

HOUSE COMMITTEE ON ELECTIONS AND RULES

March 4, 2005 Hearing Room NORTH PLAINS

3:00 P.M Tapes 12 - 13

Corrected 10/10/05

MEMBERS PRESENT: Rep. Derrick Kitts, Chair

Rep. Kim Thatcher, Vice-Chair

Rep. Billy Dalto

Rep. Mitch Greenlick

Rep. Steve March

MEMBER EXCUSED: Rep. Paul Holvey

Rep. Debi Farr

STAFF PRESENT: Cletus Moore, Committee Administrator

Annetta Mullins, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2583 – Public Hearing

HB 2551 – Public Hearing

SB 162 – Public Hearing

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.

TAPE/#	Speaker	Comments
TAPE 12, A		
003	Chair Kitts	Calls meeting to order at 3:05 p.m., welcomes the audience, announces that Rep. Greenlick is just arriving and that Rep. Dalto is stuck in traffic. Asks members to introduce themselves.
018	Rep. March	Introduces himself
020	Rep. Greenlick	Introduces himself.
024	Rep. Thatcher	Introduces herself.
026	Chair Kitts	Introduces himself and acknowledges the presence of Sen. Bruce Starr.
020	Chair Kitts	Opens a public hearing on HB 2583.

HB 2583 – PUBLIC HEARING

031	Cletus Moore	Committee Administrator. Reads summary of HB 2583.
043	Sen. Bruce Starr	Senate District 15. Thanks Chair Kitts for taking the committee meeting out of Salem. Asks that he be allowed to comment on HB 2583 and HB 2551.
059	Chair. Kitts	Opens a concurrent public hearing on HB 2551.

HB 2551 - PUBLIC HEARING

	Cletus Moore	Committee Administrator. Reads summary of HB 2551.
047	Sen. Bruce Starr	Testifies in support of HB 2551 and HB 2583. Comments that HB 2551 and HB 2583 are similar, if not identical to bills he introduced at the request of the same people, Ruth Bendl and Mike Balanesi, in 2001 and believes they are more important today. Believes we have

better information and believes the objections may be similar to those in 2001. Thinks it is important to understand what it means to vote and to know the value of the vote and we should be careful about who has the opportunity to vote. It is important that we do not open the ballots before the day of the election. States that the committee may hear this will cost extra money because they do not have the manpower and that this would be an extra burden to county clerks. Would respond, 'what value do we place on the sanctity of our election process.' There may be added costs to the system. Appreciate this committee's willingness to hear the issues and expects the committee will do a great job in deciding public policy. Comments that one of the arguments for going to a vote by mail system was to save money and believes it has saved money, but the committee ought to look at taking part of the savings to make sure our system is one we can count on and is one that protects the vote. Hopes if issues come up and the bill needs to be amended, the committee will work on them and find the votes to move the bills to the full House so they can get to the Senate.

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| 123 | Chair Kitts | Thanks Sen. B. Starr for taking the time to appear before the committee. |
| | Rep. Greenlick | Comments that HB 2551 says that some things can only be done by an elections official. Asks what an "elections official" is. |
| | Sen. B. Starr | Responds he believes the committee ought to address what an election office is; it can be more than the county clerk. |
| 141 | Chair Kitts | Announces the committee will meet until 5:00 p.m. and outlines process and time limitation of each witness. Reminds witnesses that public hearings are open on HB 2583 and HB 2551. |
| 210 | Rep. March | Comments that witnesses can also mail or email comments to the committee through the Committee Administrator, and that the mail and emails will be made a part of the record. |
| 214 | Chair Kitts | Reiterates that individuals may mail or email their testimony, and advises witnesses that if time does not permit them to testify, they may submit their written testimony to the Committee Assistant and that it will be entered in the record. |
| 228 | Mike Balanesi | Portland. Testifies in support of HB 2583. States that two of the terrorists who flew planes on 9/11 got their flight training, in part, by using their precinct cards as identification. Comments on initiative proposition passing in Arizona that requires a person to prove their |

citizenship before registering to vote and that it has been deemed to be constitutional. States that an initiative would cost Oregon citizens several hundreds of thousands of dollars to put an initiative in the street. Sixty to seventy percent of people say it is a no-brainer and that it is already in the Oregon Constitution. They have not done an initiative because the chief opponent of this bill is the gatekeeper of the initiative process and that is a hindrance. Speaking to HB 2551, shows picture of drop box behind county building at the curb **(EXHIBIT A)**, and reads from The Vote by Mail Manual about secure ballot boxes and required attendance of an elections official.

