

HOUSE COMMITTEE ON ELECTION AND RULES

April 09, 2005 Hearing Room PENDLETON

9:00 A.M. Tapes 36 - 37

MEMBERS PRESENT: Rep. Derrick Kitts, Chair

Rep. Paul Holvey, Vice-Chair

Rep. Kim Thatcher, Vice-Chair

Rep. Billy Dalto

Rep. Mitch Greenlick

MEMBER EXCUSED: Rep. Debi Farr

Rep. Steve March

VISITING MEMBER: Rep. Bob Jenson

STAFF PRESENT: Cletus Moore, Committee Administrator

Annetta Mullins, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2774 – Public Hearing and Work Session

HB 3127 – Public Hearing and Work Session

HB 2583 – Public Hearing

HB 2551 – Public Hearing

HJR 1 – 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
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TAPE 36, A

003	Chair Kitts	Calls the meeting to order at approximately 9:35 a.m.
013	Committee Members and Rep. Bob Jenson	Introduce themselves. Rep. Jenson is a visiting member.
061	Chair Kitts	Opens a public hearing on HB 2774.

HB 2774 – PUBLIC HEARING

063	Cletus Moore	Committee Administrator. Reads summary of HB 2774.
072	Lisa Baum	West Extension Irrigation District. Presents a prepared statement for Kristina McNitt, Oregon Water Resources Congress, in support of HB 2774 (EXHIBIT A) .
081	Rep. Dalto	Asks how many irrigation districts are in Oregon.
083	Baum	Responds she does not know, but will provide the information.
087	Chair Kitts	Explains that Kristina McNitt is the lobbyist for the Oregon Water Resources Congress in Salem. States that Kristina was unable to attend the meetings in Heppner and Pendleton.
094	Rep. Dalto	Comments that in a regular vote by mail election, the electors get a ballot as long as 21 days ahead of election day. Asks how that works for an irrigation district.
097	Baum	Explains that ORS 545 is similar. They mail the ballots not sooner than 21 days and not later than 14 days before the election.
104	Chair Kitts	Closes the public hearing and opens a work session on HB 2774.

HB 2774 – WORK SESSION

106 Rep. Thatcher **MOTION: Moves HB 2774 to the floor with a DO PASS recommendation.**

110 **VOTE: 5-0-2**

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

EXCUSED: 2 - Reps. Farr, March

Chair Kitts The motion CARRIES.

139 Rep. Greenlick **MOTION: Moves HB 2774 be placed on the CONSENT CALENDAR.**

VOTE: 5-0-2

EXCUSED: 2 - Reps. Farr, March

Chair Kitts Hearing no objection, declares the motion CARRIED.

141 Chair Kitts Explains to the audience that placing a measure on the consent calendar limits the debate on the floor of the House.

147 Chair Kitts Closes the work session on HB 2774 and opens a public hearing on HB 3127.

HB 3127 – PUBLIC HEARING

157 Cletus Moore Committee Administrator. Reads the summary of HB 3127.

162 Justin Burns Oregon Trail Electric Company (OTEC). States their company requested HB 3127 through Rep. Jenson. OTEC has a board member who is also an electrical inspector. The board would like to be able to pay that electrical inspector a stipend for appearing at the board meetings as does all its directors. OTEC requested of the Ethics Commission an opinion as to whether that was proper under the ethics statute. The Ethics Commission ruled there was no conflict of interest but notwithstanding the absence of a conflict, decided that paying the stipend was prohibited under the statute because the definition of

business under the conflict of interest provisions is different than under the prohibited conduct provisions. States he does not believe that difference was intended.

