

HOUSE COMMITTEE ON ELECTIONS AND RULES

April 16, 2005 Hearing Room Medford

10:00 A.M. Tapes 41 - 42

MEMBERS PRESENT: Rep. Derrick Kitts, Chair

Rep. Kim Thatcher, Vice-Chair

Rep. Debi Farr

Rep. Mitch Greenlick

Rep. Paul Holvey

Rep. Steve March

MEMBER EXCUSED: Rep. Billy Dalto

VISITING MEMBERS Rep. Peter Buckley

Rep. Sal Esquivel

STAFF PRESENT: Cletus Moore, Committee Administrator

Annetta Mullins, Committee Assistant

MEASURES/ISSUES HEARD:

Introduction of Committee Measures – Work Session

HJR 7 – Work Session

HCR 15 – Public Hearing and Work Session

HJR 1 – Public Hearing

HB 2583 – Public Hearing

HB 2551 – 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.

TAPE/#	Speaker	Comments
TAPE 41, A		
003	Chair Kitts	Calls the meeting to order at 10:31 a.m., thanks committee members for their willingness to travel throughout the state, and asks members to introduce themselves.
011	Committee members, Introduce themselves. and visiting members Rep. Buckley and Rep. Esquivel	
036	Chair Kitts	Reviews order of agenda items for the meeting.
053	Chair Kitts	Opens a work session for the purpose of introducing committee measures.

INTRODUCTION OF COMMITTEE MEASURES

057	Rep. Thatcher	MOTION: Moves LC 3488 (EXHIBIT A) AND 3559 (EXHIBIT B) BE INTRODUCED as a committee measures.
061	Cletus Moore	Committee Administrator. Reads summaries of LC 3488 and LC 3559.
VOTE: 6-0-1		
AYE: In a roll call vote, all members present vote Aye.		
EXCUSED: 1 - Rep. Dalto		
	Chair Kitts	The motion CARRIES.

077 Chair Kitts Closes the work session on introduction of committee measures and opens a work session for the purpose of reconsidering HJR 7.

HJR 7 – RECONSIDERATION

078 Rep. Thatcher **MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote by which HJR 7 was sent to the floor with a BE ADOPTED recommendation.**

VOTE: 6-0-1

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

EXCUSED: 1 - Rep. Dalto

Chair Kitts The motion CARRIES.

089 Rep. Thatcher **MOTION: Moves to RECONSIDER the vote by which HJR 7 was sent to the floor with a BE ADOPTED recommendation.**

091 **VOTE: 6-0-1**

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

EXCUSED: 1 - Rep. Dalto

Chair Kitts The motion CARRIES.

096 Chair Kitts Comments that HJR 7 will be rescheduled when Rep. Lim returns from his trip overseas.

098 Chair Kitts Closes the work session on reconsideration of HJR 7 and opens a public hearing on HCR 15.

HCR 15 – PUBLIC HEARING

096 Cletus Moore Committee Administrator. Reads summary of HCR 15.

Chair Kitts Notes the many sponsors of HCR 15 and states that the service Mark Hatfield has given to Oregon is not an issue to political parties.

- 113 Rep. Greenlick States that he has admired Sen. Mark Hatfield enormously as a statesman through time and has gotten to know him over the last six years. States Hatfield is an extraordinary individual and is a hero to those who believe that politics ought to be nonpartisan.
- 123 Chair Kitts States that he will echo Rep. Greenlick's sentiments. Explains he worked for Congressman Joe Scarborough who was not considered bipartisan. Comments on book by Scarborough saying the Republicans now own Hatfield the biggest apology for their spending. Believes the kudos go beyond the moderates, liberals and conservatives. It goes to a statesman.
- 145 Chair Kitts Closes the public hearing and opens a work session on HCR 15.

HCR 15 – WORK SESSION

- 147 Rep. Thatcher **MOTION: Moves HCR 15 be sent to the floor with a BE ADOPTED recommendation.**

152 **VOTE: 6-0-1**

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

EXCUSED: 1 - Rep. Dalto

Chair Kitts The motion CARRIES.

SPEAKER MINNIS will lead discussion on the floor.

- 159 Chair Kitts Closes the work session on HCR 15 and opens a public hearing on HJR 1.