Denise Wendler Director of Business Affairs, Portland State University. Testifies in opposition to HB 2583 **(EXHIBIT B)**.

415 Chair Kitts Comments that the intent of Motor Voter was to register as many people as possible. Asks if it is not possible for students to request a birth certificate.

429 Wendler Responds the students could request the documents from their home state or contact their parents. The concern is whether the students would take the extra step or choose not to register.

TAPE 13, A

006 Ruth Bendl Portland resident. Comments that if financial aid is attached to a requirement for voter registration, she believes most students who need financial aid would make the effort to ask their parents or whoever they need to for a copy of their birth certificate. Testifies in support of HB 2583 **(EXHIBIT C)**.

057 Bendl Testifies in support of HB 2551 **(EXHIBIT D)**.

078 David Johnson Oregon Action, Portland. Testifies in opposition to HB 2583 **(EXHIBIT E)** and HB 2551 **(EXHIBIT F)**.

123 Rep. Thatcher Asks if the volunteers of Oregon Action get training.

Johnson Responds affirmatively and comments on training process.

135 Jeri Bitz Clackamas County Election Integrity Project. Concerned about integrity of opening ballots early. Proposes amendments to HB 2551 **(EXHIBIT G)**.

- 196 Rep. Greenlick Asks Bitz to explain her comments about write in votes.
- Bitz Comments on other parties mounting a write in campaign against their group's write in name. States that is legitimate activity unless someone from their group saw the write ins on the ballots that were opened seven to ten days prior to election day.
- 226 Barbara Anderson Multnomah County, Portland resident. Explains she worked on election committees and campaigns when we had voting polls. When the polls closed, they separated the ballots. States it is better to do it right than to do it in seven to ten days in advance. States that she does not understand what the big deal is about proving ones citizenship before registering to vote the first time. States that everyone has to have a passport to travel and it is not difficult to get a birth certificate or prove that one is a citizen. Voting is a privilege, not a right that we have to protect.
- 254 Jerry Hanson Director of Assessment and Taxation, Washington County. Explains that their office includes the Election Division. Introduces Yamhill County Clerk, Jan Coleman, and Washington County Election Manager, Mikki Kawai. States that voting is a right, not a privilege, for every citizen. Presents concerns in statement prepared by Annette Newingham, Legislative Chair, Association of County Clerks **(EXHIBIT H)**.
- Jan Coleman Yamhill County Clerk. States that the statement prepared by Newingham **(EXHIBIT H)** covers their concerns. States that the county clerks are not opposed to HB 2583 but believe it has some loopholes that need to be worked through. Comments that she received a letter threatening to take her to court and received abusive remarks toward her because she asked for proof of identification.
- 373 Rep. Dalto Asks how the proof of citizenship, when people are mailing in their registrations, would affect the county clerks' offices to get everyone registered and ballots mailed by election time.
- Mikkie Kawai Responds that if proof were not attached, they would not be able to register the person; they would return the registration form.
- 443 Rep. Dalto Asks why they could not add additional staff.
- Kawai Responds it would not help because the document would not be there.

Rep. Dalto Asks if they can increase their staff to take care of those who have the proof of identification.

Kawai Responds they would be able to register the person but is not sure if they are to scan the document or somehow attach it to the voter's record because she is not clear about what the bill says.

TAPE 12, B

007 Rep. Greenlick Comments there have been a lot of Supreme Court decisions on how many barriers can be placed to allowing a citizen to exercise his right to vote. Asks how big a barrier can be before we are infringing on the right of the American citizens.

Kawai Responds that it seems if an undue amount of hardship is placed on someone to register, it seems to infringe on the person's rights. Believes requiring a person to provide a document that costs \$18 to \$30 would be an extra burden.

025 Jerry Hanson Comments he sees that as a significant issue because they cannot assume it is okay for a few people to have a burden placed on them. Comments on the process of issuing passports and reasons that some people cannot get a birth certificate.

051 Rep. Greenlick Asks if the committee can have legal counsel brief the committee on the question of where the line on burden is at a later meeting.

Chair Kitts Advises Rep. Greenlick that he will check with legal counsel.

Chair Kitts Encourages the county clerks to have amendments drafted to make the bill a better bill.

075 Chair Kitts Invites representatives of the county clerks to submit any statements they have for the record.

Hanson Submits statement prepared by Annette Newingham, Elections Legislative Chair, Association of County Clerks in opposition to HB 2551 **(EXHIBIT I)**.

Jan Coleman Yamhill County Clerk. Submits but does not present a prepared statement on behalf of the county clerks in opposition to HB 2551 **(EXHIBIT J)**.