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| 182 | Burns | Explains that OTEC introduced last session a bill to resolve the problem; the language was different and was amended into the omnibus ethics legislation. The language was modified and did not entertain any opposition, including the Ethics Commission, and was vetoed by the Governor. Therefore, they have requested the same legislation. The Ethics Commission does not oppose the amendment. States that Sandy Flicker, Oregon Rural Electric Cooperative Association, has provided some materials to the committee (EXHIBIT B) . |
| 196 | Chair Kitts | Explains that Sandy Flicker, Executive Director, Oregon Rural Electric Cooperative Association, asked to submit written testimony and has done so (EXHIBIT B) . |
| 200 | Rep. Greenlick | Asks if the amendment to the statute on page 1 of HB 3127 represents two changes. It adds the relatives of the public official, as well as the public official, but it also allows a public official to be associated as a director even if there is remuneration for being a director. |
| 214 | Burns | Responds that Rep. Greenlick is correct. Clarifies that the first change, relative of the public official, was language which Legislative Counsel is proposing to all the ethics statutes; they did not request the language. The amendment they requested clarifies that a member or director, and it relates only to nonprofits, that serve for a nonprofit or a person serving in a non-remunerative capacity is not associated with the business for the purpose of the conflict statutes. This parallels the definition of business in the definition of an actual and potential conflict of interest. The definition of conflict of interest exempts people who are members or directors of a nonprofit organization, totally. The definition of business in the prohibited conduct statute refers back to this statutory definition, which does not exempt members and directors of nonprofit corporations—only persons who are associated with nonprofit corporations in a non- remunerative capacity. Adding the language in the definition section of the ethics statute conforms the definition of business in the actual and potential conflict of interest provisions in the same statutes. |
| 241 | Rep. Greenlick | Comments he is a board member of the Northwest Health Foundation and receives a modest remuneration for attending meetings of the foundation. States that he lists that on his conflict of interest form now. This change would mean that he would be exempt from even listing the association on his form. Asks if that is correct. |

Burns States he would have to look at the reporting statute. States they are not changing the definition of nonprofit for the purpose of the conflict rules for which Rep. Greenlick is required to report that conflict. This just changes the definition of business as it related to the prohibited conduct statute. States that out of abundance of caution, it might be worth while for Rep. Greenlick to note the conflict. States that is the problem they had in their situation. The Ethics Commission said notwithstanding there is no conflict of interest, whether or not the person can disclose the interest to get around the potential conflict of interest, is irrelevant because under the commission's reading of the definition of business under the prohibited conduct statute, that conduct was prohibited, whether or not the conflict was disclosed.

268 Rep. Greenlick Comments that if the committee holds a work session on HB 3127, he probably needs to put into the record a potential conflict because he thinks it may change his position relative to this.

285 Chair Kitts Closes the public hearing and opens a work session on HB 3127.

HB 3127 – WORK SESSION

292 Rep. Greenlick Notes he may have a conflict of interest.

296 Rep. Thatcher **MOTION: Moves HB 3127 to the floor with a DO PASS recommendation.**

304 Rep. Greenlick Tells the audience that under House rules, members are required to report the conflict if they have one but members are still required to vote on the measure.

305 Chair Kitts Clarifies that if a member has a conflict, the member simply has to declare the conflict and vote on the measure if they are present. Explains that the requirement comes from the Sunshine law passed by Congress in 1974.

313 **VOTE: 5-0-2**

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

EXCUSED: 2 - Reps. Farr, March

Chair Kitts The motion CARRIES.

REP. JENSON will lead discussion on the floor.

324 Chair Kitts Closes the work session on HB 3127 and opens a public hearing on HB 2583.

HB 2583 – PUBLIC HEARING

358 Cletus Moore Committee Administrator. Reads the summary of HB 2583.

367 Chair Kitts Explains that HB 2583 has been one of the center points of the committee's work traveling statewide. The committee is going to nine different cities hearing about election reforms and potential problems, if there are any, trying to not have Oregon be a Washington state, Florida or Ohio.

402 Charlotte McIver Wallowa County Clerk and Election Officer. Presents a prepared statement in opposition to HB 2583 (**EXHIBIT C**).

TAPE 37, A

008 Chair Kitts Comments that county clerks attempt to contact the voter, if there is time, if someone mails in their ballot but does not sign it. Asks what happens to a ballot that is not signed but dropped off at 7:55 p.m. on election night.

020 McIver States the ballot envelope is required to be signed by 8:00 p.m. on election night. States if the signature does not match the one on file, they have a process.

Chair Kitts Comments that unsigned ballots and signatures that do not match are two different issues.

037 McIver States they have very few envelopes that are not approved because of non-signatures.

Chair Kitts Comments that the small counties may be able to make contact with the voter but Multnomah, because of its size, may not be able to. States his concern is consistency. Asks McIver what her thoughts are on saying the ballots are disqualified if they are not signed.

051 McIver Responds she thinks if can make sure we do not disenfranchised the voters because they forgot to sign the envelope...

