

HOUSE COMMITTEE ON ELECTION AND RULES

June 29, 2005 Hearing Room C

1:00 P.M. Tapes 70 - 71

MEMBERS PRESENT: Rep. Derrick Kitts, Chair

Rep. Paul Holvey, Vice-Chair

Rep. Kim Thatcher, Vice-Chair

Rep. Billy Dalto

Rep. Debi Farr

Rep. Mitch Greenlick

Rep. Steve March

STAFF PRESENT: Cletus Moore, Committee Administrator

Annetta Mullins, Committee Assistant

MEASURES/ISSUES HEARD:

SB 27 A – Public Hearing and Work Session

SB 1008 A – 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
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TAPE 70, A

003 Chair Kitts Calls the meeting to order at 1:07 p.m. and opens a public hearing on SB 27 A.

SB 27 A – PUBLIC HEARING

008 Randall Edwards State Treasurer. Summarizes a prepared statement in support of SB 27 A (**EXHIBIT A**). Explains the SB 27-A4 amendments (**EXHIBIT C**).

061 Elizabeth Harchenko Director, Department of Revenue. Presents a prepared statement (**EXHIBIT B**) in support of SB 27 A and the SB 27-A4 amendments (**EXHIBIT C**).

086 Chair Kitts Comments that he supports the bill. Notes language in (6) of Section 2 (5) that says if the majority of the financial impact committee does not approve the estimates or statement, the Secretary of State (SOS) alone shall prepare, file, and certify the estimates or statement.....”. Asks if the Secretary of State would be on his own.

Harchenko Responds affirmatively. States that has not been a problem in the eight years she has served on the committee. States there have been situations where there was a strong difference of opinion between the members of the committee and the committee has always come up with an agreement.

108 Chair Kitts Asks what mechanism exists for the proponents of the ballot measure, other than the hearing if the committee members don't like the ballot measure.

137 Edwards Responds that he and Harchenko have very few disagreements about how much latitude the committee has in deciding on what an impact is on a ballot measure. The group has worked very well. The committee's challenge is to take the information and figure it out as best they can. The committee will continue to try to provide the best information possible. Comments that the committee takes public input and there are cases where the proponents and opponents have been pleased and in other cases where they have not been pleased. Adds that he has never heard anybody complain about politics being played with the financial impact statement. Believes the reputation of the committee has been upheld and the spirit of this bill is to continue that, but to also give the best information they can.

	Chair Kitts	States that some of his concerns are alleviated in Section 1(4). Asks if a justification for the fiscal can be included so the voters can see it.
177	Harchenko	States there are two aspects in the bill. One is that in a couple of different places in the bill, the committee is admonished by the legislature to make sure that the statement is impartial, and then by authorizing the committee to do a 500 word explanation. The idea was that the committee would have an opportunity without taking up an enormous amount of space on the ballot and in the Voters' Pamphlet to explain how the committee arrived at the estimate of fiscal impact, listing the assumptions and the source of the information.
175	Chair Kitts	Comments that the "may prepare" language in (4) is very permissive. Asks if they would be opposed to language that said "a 500 word justification shall be done" if there is disagreement on the fiscal impact.
	Harchenko	Asks for clarification whether the question relates to disagreement in the committee or concerns from those interested in the statement.
	Chair Kitts	Clarifies his question. States he assumes there will probably be a case that will arise where someone on the committee is not okay with the fiscal statement being issued.
218	Edwards	States the Voters' Pamphlet can be full of examples by proponents or opponents of what they like or don't like about a measure, including the impact statement. States he thinks the intent of Section 1(4) is to get a statement. Adds that if the statement says the impact was indeterminate, he doesn't know if the committee would list why, but maybe they would. Believes that even though it is discretionary, he believes the intent is to have the committee do that and that is why the language is included.
240	March	Notes that Section 2(3) says the committee can revise the statement or estimate after the hearing.
	Chair Kitts	Comments his concern is the "may" instead of "shall" to give the proponents or opponents the justification of how the committee gets to the estimate.
258	Harchenko	Explains that providing the justification is optional for the committee. If the committee feels a measure is simple enough that a simple

statement of actual impact is all that is needed, the committee probably would not take up the space in the Voters' Pamphlet.