- 071 Billie Goodwin Resident of Multnomah County. Comments that the law says we must be a citizen of the United States in order to vote and we need to enforce that. States she is in favor of encouraging new voters to vote but providing proof of citizenship is nothing compared to the hardship men and women who have been in service have gone through to help maintain this right for us to vote. Believes it is our duty to do what we can to continue putting forth more effort to have people vote. Anything worth doing is worth going through some barriers and hurdles. Comment that her son had a misfortune five years ago and he had to provide his birth certificate and believes everyone should put forth the effort if they want to vote.
- Chair Kitts Declares the meeting in recess from 4:09 p.m. to 4:13 p.m.
- 109 Bill Bradbury Secretary of State. Testifies in Opposition to HB 2583. States that as Secretary of State and the chief elections officer for Oregon, one of the most important duties he has is to make sure that as many Oregonians as possible have the opportunity to exercise their right to vote. Explains that his office conducts voter outreach, provides citizens with information about how to register and cast their ballots. They also work hard to make sure there are no unnecessary barriers that would prevent eligible voters from registering or voting. This bill is a solution in search of a problem—there is no evidence of a widespread attempt by non-citizens to register and vote in Oregon. Under current federal law, citizens who send their voter’s registration card by mail include a photo copy of their identification, indicating their current name and address. At the bottom of every registration card, the citizen is required to sign an affidavit that they are a U. S. citizen. States that falsely swearing citizenship on the voter registration form is already a Class C felony. The issue is not whether Oregonians must be U. S. citizens to vote; it is already clearly established by law. The issue is by enacting onerous requirements, HB 2583 would discourage eligible citizens from registering and voting. The bill would be devastating to voter registration drives. Does not believe anyone walks around with the documents in their pocket. We should do everything possible to encourage eligible citizens to register, not make it harder for them to do so.
- 195 Bradbury Explains there are problems with Section 4 (5) of HB 2583. It specifies that voter registration occurs on the date the confirmation notice is mailed by the county. This provision, combined with the constitutional 20-day voter registration cutoff, is a formula for an equal protection challenge under the United States Constitution. Gives examples of people attempting to register to vote, and some not being able to vote because the county, due to workload, could not get the registration process done 20 days prior to the election. If enacted, HB 2583 would have devastating consequences for our electoral

system and democracy by actively discouraging voter registration and participation. Urges the committee to reject HB 2583.

- 213 Rep. Thatcher Asks if anyone has been prosecuted on false swearing on their registration.
- Bradbury Responds there are a couple of cases every year or two. They are currently prosecuting two people who were not citizens of the United States and voted in Oregon.
- Rep. Thatcher Asks how the two were discovered.
- Bradbury Responds that he does not know the details of how it was discovered.
- Rep. Thatcher Comments that if an overseas ballot being returned is postmarked in adequate time but the ballot does not arrive by the deadline, the ballots are not counted. Asks if there is any similarity between that and the county election offices not being able to complete the voter registration prior to 20 days before the election, and whether the process for returning ballots from overseas should be changed.
- 246 Bradbury Responds that Oregon gets their overseas ballots out 45 days before an election. There is a challenge for some overseas citizens to get their ballots back. Oregon has, basically, adopted a policy that says ballots have to be back to the elections staff by 8:00 p.m. on election day for them to be counted. One of the reasons for that is the postmarks cannot be read. States there is some difficulty with that but they do not see any reason to change it because people are treated by the government very equally.
- 244 Rep. Greenlick Asks Bradbury how the courts have balanced the question of putting barriers up to prevent citizens from exercising their right to vote, and when is it not appropriate.
- Bradbury Responds that he can give a general statement that the courts always require that there must be a very compelling reason to limit free speech and it needs to be equally applied to everybody.
- Rep. Greenlick Comments on efforts to enhance voter registration and adds that the committee can ask how that line is drawn.
- 305 Bradbury Testifies in opposition to HB 2551. States that the provision of HB 2551 in Section 1, delays processing ballots until 8:30 a.m. on the day

of the election. Section 3 effectively requires the county elections office to staff all drop boxes. There is no evidence that ballots from drop boxes have been tampered with. There is no evidence that ballots have been tampered with once they are in the county elections office. The problems the bill causes with the so-called solution are very real. The delay of opening the envelopes creates a delay in counting the votes and announcing the results. The longer the counting takes, the less confidence the voters have that the election was conducted fairly and openly and accurately. By compressing the time the counties have to process the ballots, we do not get more security. It places huge pressure on the county staff to process the same workload in a much shorter period of time. The drop box provision creates an unfunded mandate to staff drop boxes. Without accompanying funding it is more likely to eliminate drop boxes entirely but there is a provision in the law that says every county will have at least two drop boxes. That law would have to be amended. It creates a hardship on voters by making the election system less accessible. States his office and the County Clerks Association are in favor making the system more accessible. The bottom line is that fixing the problem that does not exist decreases access for voters and undermines their confidence by increasing the time it takes to count votes. Urges the committee to reject HB 2551.

