he has been intrigued with annual sessions and there are pluses and minuses to both sides. Annual sessions could respond more nimbly to problems that arise and issues that need to be

addressed quickly. His concern is trying to not only get greater citizen involvement but being able to bring a broader spectrum of our citizenship into legislative participation. States that if Oregon goes to annual sessions with the current salary of \$1,283 a month, he would be concerned by the disruption caused by taking six or seven months out of every two years, and it would be an almost prohibitive amount of time to ask employers to take three months out of one year and three out of another, which would disrupt normal employment patterns. Adds that without having a substantial increase in legislative salaries to a living wage job we would exclude many who participate in the legislative process thereby creating a permanent, professional political class. Asks what the League's position is on increasing legislative salaries and how that would positively impact participation in the legislature.

Gibson Responds that the State League has suggested a very short session restricted solely to the budget, with all other issues dealt with in the alternate year. It would not be six months for either session; that might reduce the costs. States that would have to be worked out by a committee of many people besides legislators.

204 Chair Kitts Asks if the League has taken a position on salary increases.

Gibson Responds she does not believe the League has taken a position.

216 Sen. Westlund Comments that every legislator makes a tremendous sacrifice of both family and finances to serve in the legislature. Oregon is unique in the combination of biennial sessions, extremely low salaries and in session years there is no limit. States he is starting to lean toward the annual session concept.

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

Robb Reavill Bend resident. Submits letters to Sen. Westlund and Rep. Burley in support of HJR 1 (**EXHIBIT K**).

Chair Kitts Closes the public hearing on HJR 1 and opens a public hearing on HB 2551.

### **HB 2551 PUBLIC HEARING**

244 Cletus Moore Committee Administrator. Reads summary of HB 2551.

- 256 Dee Berman Crook County Clerk and President, Oregon Association of County Clerks. Submits prepared statement in opposition to HB 2551 and a cost estimate for Crook County to implement HB 2551 (**EXHIBIT C**). Summarizes prepared statement. Adds that she is not sure how widespread the complaints of fraud are within county election offices because no one in their association has been made aware of any allegations. States that she would like to reassure everyone that county clerks and election officials, elected or appointed, take an oath of office and they take that oath very seriously. They swear to uphold the Constitution of Oregon and the United States. Everything they do is governed by statute and administrative rules. They are mandated to use the Vote by Mail Manual, which is an administrative rule, to make sure they all are doing the same thing at the same time.
- 388 Chair Kitts Comments he does not believe anyone is accusing anyone of fraud. The purpose of this committee is to look at the elections process to make sure Oregon is preemptive in addressing anything that could potentially go wrong.
- 413 Chair Kitts Asks if they would still have preliminary election results on election night under HB 2551 just as they do now, but they just would not be able to certify the results on election night.
- 430 Berman Responds that they do not certify their election until 10 days after the election. Other counties need to get ballots to them and ensure that the signatures that were challenged have no resolution. States they have some counties have results on election night by 8:00 p.m. because they have processed the ballots that have come in. States her board comes in at 1:00 p.m. and the opening and inspection boards work for five days. They have the ballots ready for the counting board. Their first figures are a good count of what the results will be unless the races are extremely close.

**TAPE23, A**

- 019 Chair Kitts Comments that Berman is saying that unless a race is really close, the count at 8:00 p.m. is the pattern that will progress throughout the night.
- Berman States that if they could not count the votes until 8:00 a.m. on election day, they would not have the ballots counted by 8:00 p.m. because there is too much to do prior to counting the ballots. States that very few ballots would be counted for the media report at 8:00 p.m.
- 032 Chair Kitts

Asks for clarification of Berman's spreadsheet on costs (**EXHIBIT C, page 2**) and why she shows security costs.

- Berman Explains she does not have the space in the courthouse. Opening, inspection and counting will have to be done offsite. She will probably have to rent space for three days. She would have to have the sheriff's department there from the time they took the ballots in and until they were completely finished. States the \$19 is the hourly wage for one of their security people. States they security personnel are union and they would have overtime.
- 073 Chair Kitts Notes the estimated cost for additional equipment and storage. Questions the \$7,590 for the two letter openers. Asks where the prices come from.
- Berman Responds that the price is a quote from Pitney Bowes and that is what she paid for the one they use. Explains that it puts the envelopes through quickly and it never cuts the ballots.
- Chair Kitts Asks for an explanation of the \$480 for storage.
- Berman Responds that the storage costs are for storage of all their equipment and tables and chairs.
- 102 Chair Kitts Notes Berman shows a cost of \$1,200 for telephone and internet hookup.
- Berman Responds she called the person who handles their telephone system hookup and for internet; he said that is probably a low cost. States there are no phone lines and she would not have her own office number.
- 112 Chair Kitts Notes the arrival of Rep. Dalto, Rep. Whisnant and Rep. Holvey and asks them to introduce themselves.
- 104 Rep. Whisnant A visiting member. Introduces himself and thanks Chair Kitts for inviting him to sit with the committee today.
- 119 Rep. Dalto Introduces himself.
- Rep. Holvey Introduces himself.