	Chair Kitts	Asks if the voter would be disenfranchised if there are set rules and they did not adhere to the rules.
065	McIver	States she would lean on the side of the clerks being able to give the voter the opportunity to come in. States the counties have an option if a ballot comes in without a signature. The big counties immediately send out a letter. Believes the voter should be given the chance to come in and correct their errors in the case of signatures.
077	Rep. Greenlick	Asks if the vote by mail manual specifies exactly the procedure for dealing with an unsigned ballot, and if it is exactly the same from county to county.
	McIver	Responds that the regulations and administrative rules are the same in the manual, except how a very large county and a very small county accomplish the task. The manual is not laid out so that every movement is identical because of the differences in the election offices.
095	Rep. Greenlick	States the issue is whether different categories of ballots are being treated differently. Asks if the regulations and practices mean that a ballot in Wallowa County will be treated the same way a ballot in Multnomah would be treated.
112	McIver	States she understands the concern but believes the elections offices are trying their best to make sure the voters are treated equally throughout the state. That is what the election laws and the vote by mail manual lays out. Agrees the differences between the small and large counties means that the small counties may be able to track their voters down easier. States she does not know how to equalize that other than cutting them all off at 7 days, or some time.
124	Chair Kitts	States it could be not allowing unsigned ballots to be counted.
	McIver	States she is not for that because she goes on the side of trying to make sure the voter is able to correct their non-signature error.
127	Rep. Thatcher	Comments that the Help America Vote Act (HAVA) was enacted in 2002 and required voters to submit minimal identification but many people who voted in the election did not send in the identification. Asks how long McIver would follow up with a letter asking for the identification before dropping the person.

141	McIver	States HAVA says they have to do this. They must provide letters to follow up but it doesn't say the person cannot vote until they provide the identification. They still count the ballots if the information has not been provided. States it is a concern to the Association of County Clerks but it is a HAVA regulation that they do follow up. Suggests the clerks who will follow her may be able to tell the committee when they make the persons inactive.
164	Rep. Thatcher	States that the requirements for identification are really a non-requirement in that it doesn't mean anything.
	McIver	Agrees it doesn't mean anything at this time. Believes most clerks would like to have that clarified and have more force or not do it at all.
197	Deborah DeLong	Malheur County Clerk. Introduces herself.
202	Tami Green	Baker County Clerk. Introduces herself.
207	Rep. Dalto	Asks if the manual prescribes a policy to protect the information they receive with registrations, how long they keep the information, and what they do with it.
218	DeLong	Responds they were instructed by the Secretary of State how to handle that information. States she thinks it becomes moot with the statewide voter registration system. States they do keep the identification information in a separate file away from the voter cards and public records and shred them when they were through with them.
228	Rep. Dalto	Asks how long they keep the information.
	DeLong	Responds they kept them until after the election.
230	Rep. Dalto	Asks if their office made the decision to dispose of the information after the election.
	DeLong	States they were given instructions by the Secretary of State that they could destroy them. States they consider the vote by mail manual a bare minimum of how they provide service to their people.
252	Chair Kitts	

Comments the vote by mail manual and HAVA are bare minimums and the county clerks have the ability to increase the requirements.

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| 255 | DeLong | States she is an accepted agent for passports in their county. They daily deal with people who must present certified birth certificates, older issued passports and naturalization papers. States that they find almost daily that people have a hard time finding their own birth certificates. States she is concerned about HB 2583 because it will be very difficult for some people to get their hands on it. Adds that sometimes people wait up to eight weeks to get a birth certificate from Texas or California. |
| 282 | Rep. Dalto | Asks how the clerks would safeguard citizenship information if it is submitted. |
| 311 | DeLong | Responds that she asks some of the same questions in her prepared statement (EXHIBIT D). States she has some concern whether they can even ask the people to photo copy those and provide them under the Vital Records Administrative Rule 333-011-01-1 (6). States she has questions about how long, if they get them, they will they keep them, will they be public records open to public inspection and copying, and will they reject the hospital birth certificate, which is what they do when they do passports. |
| 350 | Rep. Thatcher | Asks if the county clerks maintain a notation next to voters' names that have not provided the minimal identification. |
| | DeLong | Responds they had to change the software in their computer to keep track and they can provide lists of people who have not provided the documentation. States they did three letters to those people before the last election and she threatened to visit them at their house because it was important to follow up. States it was difficult to do while being instructed that their ballots get counted anyway. |
| 373 | Green | Explains they are a smaller county and only have a hand register of those people who have not updated their registration. |
| 400 | Patty Chandler | Elections Manager for Umatilla County. Submits a prepared statement for the Umatilla County Commissioners asking that the committee consider the implications of HB 2583 (EXHIBIT L). |
| 409 | Benjamin Tally | Citizen. Testifies in opposition to HB 2583. States the photo copy of identification indicating current name and address is already required. Falsely swearing citizenship on the registration form is |

already a Class C felony, and believes additional requirements would have a chilling effect on citizens registering themselves to vote.