The following prepared testimony is submitted for the record without public testimony due to time constraint:

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| Margaret Noel | President, League of Women Voters of Oregon. Submits prepared statement in opposition to HB 2551 (EXHIBIT O) . |
| Margaret Noel | President, League of Women Voters of Oregon. Submits prepared statement in opposite to HB 2583 (EXHIBIT P) . |
| Andi Miller | Executive Director, Common Cause Oregon. Submits prepared statement in opposition to HB 2551 and HB 2583 (EXHIBIT Q) . |
| Arlie Adkins | Oregon Student Association. Submits prepared statement in opposition to HB 2583 (EXHIBIT R) . |
| Rep. Donna Nelson | H.D. 24. Submits a prepared statement prior to the meeting in support of HB 2551 (EXHIBIT S) . |

The following statements have been received by mail/email and are hereby made a part of the record (See Tape 12A at 214, page 2 of these minutes).

John E. Velehradsky Submits via U.S. Mail a letter in support of HB 2551 and HB 2583
(EXHIBIT T).

Paul Murray North Plains resident. Submits via email a statement in support of HB 2551 **(EXHIBIT U)** and HB 2583 **(EXHIBIT V)** and in opposition to SB 162 **(EXHIBIT U).**

359 Chair Kitts Closes the public hearings on HB 2583 and HB 2551 and opens a public hearing on SB 162.

SB 162 – PUBLIC HEARING

413 Cletus Moore Committee Administrator. Reads summary of SB 162.

Bob Gang Small business owner and resident of Oregon for 29 years. Comments that elections are for U. S. citizens who are residents of Oregon. Believes vote by mail is taking away from those who want to vote at the ballot box in person. Voting is a right granted to U. S. citizens, not visitors or illegal aliens, who are registered in the state of Oregon. Comments that his son left for college in 1987 and he received a ballot for him for every election because his son was a registered voter in this state. Questions how many others are still receiving ballots. Believes vote by mail is open to fraud; anybody can fill out the ballot and mail it in. States he is concerned about the lack of security in our voting system and we are leaving ourselves wide open to major fraud if we do not bring the situation under control.

TAPE 13, B

048 Gang Comments that major corrections should be made to toughen up our laws requiring identification of the voter that she or he is a registered resident of this county and a U. S. citizen in order to vote.

061 Bonnie Bishop Multnomah County. Testifies in support of SB 162. Comments she does not fully understand the bill but can describe a specific incident when she was serving as a volunteer on a bank of phones during the last election. Tells about a report to her of voter fraud by two foreign students who were solicited to register to vote by the offer of money. The landlord of the boarding house where the students were living recognized the mail to the two students was ballots and she knew the

students were not citizens of this county. The landlord initiated the call to her to have someone check out the situation. Questions how many times that may be happening throughout Oregon in vote by mail with no proof of citizenship.

- 103 Rep. March Asks if Bishop is an election official.
- Bishop Responds she was only serving as a volunteer on a phone bank.
- Rep. March Asks if Bishop encouraged the caller to contact the local county elections official or the Secretary of State's office.
- Bishop Responds that she told the caller that the caller needed to talk to someone higher up the chain of command and referred the call to the campaign office.
- Rep. March Asks what the campaign office did with the information.
- Bishop Responds that she does not know.
- 120 Norman Turrill League of Women Voters of Oregon. Submits statement and copy of report by Priscilla Southwell. Presents statement on behalf of Margaret Noel, President **(EXHIBIT K)**.
- 160 Margaret Noel President, League of Women Voters of Oregon. Comments he testified in front of Representative Blumenauer and Representative Hooley. They were very interested in looking at vote by mail as something that could be used in other states. Believes the evidence is that Oregon's system is less prone to fraud and she is proud to be asked by people in other states how Oregon does it. States he has been sworn in when there were calls for deputies. They must swear to uphold the Constitution of the United States, and she has been told when the people at the library are told to watch the boxes, they are deputized and must also uphold the Constitution.
- 211 Mike Balanesi Portland. Comments that SB 162 would make vote by mail the standard in the state and would remove the term "polling place" from the statutes. Comments on being told to move away from the ballot drop box even though he was 100 feet away gathering signatures on something that had nothing to do with what was being voted on. If "polling place" is removed from the statutes, the picture he submitted **(EXHIBIT A)** of the mail box drop site would no longer be a polling place. Comments that he listened to the previous hearing on this bill.