- 267 Harchenko Explains that this process was created by the legislature in an attempt to be sure the voters are fully informed when measures are referred or when measures are initiated. If this committee feels the voters are more likely to be well informed by saying that if certain circumstances occur, whether it is a split vote in the price tag committee or there is a serious question on the part of the people who are interested in the measure itself, it seems to be a very appropriate thing for the legislature to include a requirement.
- 283 Rep. Greenlick States he has a particular interest in this since he is in the middle of a process to produce an initiative for a constitutional amendment with clearly an indeterminate cost estimate. States that attempting to clarify what happens if the measure fails as well as passes seems clear but he is concerned about the attempt to make appear more determinate what is in fact indeterminate. States the amendment to the Constitution that he has filed and is now in the process says health care is a right of all Oregonians and tells the legislature to do something about that over the next four years. States he does not see anyway that anyone could figure out a cost. Asks if there is a danger of trying to push and make things clear, understandable and determinate when they are not.
- 312 Edwards Responds there could be many examples where the fiscal impact cannot be determined. States he thinks the spirit of the price tag committee is to carry out the legislature's wish, which is to try to inform the voters. The committee has run across instances where they feel the law is too restrictive in that it is too prescriptive in looking only at passage and nothing about failure. The ballot has always been a very powerful tool but it is being used fairly frequently. There is always a fine line because the opponents and proponents have varying viewpoints and they exercise that before the price tag committee. States that it would be hard to speculate what the estimate might be on Rep. Greenlick's amendment and does not know what might be presented to the committee. It could be an instance where the price tag committee could not determine the cost.
- 336 Rep. Greenlick Comments that he thought there was more latitude to make the decision on Measure 37. The estimate was very narrow and had to do with the direct cost that governments might pay for processing claims and did not get into a lot of issues about whether the government might or might not be able to pay for claims. It seems the idea makes some sense. States that the purpose is not to make clear what is not clear or to make certain what is not certain.

- 352 Edwards Comments that is part of the reason for the 500 word explanation. States right now the committee does not have any way of explaining the thought process and what was presented. States he believes the price tag committee has done a good job. The problem today is the committee's hands are too tied given the way the law is written. Believes the point is to find a balance to provide more information to the public and this is a really important piece because major policies are being decided directly.
- 375 Chair Kitts Comments this should have been done a long time ago and he appreciates the witnesses coming forward.
- 386 Rep. Greenlick Asks if this measure will take effect for the 2006 measures.
- Edwards Responds affirmatively.
- 364 Rep. March Asks if a lot of people come to the hearings.
- 371 Harchenko Responds that over time the hearings have been more popular as measures on the ballot are more significant to Oregonians. People perceive the fiscal impacts as information that is important in the campaigns and the committee acknowledges that. Believes that causes the committee to be even more cautious and careful about what they are estimating and being sure that it is something that can be determined or estimated with reasonable certainty and not speculating in a way that could be perceived as a political outcome. Believes the balance of having two elected officials who have a mandate from the voters directly to be responsible in their positions and two bureaucrats who want to make sure that what the committee does can be fully documented. Bringing in a fifth person from local government would further that.
- 445 Rep. Holvey Comments the legislature has legislative fiscal and legislative revenue statements and the bill continually refers to the committee consulting with the Legislative Revenue Officer. Asks if it would be their intent to also consult with the Legislative Fiscal to get fiscal impacts.
- 457 Edwards Responds that he would say yes. Explains that the committee has an open process and they felt it was important to get something similar to what the legislature sees in the legislative process. States the committee does work with Legislative Fiscal because if a measure has an impact on an agency, the agency comes before the committee to testify, and the committee has relied on Legislative Fiscal if the information is needed.

439 Rep. Holvey Comments his concern was that the committee would get statements from the Revenue office and not the Fiscal office. Adds that he thinks this is a great bill.

TAPE 71, A

023 Rep. Farr Comments she also thinks this is a great bill. Ask if there was a clear cut way the committee could have issued a financial analysis of what it would ultimately cost the state when Measure 11 was proposed.

030 Harchenko Responds that the discussion was that because prosecutorial discretion by district attorneys on how they charge, it was impossible to determine how many people might be charged with Measure 11 offenses, and if they were charged, whether they would be convicted because the jury process would make that determination. The committee said there was an indeterminate impact. Believes if the committee had had the kind of statute that SB 27 would do, the committee would be able to at least identify the considerations and possibilities.

050 Rep. Farr Asks if the committee could have issued a potential cost analysis.

Harchenko Responds that this language would allow the committee to be able to estimate direct consequences, which she thinks they would probably end up using the same standard now, which is, whether the committee is confident that the information they have from the measure itself leads them to a fairly tight range of potential costs. States she does not think any group of humans can look into a crystal ball and say what the cost would be. Believes the group will still have situations where they would have to say they cannot determine the impact, but they could at least say these are the kinds of things that could lead to costs.

070 Chair Kitts Comments that Rep. Farr's question is addressed in Section 1(3)(b) and the committee could identify in the 500 word statement how the committee arrived at their conclusions.

082 Rep. Farr Comments there could be a measure, either referred or initiated, that would have a tremendous financial impact on the state and even with this bill there would be no way to truly identify what the costs would be.

087 Harchenko Agrees with Rep. Farr.

Edwards Comments that the committee tries to reflect the best information at the time.