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

	Mike Balanesi and Ruth Bendl	Submit a prepared statement in support of HB 2583 and proposing amendments (EXHIBIT E) .
451	Chair Kitts	Closes the public hearing on HB 2583 and opens a public hearing on HB 2551.

HB 2551 – PUBLIC HEARING

460	Cletus Moore	Committee Administrator. Reads summary of HB 2551.
495	Patti Chapman	Umatilla County Elections Manager. Summarizes a prepared statement in opposition to HB 2551 (EXHIBIT F) and a letter from the Umatilla County Board of Commissioners in opposition to HB 2551 (EXHIBIT J) .

TAPE 36, B

008	Chapman	Continues presentation of her prepared statement (EXHIBIT F) .
041	Chair Kitts	Comments the committee is hearing the same concerns as Chapman's across the state.
046	Rep. Greenlick	Comments that Section 1 of HB 2551 comes out of fear that there can be fraudulent things happening between the time the ballot is received and the time it is actually counted. Ask Chapman if there has ever been an allegation in Umatilla County that fraudulent things were happening between the time the ballot was removed from the secrecy envelope and was counted.
058	Chapman	Responds that she has worked in their Elections Department since 1988 and it has never been an issue. States the last election was the first time they had observers in their office watching each step from the signature verification process to watching the boards pre-inspect the ballots in preparation for counting and also during the tabulation process. States she feels it was a very positive experience for those that watched. Believes they were very enlightened.

087	Charlotte McIver	Wallowa County Clerk and Election Officer. Introduces herself.
	Deborah DeLong	Malheur County Clerk. Introduces herself.
091	Tami Green	Baker County Clerk. Introduces herself.
094	Charlotte McIver	Wallowa County Clerk and Election Officer. Comments that Chapman made a very good presentation of how a lot of the county clerks feel. States she also had observers to their November 2004 election. States they have had observers before but not as many as last time. The observers watched the entire process from the time the ballots were received, the drop site process, the opening process of the envelopes as well as the counting process. They were greatly impressed by the election process and the security in protecting the ballots. States that because of their limited space, they are provided a store room which has an inner room which they double lock during the election process. Every night when the board goes home, the ballots that are in the pre-inspection process go into a lockable tub for each precinct. The tubs are sealed with numbered seals and are listed on a register by the election board themselves. One of the chairs will take one of the two keys and the other key is left with the election office.
	McIver	Submits a prepared statement in opposition to HB 2551 (EXHIBIT G) .
140	Deborah DeLong	Malheur County Clerk. Testifies in opposition to HB 2551. States that the Oregon system is highly supervised and monitored and because the work is done under the clerk's nose, they know what is going on. States she has conducted elections under both forms and believes this is by far the safest and most secure system of the two. Speaks in favor of vote by mail. States that she feels with the federal government stepping in with HAVA and with all the other problems associated with the other system, this is by far the best. States that if they had to go on and on to count the ballots the chance of error would be greater and greater and the cost will be increased by trying to get all that done and to get a facility to do it in.
	DeLong	Submits a copy of an email from her to Rep. Butler in opposition to HB 2551 and an estimate of cost to their county. (EXHIBIT H) .
186	Tami Green	Baker County Clerk. Submits a prepared statement and speaks in opposition to HB 2551 (EXHIBIT I) . States that their small county does not have the funds to rent a building to conduct an election in and they would have to hire more personnel. States they pay

minimum wage and their pool of people who can work during an election is getting smaller. States that she would like to echo her colleagues' sentiments on the time they take on proofing of the ballots. States it is important that they take care with every single ballot; every vote has to count and they cannot rush the process.

