

SENATE COMMITTEE ON RULES

February 24, 2005
8:30 A.M.

Hearing Room 343
Tapes 18 – 19

Corrected 11/16/05

MEMBERS PRESENT: Sen. Kate Brown, Chair
Sen. Ted Ferrioli, Vice-Chair
Sen. Jason Atkinson
Sen. Frank Shields

MEMBER EXCUSED: Sen. Charlie Ringo

STAFF PRESENT: Tiffany Harris, Committee Administrator
Patricia Nielsen, Committee Assistant

MEASURE/ISSUES HEARD:

Executive Appointments – Public Hearing and Work Session
Oregon Liquor Control Commission (OLCC)
Christine Lewandowski
Lindy Fisker
Director of the Oregon Department of Aviation
Robert Hidley
SB 201 – Public Hearing
Approval of drafting requests – Work Session
Introduction of Committee Measures – Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 18, A		
005	Chair Brown	Calls the meeting to order at 8:32 a.m. Opens public hearing and work session on executive appointments.
<u>EXECUTIVE APPOINTMENTS – PUBLIC HEARING AND WORK SESSION</u>		
<u>OREGON LIQUOR CONTROL COMMISSION – REAPPOINTMENTS OF CHRISTINE LEWANDOWSKI AND LINDY FISHER (EXHIBIT A)</u>		
010	Christine Lewandowski	Appears by telephone conference call. Explains her qualifications and interest in reappointment to the Oregon Liquor Control Commission (OLCC).
055	Lindy Fisker	Explains her qualifications and interest in reappointment to the OLCC.
095	Chair Brown	Reads letter from Rep. Jeff Merkley recommending approval of the reappointment. Asks about the ability of cities and neighborhood associations to provide input to the location of outlets.
110	Lewandowski	Supports the bill increasing the time for input by cities and neighborhood associations.
115	Fisker	Agrees and also supports HB 2056.
125	Chair Brown	Asks how the OLCC can better include citizens in the license approval process.
130	Lewandowski	Discusses activities of neighborhood associations in Eugene. Describes how citizen involvement differs.

150 Fisker Agrees there are challenges in the Portland area. Recognizes importance of input from neighborhood associations. Discusses outreach efforts by the Commission.

175 Sen. Shields Asks about OLCC pilot program to locate a store-within-a-store. Expresses concern over the process used in setting up the program and whether the state remains as well controlled with the change.

195 Lewandowski Responds the pilot program for store-within-a-store is a model Oregon currently uses. Discusses need to open new outlets to keep up with population growth. Describes progress of pilot locations.

240 Fisker Adds that the commissioners weighed convenience against public safety. Explains Portland State University (PSU) was commissioned to survey public response throughout the pilot program, and the Commission will decide at the end of two years whether to continue.

265 Sen. Shields Refers to letter expressing concern that the pilot program was put in place too quickly. Encourages more public outreach to explain the process. Asks what keeps the process from incrementally moving liquor onto grocery store shelves.

290 Fisker Advises Oregon is committed to being a control state, to continue to restrict access to liquor, and not privatize the industry. Offers to share the results of the PSU survey with the public to make the process as open as possible.

315 Lewandowski Agrees and adds the pilot will not lead to privatization of alcohol.

330 Sen. Ferrioli Comments eastern Oregonians already have combined outlets and there have been very few problems. Suggests the need for process is too restrictive. Observes the issue of control is much more an issue for beer and wine. Asks about Sunday sales program.

380 Lewandowski Responds and describes development of Sunday sales program, especially in areas where tourism is a major industry.

395 Fisker Agrees and approves the optional nature of Sunday sales.

405 Sen. Ferrioli Observes there are no negative consequences, and the program is tailored to respond to community patterns. Asks about equity for OLCC agents in their negotiation with the state over compensation.

TAPE 19, A

020 Lewandowski Explains agent compensation is an ongoing issue. Points out that increased sales do generate increased income.

025 Fisker Agrees.

035 Sen. Ferrioli Suggests the agents are asked to do more for the same compensation and asks the commission to consider requests for increases.

040 Chair Brown MOTION: Moves the REAPPOINTMENTS of Christine Lewandowski and Lindy Fisker to the Oregon Liquor Control Commission to the floor with the recommendation that the reappointments BE CONFIRMED EN BLOC.

045 VOTE: 4-0-1
AYE: In a roll call vote, all members present vote Aye.

Chair Brown

EXCUSED: 1 – Ringo

The motion CARRIES.

SEN. SHIELDS will lead discussion on the floor.

055

Chair Brown

Closes public hearing and work session on executive appointments to the Oregon Liquor Control Commission. Opens public hearing and work session on executive appointment to the Oregon Department of Aviation.

EXECUTIVE APPOINTMENT – PUBLIC HEARING AND WORK SESSION

DIRECTOR OF OREGON DEPARTMENT OF AVIATION – APPOINTMENT OF ROBERT

HIDLEY (EXHIBIT B)

060

Sen. Betsy Johnson

District 16. Appears and testifies in support of Mr. Hidley’s appointment. Describes the open process of recruiting for the appointment. Expresses her unqualified recommendation.