HJR 1 – PUBLIC HEARING

Cletus Moore Committee Administrator. Reads summary of HJR 1.

Chair Kitts Comments that HJR 1 invokes a constitutional amendment to require annual sessions, which the legislature in Oregon has never done.

- 175 Kate Culbertson League of Women Voters of Ashland. Presents a prepared statement in support of HJR 1 (**EXHIBIT C**).

181	Chair Kitts	Comments he thinks this topic is starting to gain momentum. In light of the last few sessions the tensions, the special sessions, the length of the last session without special sessions, which was the longest in Oregon history, this is a valid discussion. Asks Rep. Buckley and Rep. Esquivel to comment on HJR 1.
191	Rep. Buckley	Speaks in support of HJR 1. States he would back the proposal with the hope that it would encourage greater participation on a regular basis by the citizens of Oregon. Believes it is a legitimate attempt to address the disconnect from state government that people feel.
	Chair Kitts	Comments that the 120 day session one year and the 60 day session the next year totals six months. States that he believes if the member knew that constitutionally they had 120 days to get business done, there would be a lot less dragging of the feet and a lot less logger heads and partisan gridlock.
220	Rep. Esquivel	Speaks in support of HJR 1. States he thinks any way we can initiate and try to set an environment for compromise, it behooves us to do so. If one is up against a timeline, one is more apt to compromise. The best compromise is something that no one likes because everyone gives and takes. Believes this has some very good possibilities because it puts you in a timeframe and members would have the four-month session and have the remainder of the time and the off years. Also thinks it will bring the legislature to the point where members will start working together more amicably because being in the building too long is detrimental to relationships and believes this has some very good possibilities.
260	Chair Kitts	Comments that because this is such a big bill and affects so many people in the legislature, perhaps before the committee decides to go to a work session the committee could have a public hearing on it in the evening to allow all legislators to testify on the bill and say what this would mean to them. Comments that unless we want rich and retired people or people whose spouse will support their political habit, we have to define what the Legislative Assembly means. Believes annual sessions would be more conducive to bringing a wider array of people into the process and not become the most exclusionary, elitist club in Oregon.
286	Rep. Greenlick	Comments he thinks that would be a good idea but it would also be useful in that kind of hearing to have whoever the experts are in how this might actually work. It seems it would be very useful if the regular committees stayed through until the even number year session. Believes it would be very good public debate to have that discussion.

300	Chair Kitts	States the other component would be something that would dovetail to say each committee shall meet once a month.
310	Greenlick	Comments he was thinking we might have along with this a bill that would deal with the details, not put them in the Constitution. It would be good to have a companion bill that says if this is endorsed by the people, here is what it means.
317	Rep. March	Comments he thinks the concept has some merit and would suggest opening it up in writing in the odd-numbered year, the four-month session, to some extent for consideration of regular legislation. There could be a limited number of bills or some other limitation. Without the on-going committees we would want to have the ability to run some legislation.
330	Chair Kitts	Adds that he thinks if the committees were required to meet once a month and start working legislation, then coming to the point of opening up for consideration of legislative concepts, believes there would be less legislation in the process.
	Rep. Farr	Comments she appreciates the comments of Chair Kitts and believes there would be less and better legislation and there would be more time for discussion. States she likes the idea of committees meeting once a month and believes that work groups would need to be established to work on specific issues. The work groups could meet more often.
359	Rep. Greenlick	Comments that if the committee is going to seriously consider HJR 1, Chair Kitts might think about forming a work group to talk about some of the details and perhaps a companion bill.
363	Chair Kitts	States he thinks that is a great idea. Asks staff to note the suggestions and will consider establishing a work group. Asks the committee members and guest members if they would like certain people to be a part of the work group to submit their names to staff. States it will be a big work group. Believes labor, business, the League of Women Voters and other groups should be there. States that if we go this path, it will include a lot of different things, such as efficiencies of raising legislators' salaries because the time commitment will be year round, and annually raising the allotment for staff for legislators.
403	Chair Kitts	Closes the public hearing on HJR 1 and opens a public hearing on HB 2583.

HB 2583 – PUBLIC HEARING

Cletus Moore Committee Administrator. Reads summary of HB 2583.