- 122 Rep. March Asks what percentage of their total ballots they have counted by 9:00 p.m. in a regular election.
- Berman Responds it would be well over half.
- 138 Rep. March Asks how many ballots would be counted by 9:00 p.m. if HB 2551 were in place.
- Berman Responds they have 17 precincts and would guess they would be into precinct three or four. States that usually her opening and inspection board are gone by 10:00 p.m. and the counting board generally finishes around midnight. By midnight they would have counted all the ballots they received.
- 158 Rep. Thatcher Asks how many ballots Crook County gets in a big election.
- Berman Responds they have 11,000 registered voters; there may be 9,000 ballots.
- Rep. Thatcher Asks how many letters the openers open per hour.
- Berman Explains that two openers would be needed because each board would have to have one because they must make sure the ballots do not get mixed up.
- 179 Chair Kitts Asks Berman to clarify "board."
- Berman Explains that an "opening board" would consist of two members of one party and two members of another party and they have a chairperson. States she has more Republican board members than Democrats and one non-affiliated. States she uses the non-affiliated person when she cannot find a Democrat.
- Berman Explains the board separates the secrecy envelope from the identification. The secrecy envelope with the ballot goes to another board and the next board opens the secrecy envelope.
- 210 Rep. Thatcher Asks how many envelopes the opener can open per hour.
- Berman Responds she does not know but can find out.

215	Rep. Thatcher	Asks if they use the opener for the secrecy envelopes also.
	Berman	Responds they do not; they only use the opener for the identified envelopes.
218	Chair Kitts	Asks if the county clerk is required to have a specific model and whether all counties are using the same opener.
	Berman	Responds that she went with the cheapest bid. States she received a bid from Eagle, Pitney Bowes and Bullfrog Enterprise.
	Chair Kitts	Asks if she was getting quotes only for the spreadsheet or whether she can buy whatever she wants.
237	Berman	Responds that she must be within contracting laws and has to have it approved by the County Court.
	Chair Kitts	Asks if they are not mandated to buy a certain model by the state.
	Berman	Responds it is not mandated by the state.
249	Rep. Dalto	Suggests a person could probably open 600 envelopes an hour, and states a person will pull the secrecy envelope from the outside envelope anyway. Asks what difference it would make to have the openers or a couple of people opening and pulling at the same time.
260	Berman	Responds that the new openers open the entire length of the envelope instead of the end which makes it easier for the people to remove the envelope. Estimates that the new openers save two to three hours.
256	Rep. Burley	Asks how the Centralized Voter Registration process will affect the system.
	Berman	Responds she does not know how the process will work because they still compare the signature to the actual card.
298	Rep. Burley	



Suggests the county clerks try to determine how it will affect their work because it is supposed to be up and operational for the next election.

- Berman States that the pilot counties are doing a mock election now. States they have to be ready by January 1, 2006. Adds that she does believe the new registration system would expedite the process of getting the ballots ready and counting them.
- 351 Sen. Westlund Recognizes Deschutes County Clerk Nancy Blankenship. States that Ms. Blankenship's first election in a new building with seven initiatives on a presidential election ballot was executed in a very timely and professional manner.
- 375 Sen. Westlund Asks if Berman was elected as a Republican or Democrat.
- Berman Responds that she is nonpartisan.
- Sen. Westlund Asks if the clerk positions in the state are a representative sampling of Republicans and Democrats.
- 386 Berman Responds that she does not know what the political parties of the other county clerks are; it is not something they discuss.
- 394 Sen. Westlund Asks if Berman knows of any county clerk who supports this bill.
- Berman Responds, no. All 36 county clerks oppose this bill.
- 402 Sen. Westlund Comments he believes there is a solution here in search of a problem. Believes the issue is integrity and he has not heard or seen or had anyone hinted at any election fraud in Oregon in recent years.
- 422 Rep. Whisnant Asks how many signatures on ballots were challenged.
- Berman Responds they had 12 unresolved signatures.
- 435 Rep. Whisnant Asks how many signatures were challenged in Multnomah or Clackamas county.
- Berman

She does not know. Adds that the 12 unresolved in Crook County were because there was no signature on the envelopes and they were not able to contact the people, or the signature did not match the voter registration card. States she goes to the homes personally to take their ballots to them.