093 Chair Kitts Closes the public hearing and opens a work session SB 27 A.

SB 27 A – WORK SESSION

095 Rep. Thatcher **MOTION: Moves to ADOPT SB 27-A4 amendments dated 06/22/05.**

098 **VOTE: 7-0-0**

Chair Kitts **Hearing no objection, declares the motion CARRIED.**

100 Rep. Thatcher **MOTION: Moves SB 27 A to the floor with a DO PASS AS AMENDED recommendation.**

104 Rep. Greenlick Asks if he should declare a conflict of interest.

Chair Kitts Advises that declaring a conflict of interest would do no harm.

Rep. Greenlick Comments he has an initiative that will be subject to this and declares a conflict of interest.

109 Rep. Thatcher Comments she may have a potential conflict of interest because she may be sponsoring an initiative.

110 **VOTE: 7-0-0**

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

Chair Kitts **The motion CARRIES.**

REP. FARR will lead discussion on the floor.

121 Chair Kitts Closes the work session on SB 27 A and recesses the meeting at 1:42 p.m. for five minutes.

142 Chair Kitts Reconvenes the meeting at 1:49 p.m. and opens a work session on SB 1008 A.

SB 1008 A – WORK SESSION

- 149 Chair Kitts Explains that the -A25 amendments (**EXHIBIT D**) address some of the concerns that were brought up. Explains that the -A14, -A16 and -A18 amendments that were adopted (**SEE COMMITTEE MINUES DATED JUNE 17, 2005**) will need to be rescinded by the committee because they are included in the -A25 amendments. States his concern with the -A22 amendments was redundant language and he wanted to make sure the -A22 amendments did not supersede the -A14 and -A18 amendments. The -A22 amendments are simply technical amendments from the Treasurer's office that have been blended into the -A25 amendments; in Section, the committee took out specific references to lobby organizations in the -A22 amendments and will be taken out of the blended -A25 amendments. The -A24 amendments are also technical amendments brought forward by the by Department of Revenue and are in the -A25 amendments. Language in Section 4 of the -A23 amendments was redone to make it entirely permissive for the governor to activate the components of SB 1008 and that is the only way SB 1008 would be activated. Section 5 of the -A23 amendments was the Senate confirmation component and has been put back in its original form. In Section 20 of the -A23 amendments in (2), the language has been tightened up in the -A25 amendments so it did not reference only an electric utility. The concern was about the state taking over utilities.
- 192 Chair Kitts Thanks Sen. Deckert for his hard work. States another amendment is being worked on and the intention is to move the bill on Friday.
- 206 Rep. Greenlick Asks if the -A12 amendments are in the -A25 amendments.
- 211 Dexter Johnson Legislative Counsel Office. States it was his understanding that the committee had previously adopted the -A14 and -A18, -A22 and -A24 amendments that are in the -A25, and he was not aware of the -A12 amendments being adopted. States his understanding is that the rewrite of Section 46 will need to be incorporated.
- 221 Chair Kitts Advises Johnson that the -A12, -A14 and -A18 amendments should be reflected in the -A25 amendments and the -A12 amendments are not in the -A25 amendments.
- 214 Rep. Greenlick Suggests the committee could delete the -A14 and -A18 amendments from the current proposal.
- Chair Kitts

		Comments that the committee must rescind the –A12, -A14 and –A18 amendments before adopting new amendments,
232	Rep. Greenlick	Asks if the committee will discuss the –A13 amendments today.
	Chair Kitts	States that he will not entertain the –A 13 amendments at this time.
234	Rep. March	Comments the committee also received the -A19 amendments on preference power issues and the current standing of PGE customers, and asks if the committee will have an opportunity to incorporate some of those features.
	Chair Kitts	Responds that he will not entertain the –A19 amendments. Advises members that Counsel will have a rewrite that will incorporate the –A12 amendments and the committee will move out the –A12, -A14 and –A18 and move in what will probably be the –A27 amendments and move the bill out of committee.
251	Rep. Rep.	March asks if the –A27 amendments will be incorporated with the –A26 amendments.
251	Chair Kitts	Responds that the –A26 amendment will be a stand-alone amendment for the committee to discuss. Asks if the new amendments will be available from Legislative Counsel this afternoon.
	Johnson	Responds that the amendments may be ready this afternoon.
260	Chair Kitts	Adjourns meeting the at 1:57 p.m.

EXHIBIT SUMMARY

- A. **SB 27, prepared statement, Randall Edwards, 3 pp**
- B. **SB 27, prepared statement, Elizabeth Harchenko, 1 p**
- C. **SB 27, -A4 amendments, Elizabeth Harchenko and Randall Edwards, 2 pp**
- D. **SB 1008, -A25 amendments, staff, 49 pp**