415 Kathy Beckett Jackson County Clerk. Presents a prepared statement in opposition to HB 2583 **(EXHIBIT D)**.

Tape 42, A

011 Chair Kitts Asks how many registered voters they have on file that have not submitted the required documentation.

017 Beckett Responds that they currently have close to a thousand or more. States they have about 80,000 registered voters in Jackson County.

021 Rep. March Asks if there were reports of people paying a special bounty to register one party or the another.

Beckett Responds they had a registration drive locally just outside their main Department of Motor Vehicle office in Medford that was paying \$1 for each Republican registration cards. At one time it was alleged that they were tearing up any other registrations they might receive because they were only getting paid for Republican registrations. If that happened in the beginning, it ceased to keep on happening. It was taken care of immediately. Folks who had been registering and were concerned that their registrations might have been torn up came into her office and reregistered again. Many of them were duplications so they knew it had been taken care of. States she personally has a real problem with paying for any kind of signature gathering. Believes it is a huge injustice to the system.

043 Rep. Thatcher Asks if the 1,000 voters who had not provided sufficient identification under the Help America Vote Act (HAVA) actually voted had their votes counted.

Beckett Responds that if they voted, all their votes counted. Explains that the HAVA covers federal elections. If someone registers to vote now, the person would receive ballots for all the elections. If the person did not send in identification, the ballot would be counted anyway.

063 Rep. Thatcher Asks if Beckett finds it meaningful to have a HAVA requirement for a certain types of identification and even if they don't provide it, it doesn't matter.

	Beckett	Responds that it is very labor intensive and puts their office through hoops that they are required to do by law but when it comes down to it, it really doesn't have any bearing in the end. Asks if we have a problem with non-citizens registering to vote. States they have never had a problem with that. The goal is to get people registered and have them active in the political process. It seems like we keep putting into place deterrents from allowing that to happen. States she is concerned that we could put into law anything that would make it more difficult for citizens to register and vote. States there may not be a real problem and we might be over legislating ourselves.
086	Chair Kitts	Comments that he disagrees with Beckett on that point because Oregon is probably one of the easiest states in which to register to vote. States that 70 plus percent of those eligible to vote register to vote and of that 70 plus percent that are registered to vote, 80 plus percent participate. States he agrees there may not be a case of fraudulent activity in Jackson County but would be willing to bet those counties in Washington state that were allowing felons to vote and people to vote twice probably would have stood here and testified to the same effect. States he does not think the committee has the intention of pointing fingers or saying we are doing something wrong because he believes the county clerks in Oregon have been working hard to do a very good job and are following the law to the letter, but whether that is enough to potentially protect from something that may or may not be right or wrong is more the intent.
115	Beckett	States that voter registration law is the same in every state.
	Chair Kitts	Adds that all states do not have vote by mail.
119	Rep. Greenlick	Asks if there were two registrations in a household, one as William J. Jones and one as W. James Jones listed with the same birthday, would each get a ballot and if both ballots are returned, would they both be counted..
139	Beckett	Responds they go through their voter registration list and look for those types of things. When they find matched birthdates with similar names, they contact the people. If it was not caught, two ballots would go out. As long as their signature matched their registration card, potentially they could both count.
161	Chair Kitts	Ask if that will not be encountered when the centralized voter system is in place.

	Beckett	Responds they would hope so. They hope they are tightening up the system as tight as they can make it.
163	Rep. Greenlick	Asks if it would be a felony if a person voted the two ballots.
	Beckett	Responds affirmatively.
166	Rep. Thatcher	Asks if they would be open to allowing those who vote overseas and whose ballots may not make it here in time to have their ballots counted.
178	Beckett	States that under current Oregon law ballots must be received no later than 8:00 p.m. on election day in order to be counted. That includes military ballots. If the legislature determines they would like to see a change in that, it is up to the legislature. It would take clerks longer to certify the election. States she is in favor of giving the military any break we can give them but they also feel they send the ballots out in plenty of time for them to be returned on time. States they go the extra mile to assist the military by allowing them to FAX their selection back. States they will FAX the ballot to them and they have done overnight mails with the military. In Jackson County they have not seen a huge amount of military ballots coming back after the election. Whether we want to extend the deadline after the election is a bigger question than she can answer.
	Rep. Thatcher	Comments that Beckett said not a lot of ballots were returned after the election so it probably would not affect the certification of the election.
220	Beckett	Asks if the deadline is extended beyond the election day, why would it only be extended for the military. That gets into how long do you wait after the election. States there will always be a few ballots that are going to come in after election day. States that she has people in Jackson County that mail their ballots on election day and she makes a special trip to the distribution center at the post office to try to retrieve as many of those ballots as possible before the next morning. States that she knows many of the other counties do the same thing because they are going the extra mile to try to assist the voters in their right of franchise.
219	Chair Kitts	Comments that in Florida the late arrival provision is for military that are overseas or out at sea—those who are not mailing it.
228	Rep. Holvey	