- 462 Rep. Whisnant Asks if Berman agrees that verifying signatures is the most subjective part of the process.
- 466 Berman Comments they can look at a signature and know immediately if it is a good signature. Explains that they attend training by the State Police on signature verification and then train their boards.

#### **TAPE 22, B**

- 025 Nancy Blankenship Deschutes County Clerk. Submits and presents a prepared statement in opposition to HB 2551 (**EXHIBIT D**).
- 080 Blankenship Continues presentation of her prepared statement (**EXHIBIT D, page 2**).
- 139 Blankenship In response to Rep. Burleys question on the registration process, states that she does not believe it will impact their opening process because as she understands the bill, she would still be allowed to do the signature verification.
- 153 Rep. Farr Comments that it seems the bill would actually increase the risk of ballots being tampered with instead of decreasing the risk. Asks if Blankenship agrees with her statement.
- Blankenship Responds that she agrees.
- Rep. Farr Asks if there has ever been an incident of the drop site being compromised.
- Blankenship Responds that she does not know of any incident.
- 163 Rep. Farr Asks how secure the drop sites are locally.
- Blankenship Responds that one of their two 24-hour-7-day drop sites is located in their building and one is located in their road department building

located east of town. They are inside a building and ballots are inserted like at a night deposit.

- 190 Rep. Farr Asks what the ballots are placed in when the ballots are removed from the drop sites.
- Blankenship Explains that two of their staff members of differing parties go to the drop site with a metal box. The ballots are placed in the metal box and the metal box is sealed and taken back to their office vote by mail room. The metal box is then opened and the ballots are counted.
- Rep. Farr Asks how many ballots are removed at a time.
- Blankenship Responds that it depends on the stage of the election—anywhere from 30 to maybe 300. When there are more ballots being dropped, their retrieval is much more often.
- 191 Rep. Dalto Asks if temporary staff members go out to collect the ballots from the drop sites.
- Blankenship Nods affirmatively.
- Rep. Dalto Wonders if the county clerks' offices are the only ones who hire their staff based on their partisan registration.
- Blankenship Adds that they send their permanent staff if needed.
- 188 Rep. Whisnant Refers to what happened in Washington and states he believes we want to be sure of the integrity of our system statewide. States he may ask that Chair Kitts look at a way to amend HB 2551 because the costs are staggering. Comments he believes in the last Governor's race in Deschutes County they had quite a large number of ballots that were contested or the signatures were held statewide because the signatures had to be verified. Believes Deschutes County has had more challenged ballots than Crook County and as Deschutes County grows they will be facing problems like those in Multnomah County. States he hopes the county clerks can come up with a way to protect Oregon from what happened in Washington if HB 2551 does not pass.
- 251 Rep. Thatcher Comments she want to make sure the process is fair. Asks if the 2,332 hours Deschutes County spent includes receipt of ballots or verifying signatures.

	Blankenship	Nods negatively.
	Rep. Thatcher	Asks if Deschutes County prints the precinct code on the ballot in a machine sort, or if they sort by precinct while they are still in the identification envelope.
	Blankenship	Explains that Deschutes County has ballot styles. Each style represents a certain location. For the special election coming up in May, there are special districts and just under 70 ballot styles. Some styles go to only one person. It is based on the location; a number of the precincts have multiple styles. Ballots are counted by precinct; the information is printed on the outside of the return identification envelope.
252	Rep. Thatcher	Asks if the ballots are separated while they are still in the identification envelopes.
	Blankenship	Responds affirmatively.
278	Rep. Thatcher	Asks if anybody in the building where the drop sites are located have access after hours, and if the area within the building is locked.
	Blankenship	Explains that their building, the new state-county building, would be locked. The drop site is in the mail room where they do the mail; the room is locked. Other departments do have access to the room but the box is locked and only their department has access to the lock.
296	Judge Scott Cooper	County Judge, Crook County. Submits a prepared statement and testifies in opposition to HB 2551 ( <b>EXHIBIT E</b> ).
368	Rep. March	Comments on the cost of the unfunded mandate.
388	Kathleen Piller	Crook County resident. States she was the observation team leader for the last General election in Crook County and that she does not see how they got it done as fast as they did. There is more to the process than just counting the votes. The process prior to counting the ballots is so lengthy that there is no way they could do it.
409	Chair Kitts	Interrupts the hearing on HB 2551 and opens a work session on possible approval of drafting request and possible introduction of committee measures.