080

Sen. Atkinson

Asks about her running the Aviation Department.

085

Johnson

Clarifies it was then part of the Oregon Department of Transportation (ODOT).

090

Robert Hidley

Discusses his qualifications and interest in the appointment.

115

Sen. Atkinson

Asks where he lives.

118

Hidley

Explains he is moving to Salem from California.

120

Sen. Atkinson

Asks about a residency requirement for the appointment.

125

Chair Brown

Explains there is none, but clarifies he will be moving here.

130

Sen. Ferrioli

Observes rural Oregonians have not seen development of rural airports as part of inter-modal transportation. Asks about subsidies and development for state-owned airports.

150

Chair Brown

Concurs.

155

Hidley

Agrees air service is critical to economic development.

Describes his experience in this area.

170

Sen. Ferrioli

Points out the issue is whether air service is profitable. Asks about subsidies to start service.

185

Hidley

Explains he is already discussing the idea with his Board.

190

Sen. Atkinson

Asks if he is acting director.

195

Hidley

Confirms he is in his second year.

200

Chair Brown

MOTION: Moves the APPOINTMENT of Robert Hidley as Director of the Oregon Department of Aviation to the floor with the recommendation that the appointment BE CONFIRMED.

210

Sen. Atkinson

Advises he will vote against the appointment and refers to a previous situation where a Fish and Wildlife candidate was from out of state.

220

Chair Brown

Recesses the committee at 9:16 a.m.

225

Chair Brown

Reconvenes the committee at 9:23.

227

VOTE: 3-1-1

AYE: 3 - Ferrioli, Shields, Brown

NAY: 1 - Atkinson

EXCUSED: 1 – Ringo

Chair Brown

The motion CARRIES.

SEN. FERRIOLI will lead discussion on the floor.

230

Chair Brown

Closes public hearing and work session on executive appointments and opens public hearing on SB 201.

SB 201 – PUBLIC HEARING

235

Sen. Ginny Burdick

District 18. Testifies in support of SB 201. Discusses abuse of the initiative process through ballot title shopping. Explains SB

		201 requires collecting ten percent of required signatures before being given a ballot title. Refers to her version, SB 933 (2005), and agrees either would be an improvement to the initiative process. Discusses problem of sloppy ballot measure drafting.
335	Sen. Ferrioli	Asks about prior restraint on the initiative process from the ten percent signature requirement and the change in time frame.
370	Sen. Burdick	Responds it is a matter of balance. Argues the initiative process is intended to address policy issues not addressed by the legislature, not an alternative government for citizens to make laws. Discusses requirement for numbers of signatures.
410	Sen. Ferrioli	Suggests the citizens have co-equal right to participate in government in a direct way, and any restriction on that is prior restraint. Refers to Measure 37 process.
TAPE 18, B		
010	Sen. Burdick	Disagrees respectfully.
020	Bill Perry	Oregon Restaurant Association. Testifies in support of SB 201. Argues it is more fair to the citizens. Refers to Sen. Burdick's measure, SB 933 (2005), and discusses shift in naming a ballot title from the beginning to a central point in the process. Compares high cost of challenging ballot titles with almost no cost to the proponent to gather 25 signatures to start the process.
060	Laurie Winner Whelan	Oregon Education Association. Concurs with Mr. Perry's position. Explains that given the finances of the state and need for greater efficiency, this is a practical way to bring balance while preserving citizen access to democracy.
080	Sen. Ferrioli	Expresses concern over any area where a citizen can challenge something for no cost, but those are the rules. Reiterates this is a prior restraint on citizen participation in the democratic process.
105	Sen. Atkinson	Explains his opposition to the bill. Suggests the real issue is ballot title shopping and this does not fix the problem. Laments lack of voter trust in the process. Observes before 1916 the legislature chose U.S. Senators and Oregonians got that changed. Argues the initiative process puts citizens level with elected legislators. Suggests there are other options for improving the ballot title process.
170	Chair Brown	Asks for specific ideas.
175	Sen. Atkinson	Offers suggestions: <ul style="list-style-type: none"> • Take the Attorney General and court out of the process • Remove time constraints during which signatures are valid
185	Chair Brown	Asks about a work group during the 2003 session to address Sen. Atkinson's concerns.
190	Perry	Confirms and says there is no objection to the Supreme Court not deciding ballot title cases. Suggests it is unfair to allow one participant to use the process for nothing while another must expend massive resources. Submits SB 201 brings fairness to the process.
235	Sen. Ferrioli	Observes the current system invites citizens to enter into direct democracy, which is a good thing.
245	Philip Schradle	Special Counsel to the Attorney General. Testifies in support of SB 201. Submits written testimony (EXHIBIT C). Explains intent behind the bill is ballot title reform, not to make it more difficult to get an initiative on the ballot.
280	Chair Brown	Observes under the current process proponents require the public