- 209 Chair Kitts Advises the witnesses that their testimony is consistent with other testimony the committee has heard. States he does not want the impression that this committee or the legislature thinks the county clerks are doing anything wrong. States this committee's objective is to prevent something from happening if we have cracks in the existing structure.
- 280 Rep. Greenlick Comments that Section 2 of HB 2551 talks about the security of drop sites. Asks if the Secretary of State has a set of standards for who can be watching the boxes.
- Jesse Cornett Secretary of State's Office. Responds that the drop sites are governed by the vote by mail manual.
- Rep. Greenlick States that HB 2551 sets standards and he was wondering what the current standards are.
- 308 Cornett States he does not have the manual with him.
- 316 Chair Kitts Thanks Cornett for traveling to the committee meetings around the state.
- 319 Chair Kitts Closes the public hearing on HB 2551 and opens a public hearing on HJR 1.

HJR 1 – PUBLIC HEARING

- 323 Cletus Moore Committee Administrator. Reads the summary of HJR 1.
- 332 Elizabeth Scheeler Chair, Pendleton School Board and public policy chair of the Pendleton Branch of the American Association of University Women. Submits a prepared statement and testifies in support of HJR 1 (**EXHIBIT K**).
- 400 Chair Kitts

States that Scheeler has stated in three minutes the exact reasons for this measure. States he supports the bill and comments on the gridlock. Believes a timeline would force a compromise.

423 Rep. Jenson Tells Scheeler he appreciates her comments on this measure and states he is in favor of the measure. States that he does not know of any corporation in American that has their board of directors meet only every other year. At the present time, legislators make about \$1,200 a month and he believes everyone would appreciate that is almost a negative cash flow for people who serve in the legislature. Many people can make that sacrifice because they only have to meet every other year. States if we go to annual sessions, he believes we need to consider the issue of having to make at least a two-month if not longer trip to Salem every year. Comments on being retired and able to got to Salem and states that is not the case for many young people. Believes that becomes worse if we go to annual sessions.

TAPE 37, B

038 Chair Kitts Acknowledges issues stated by Rep. Jenson and states that the legislature has an undefined amount of time and there is no set commitment. States that being a legislator is a full time job and the compensation is minimal. The legislature becomes a very exclusive club of those that can afford to serve. States this is a good bill and the discussion will go on.

075 Rep. Dalto Asks how much the Pendleton School District carried over from the last budget year to this budget year and how that compares to the last few budget years.

080 Scheeler Explains the board voted several years ago to keep a minimum of five percent in their reserve fund so if there is a major problem they could cover it. For the 2003-04 school year, they budgeted at 4.8 billion not knowing what was going to happen with Measure 30. They got the extra money in 2003-04, which is what has allowed them to continue in the 2004-05 year without making any serious cuts. Explains the upcoming budget includes reduction of their carryover funds of four percent. States that the banks, the bonds, the financial community recommends the five percent.

106 Rep. Holvey States that being able to do our budget once a year sounds like a good idea but there may be a fiscal impact to the state of Oregon which will also affect the state budget.

118 Chair Kitts

States that the totality of the annual sessions can be defined by the legislature. States that although the legislative process may be more expensive, the savings and effectiveness of the legislature would probably more than make up for that.

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| 132 | Rep. Jenson | Comments the cost may not be as great as some think because the number of days probably will be about the same. States there would be very little increase in staffing since most of the staff is around the building and the lights in the building are on because it is the public's building. |
| 162 | Chair Kitts | Thanks committee members for being willing to travel around the state. |
| 163 | Chair Kitts | Closes the public hearing on HJR 1 and adjourns the meeting at approximately 11:00 a.m. |

EXHIBIT SUMMARY

- A. **HB 2774, prepared statement of Kristina McNitt, Lisa Baum, 1 p**
- B. **HB 3127, prepared statement, Sandy Flicker, 2 pp**
- C. **HB 2583, prepared statement, Charlotte McIver, 1 p**
- D. **HB 2583, prepared statement, Deborah DeLong, 2 pp**
- E. **HB 2583, prepared statement, Mike Balanesi and Ruth Bendl, 4 pp**
- F. **HB 2551, prepared statement, Patti Chapman, 2 pp**
- G. **HB 2551, prepared statement, Charlotte McIver, 2 pp**
- H. **HB 2551, prepared statement and fiscal impact, Deborah DeLong, 3 pp**
- I. **HB 2551, prepared statement, Tami Green, 1 p'**
- J. **HB 2551, prepared statement of Umatilla County Board of Commissioners, Patti Chapman, 1 p**
- K. **HJR 1, prepared statement, Elizabeth Scheeler, 1 p**
- L. **HB 2583, prepared statement of Umatilla County Board of Commissioners, Patti Chandler, 1 p**