## APPROVAL OF DRAFTING REQUEST – WORK SESSION

425 Rep. Holvey MOTION: Moves that the committee request the Speaker to APPROVE THAT LEGISLATIVE COUNSEL DRAFT A BILL ON CAMPAIGN FINANCE REFORM (EXHIBIT F).

444 VOTE: 6-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Rep. Greenlick

Chair Kitts The motion CARRIES.

## INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

450 Rep. Holvey MOTION: Moves LC 2112 (EXHIBIT G) AND 3499 (EXHIBIT H) BE INTRODUCED as committee bills.

473 VOTE: 6-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Rep. Greenlick

Chair Kitts The motion CARRIES.

## **TAPE 23, B**

018 Chair Kitts Closes the work session on approval of a drafting request and introduction of committee measures and reopens the public hearing on HB 2551.

## HB 2551 – PUBLIC HEARING

022 Andrea Blum Member of League of Women Voters of Deschutes County and of Oregon. Submits and presents a prepared statement in opposition to HB 2551 (EXHIBIT I).

051 Jackie Elders Chair, Deschutes County Voter Integrity Program. States that for three years they have worked with their county clerk and have developed a rather comprehensive program. It works totally in

conjunction with the county clerk. The county clerk has provided them with all the state manuals and they go to all the training sessions. States their group that that observe the elections have been together for three years. Through the last election cycle they worked with the observers throughout the state.

Elders States there are no problems with opening the ballots. There are so many other problems that are involved. The committee should be looking at storage of provisional ballots. Part of the problem in Washington state was the mishandling of the provisional ballots. There are problems with people who no longer live in this state who are receiving ballots. States people have told her that they live in California and their ballot goes to a parent, relative or friend. The parent, relative or friend mails the ballot to the person and the person mails it back; the ballot is mailed in Oregon and goes through the process. Some counties, Washington County is one of them, do have facilities to separately lock up the ballots. They are in a lunch room that is accessed by anyone in the clerk's office who has a key to the lunch room 24 hours, seven days a week. It is not a matter whether those ballots are opened four or seven days early, they are still accessible to people to come in and walk off with them. States there may be bigger problems than the time the ballots can be opened.

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

	Maria Iturriaga	Harney County Clerk. Submits a prepared statement in opposition to HB 2551 ( <b>EXHIBIT L</b> ).
	Steven E. Grasty	Judge, Harney County Court. Submits a prepared statement in opposition to HB 2551 ( <b>EXHIBIT M</b> ).
	Robb Reavill	Bend resident. Submits letters to Sen. Westlund and Rep. Burley in opposition to HB 2551 ( <b>EXHIBIT N</b> ).
097	Chair Kitts	Comments that this committee is working very closely with the Secretary of State's office on all these issues. Thanks everyone for their testimony.
115	Chair Kitts	Thanks members for their participation.
124	Rep Burley	Announces that he, Sen. Westlund and Rep. Whisnant will be holding four town hall meetings in Deschutes County tomorrow.

**EXHIBIT SUMMARY**

- A. **HB 2614, prepared statement, Marie Gibson, 1 p**
- B. **HJR 1, prepared statement, Dalyte Hartsough, 1 p**
- C. **HB 2551, prepared statement and spreadsheet, Dee Berman, 2 pp**
- D. **HB 2551, prepared statement, Nancy Blankenship, 2 pp**
- E. **HB 2551, prepared statement, Judge Scott Cooper, 2 pp**
- F. **Drafting Request, press release, staff, 2 pp**
- G. **Introductions, LC 3499, staff, 13 pp**
- H. **Introductions, LC 2112, staff, 95 pp**
  - I. **HB 2551, prepared statement, Andrea Blum, 1 p**
  - J. **HB 2614, prepared statements, Robb Reavill, 2 pp**
- K. **HJR 1, prepared statements, Robb Reavill, 2 pp**
- L. **HB 2551, prepared statement, Maria Iturriaga, 1 p**
- M. **HB 2551, prepared statement, Judge Steven Grasty, 1 p**
- N. **HB 2551, prepared statements, Robb Reavill, 2 pp**