Asks if counties keep track of the number of ballots they send overseas and the number of ballots they send to the military overseas.

- | | | |
|-----|------------------|--|
| 253 | Beckett | Responds affirmatively. States that they keep records on everything and know exactly how many ballots are in the mail, how many are sent to the military overseas and they track them when they come back in. |
| 265 | Rep. Holvey | Comments they probably also keep track of the countries ballots are mailed to and have some idea of the countries that have problems getting ballots back on time. |
| 270 | Beckett | Responds affirmatively. States if this committee needs that information, they are able to provide it. |
| 277 | Rep. Greenlick | Asks if Beckett knows what the return rate was on the military ballots. |
| | Beckett | Responds she doesn't know exactly but it is high. Offers to provide the information for all the counties. |
| 289 | Chair Kitts | Asks staff to request Annette Newingham provide the number of overseas ballots mailed and returned. |
| 302 | Lynn Horstemeier | Ashland resident. Testifies in support of HB 2583. Comments on discrepancies of her name and requirements for voting in California and Oregon. States that the way we register people to vote in Oregon, anybody can register. |
| 412 | Rep. Greenlick | Comments the issue the committee has raised is not whether they are meeting the federal requirements. Some are concerned that the federal requirements are not strict enough. |
| 423 | Clifton McMillan | Klamath County resident. Testifies in support of HB 2583. States he believes this is one of the most critical issues that the state and nation faces. Citizenship bears responsibilities and those don't necessarily come cheap. If it takes a little effort to comply in the electoral process to substantiate the fact that you are qualified by the reason of citizenship, it is not too much to ask. Oregon is about 14th as a per capita percentage of illegal aliens residing in the state. We are seeing the migration come north. We have educated the children in our schools, they are now speaking the language and participating in society but still may not be citizens. There needs to be a way to address that. Believes Oregon's system is way too loose. States that |

after the drive to register voters in the last election, a group emerged from behind the scenes in the country that were prepared to challenge the results of the election based on the fact that the federal Constitution requires citizenship to vote in federal elections.

TAPE 41, B

- | | | |
|-----|-------------|--|
| 023 | McMillan | States that any state, presumably under states' rights doctrine could decide a state policy that on election day anyone who wanted to walk up could vote. The nine or 10 states that do not require proof of citizenship in order to register to vote could have thrown the election. If the election had come down to a close contest, this mechanism of challenge was waiting to happen. If it had happened, the constitutional challenge would have been to disqualify the votes in the federal offices in the states that did not require citizenship as a prerequisite to registering to vote. States he does not think Oregon's system should contribute to that possibility. |
| 040 | McMillan | States he is sorry there is nothing in this proposal that would go back to address people currently registered who may not have followed the rules. Recognizes it is difficult enough for the county clerks to go forward but does not think it should be an impossible burden for them. |
| 049 | McMillan | Comments on other election issues. States he has been worried about the process since the advent of mail out ballots. States he has been registered in Oregon for 47 years and over that period of time knows his signature has changed though his voter registration card has not. Feels there should be a biometric identifier that accompanies and certifies a ballot. The easiest way would be the thumb print. In the ballot pack there could be a small dry ink envelope for people to use. States it is alarming what a large percent of the people do not live where they are supposed to live. Without some positive identifier, thinks the whole process is subject to manipulation. |
| 070 | Chair Kitts | States that if the signatures do not match or they are deemed not to match, the county clerks do call and make every effort to get in touch with the people. |
| | McMillan | Responds that he has been a witness in the county clerk's office and stood behind often very elderly people who volunteer to perform these services for the clerk and more often it is just that it is close enough and it goes in the good basket. |
| | McMillan | |

Comments he thinks it is a very positive effort by the legislature to hold these hearings around the state.