		to subsidize their political efforts by using the system to craft multiple ballot titles.
290	Schradle	Agrees that participants seem to focus on crafting a measure with a ballot title that polls the best instead of on the idea to be put before the public.
300	Chair Brown	Asks about regulations petitioners are already required to follow.
305	Schradle	Confirms and discusses regulations for signature gathering and petitions. Affirms neither SB 201 nor SB 933 change those regulations.
320	Sen. Shields	Asks about the changes to the process over the years.
350	Schradle	Responds the most important change was dictated by the Oregon Supreme Court, restricting where signatures could be gathered, which influences capability of gathering enough to qualify. Explains SB 201 does not change that process but only changes the sequence of the ballot title process.
375	Sen. Shields	Refers to the change allowing paid petition gathering.
380	Schradle	Agrees that was very significant and reiterates this is not nearly such a large change.
390	Sen. Atkinson	Asks whether lengthening the time for signatures to be valid would take pressure off the individual to process his idea.
TAPE 19, B		
005	Schradle	Explains the requirement that there be “present support” for the initiative.
015	Sen. Atkinson	Suggests two years would be fair.
020	Schradle	Agrees it would be a legitimate policy choice.
025	Sen. Atkinson	Asks about other changes to improve the process.
035	Schradle	Expresses concern that those who have vested interests would shape the titles, and then require a third body to choose between bad titles. Explains his office has no vested interest in drafting a particular ballot title and Supreme Court review reinforces the process. Disagrees with allowing those with a vested interest in an outcome to control the process.
050	Sen. Atkinson	Discusses possible adjustments to allow a citizen to work on an idea.
070	Schradle	Explains citizens have access to legislative counsel to assist with drafting.
085	Sen. Atkinson	Offers to work with Mr. Schradle on language.
090	Chair Brown	Asks what percentage of Supreme Court time is spent on ballot title cases.
095	Keith Garza	Senior staff attorney to Oregon Supreme Court. Testifies as neutral on SB 201. Discusses statistics on numbers of opinions. Estimates ten to fifteen percent of the court’s work is on ballot titles, and during late winter and early spring of an election year ballot title work is the court’s primary focus.
125	Chair Brown	Asks about fiscal impact of the measure.
127	Garza	Estimates if number of challenges was reduced, savings would be \$1500-\$2000 for an average ballot title case.
140	Chair Brown	Asks about savings to the Department of Justice.
145	Schradle	Estimates it would save \$200,000 worth of attorney time per biennium.
150	Sen. Atkinson	Agrees the Supreme Court should spend less time. Suggests creating a clearinghouse with the court as last resort.
155	Chair Brown	Closes public hearing on SB 201. Opens work session on consideration of requests for drafting and introduction of

committee measures.

APPROVAL OF DRAFTING REQUESTS AND INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

165	Chair Brown	Discusses measure drafting requests 1 through 10 (EXHIBIT D).
170	Chair Brown	MOTION: Moves drafting requests 1 through 10 BE APPROVED FOR DRAFTING by Legislative Counsel.
175		VOTE: 3-0-2 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 – Ferrioli, Ringo The motion CARRIES.
180	Chair Brown Chair Brown	MOTION: Moves LC's: LC 1470 (EXHIBIT E), LC 1690 (EXHIBIT F), LC 2291 (EXHIBIT G), AND LC 2837 (EXHIBIT H) BE INTRODUCED as committee bills.
185		VOTE: 3-0-2 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 – Ferrioli, Ringo The motion CARRIES.
	Chair Brown	NOTE: LC 1470 printed as SB 1004 LC 1690 printed as SB 1005 LC 2291 printed as SB 1006 LC 2837 printed as SB 1007
210	Chair Brown	Closes work session on drafting and introduction and reopens public hearing on SB 201.
<u>SB 201 – PUBLIC HEARING</u>		
215	Kappy Eaton	League of Women Voters of Oregon. Testifies in support of SB 201. Submits written testimony (EXHIBIT I).
255	Jason Williams	Taxpayers Association of Oregon. Testifies in opposition to SB 201. Submits written testimony (EXHIBIT J). Discusses added restriction on the process under SB 201. Asserts clarity and fairness are most important.
340	Chair Brown	Suggests it is not the grass roots participants who submit multiple ballot titles for approval.
345	Williams	Concurs.
350	Chair Brown	Asks why taxpayers should pay the cost of ballot title shopping.
355	Williams	Responds the people already pay the cost of democracy.
365	Chair Brown	Closes public hearing on SB 201. Adjourns the committee at 10:28 a.m.

EXHIBIT SUMMARY

- A. Oregon Liquor Control Commission, staff and Governor's office, 10 pp
- B. Department of Aviation, staff and Governor's office, 8 pp
- C. SB 201, written testimony, Philip Schradle, 2 pp
- D. Approval of drafting and introduction requests, memorandum, staff, 2 pp
- E. Introductions, LC 1470, staff, 14 pp
- F. Introductions, LC 1690, staff, 4 pp
- G. Introductions, LC 2291, staff, 3 pp

- H. Introductions, LC 2837, staff, 5 pp**
- I. SB 201, written testimony, Kappy Eaton, 1 p**
- J. SB 201, written testimony, Jason Williams, 1 p**