Believes the Secretary of State wants the \$700,000 so he can get \$18 million in matching funds to get the centralized voter registration system going. States he supports the registration system but until those funds are released, believes SB 162 should be gone through with a fine tooth comb because there is more in the bill than in either of the two measures discussed earlier.

Chair Kitts Comments that the appropriation bill for the \$700,000 will probably begin in this committee and then be referred to the Ways and Means Committee. The Secretary of State and the majority of this committee want to get the \$18 million and the committee wants to make sure it is spent properly and to make sure that people get to vote and vote accurately.

Balanesi Comments that with \$18 million, no one should be able to tell the committee that we cannot afford HB 2551 and HB 2583.

291 Andi Miller Executive Director, Common Cause Oregon. Comments that SB 162 merely codifies what we are already doing in vote by mail. States she is disturbed by the effort to bring up the subject of vote by mail again. The voters have decided that and it is how things are. It is very successful and other states are looking at Oregon with envy for the number of people that participate and the ease of participation. States she did not vote in many elections other than the General Elections before vote by mail and now votes in every election.

314 Rep. March Comments on being an internal auditor for six years. Explains that federal funds come with specific requirements. Funds that are designed for a centralized registration system are not likely to be used for the election process itself.

Chair Kitts Comments that he thinks there is some flexibility considering those funds are not simply earmarked for the centralized voter registration system, but rather the Help America Vote Act (HAVA).

338 Ruth Bendl Portland. Submits a prepared statement and testifies in opposition to SB 162 because she does not think vote by mail in its present form should be the only option in Oregon (**EXHIBIT L**). Thinks there should be an open option to returning to polling places.

386 Rep. Dalto Comments on turnout at last election in his district; more than 90 percent of the registered voters voted.

The following statement has been received by email and is hereby made a part of the record (See Tape 12A at 214, page 2 of these minutes).

Paul Murray North Plains resident. Submits via email a statement in opposition to SB 162 (**EXHIBIT W**).

414 Chair Kitts Closes the public hearing on SB 162 and opens a work session for the purpose of introducing committee bills.

INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

Rep. March MOTION: Moves LC 2502 (EXHIBIT M) AND LC 2575 (EXHIBIT N) BE INTRODUCED as committee bills.

VOTE: 5-0-2

EXCUSED: 2 - Rep. Farr and Holvey

Chair Kitts Hearing no objection, declares the motion CARRIED.

Chair Kitts Closes the work session on Introduction of Committee Measures and adjourns meeting at 5:00 p.m.

EXHIBIT SUMMARY

- A. HB 2551, photo of ballot drop site, Mike Balanesi, 1 p
- B. HB 2583, prepared statement, Denise Wendler, 3 pp
- C. HB 2583, prepared statement, Ruth Bendl, 3 pp
- D. HB 2551, prepared statement, Ruth Bendl, 1 p
- E. HB 2583, prepared statement, David Johnson, 1 p
- F. HB 2551, prepared statement, David Johnson, 1 p
- G. HB 2551, proposed amendments, Geri Bitz, 1 p
- H. HB 2583, prepared statement of Annette Newingham, Jerry Hanson, 2 pp
- I. HB 2551, prepared statement of Annette Newingham, Jerry Hanson, 2 pp
- J. HB 2551, prepared statement, Jan Coleman, 9 pp
- K. SB 162, prepared statement, Norman Turrill, 6 pp
- L. SB 162, prepared statement, Ruth Bendl, 1 p
- M. Introductions, LC 2502, staff, 1 p
- N. Introductions, LC 2575, staff, 1 p

- O. HB 2551, prepared statement, Margaret Noel, 1 p
- P. HB 2583, prepared statement, Margaret Noel, 1 p
- Q. HB 2551 and HB 2583, prepared statement, Andi Miller, 12 pp
- R. HB 2583, prepared statement, Arlie Adkins, 1 p
- S. HB 2551, prepared statement, Rep. Donna Nelson, 1 p
- T. HB 2551 and HB 2583, prepared statement, John E. Velehradsky, 2 pp
- U. HB 2551, email statement, Paul Murray, 1 p
- V. HB 2583, email statement, Paul Murray, 1 p
- W. SB 162, email statement, Paul Murray, 1 p