- 093 Chair Kitts Comments that this committee has made more stops statewide than any other committee to try to get a sense of what people think. Thanks McMillan for traveling from Klamath Falls to testify before the committee.
- 115 Vanya Sloan League of women voters of Ashland. Presents a prepared statement in opposition to HB 2583 (**EXHIBIT E**).
- 144 Chair Kitts Advises Sloan that the bill does not require a person to carry around their birth certificate or passport, they simply need to provide it as one of the other HAVA requirements.
- Sloan States she can see where it might be a problem because people may not know it is needed and many people do not have passports. It would be an increased burden and believes this body should be doing everything they can to encourage participation in democracy.
- 160 Horstemeier States that another form of identification accepted by DMV for a driver license is a matricular card.
- 171 Brenda Gold Medford resident. States she is an immigration attorney. She sees this has to do with how great a role the State of Oregon wants to take in enforcing federal law. States she also sees there is lots of federal law on this matter. There are various checks and the ones familiar to her are in the Immigration and Nationality Act. States that one of the questions to a person wanting to become a citizen is whether they have ever voted in an election in the United States. Whether the person is applying for U. S. residency or U. S. citizenship, if the answer was yes to the voting question, their application will be denied. There could be other repercussions. If someone is applying for residency and has voted in an election, it comes to the attention of the immigration examiner and the application is denied and the person may be put in deportation or removal proceedings.
- Rep. Greenlick Asks how many times Gold has experienced people saying they voted in an election.
- Gold States she has not come across anyone who has said they have voted.

233	Chair Kitts	Asks if any of the applicants who did not admit to voting have been found to have voted.
	Gold	Responds it has not come across her desk. States she has had people lie on the application, but not about voting.
240	Rep. Thatcher	Asks how they would know if someone was lying about voting.
	Gold	Responds that county clerks maintain records of who the registered voters are.
273	Chair Kitts	Asks if an immigration person could run the name through the county clerks to see if they are lying.
	Gold	States that she does her own checking on some of the questions—anything that is a criminal red flag or an immigration red flag having to do with any prior immigration proceedings are the things she checks on. States that their clients have lived in so many different counties in so many different states and typically they don't pursue the question on voting.
295	Rep. Greenlick	Comments the chair has taken the committee on a tour of the state which has been a very enjoyable tour and very informative. States he thinks the sponsors of the bill have had worries with good cause but does not believe that there has been a single instance in the testimony that has provided evidence of a widespread attempt of illegals voting nor has there even been a suggestion of a single known specific instance of my neighbor votes all the time and he should not. States while we need to protect against problems, there is a balance on the other side of the protections.
320	Rep. Esquivel	Comments his conclusion is we do not have a checks and balance system. Questions why a driver license would give one a status to vote. States he is concerned about some of the issues. States he should have asked Kathy Beckett how we know there is no fraud. Asks if we know for sure that we have a system in place that does not have fraud in it and he does not believe anyone here can say yes. Believes we do have some holes in the system.
	Chair Kitts	Submits for the record a prepared statement from Ruth Bendl in support of HB 2583 (EXHIBIT F).
349	Chair Kitts	

Closes the public hearing on HB 2583 and opens a public hearing on HB 2551.

HB 2551 – PUBLIC HEARING

- | | | |
|-----|-------------|--|
| 362 | Chair Kitts | Enters into the record a prepared statement by Kate Culbertson, League of Women Voters of Ashland (EXHIBIT G) and Kathy Beckett, County Clerk of Jackson County (EXHIBIT H). |
| 365 | Chair Kitts | Closes the public hearing on HB 2551, thanks the committee members for their attendance and adjourns the meeting at 11:52 a.m. |

EXHIBIT SUMMARY

- A. Introductions, LC 3488, staff, 4 pp
- B. Introductions, LC 3559, staff, 2 pp
- C. HJR 1, prepared statement, Kate Culbertson, 1 p
- D. HB 2583, prepared statement, Kathy Beckett, 1 p
- E. HB 2583, prepared statement, Vanya Sloan, 1 p
- F. HB 2583, prepared statement, Ruth Bendl, 3 pp
- G. HB 2551, prepared statement, Kate Culbertson, 1 p
- H. HB 2551, prepared statement, Kathy Beckett, 1 p