

HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

February 11, 2003 Hearing Room E
1:00 PM Tapes 6 - 7

MEMBERS PRESENT: **Rep. Dan Doyle, Chair**
 Rep. Linda Flores, Vice-Chair
 Rep. Laurie Monnes Anderson, Vice Chair
 Rep. Vic Backlund
 Rep. Phil Barnhart
 Rep. Betsy L. Close
 Rep. Joanne Verger

STAFF PRESENT: **Cara Filsinger, Administrator**
 Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2076 – Public Hearing**
 HB 2081 – Public Hearing
 HB 2146 – 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 6, A		
004	Chair Doyle	Calls meeting to order at 1:33 p.m. and opens a public hearings on HB 2076 and HB 2081 simultaneously.
<u>HB 2076 – PUBLIC HEARING</u>		
013	Rep. Max Williams	District 35. Explains purpose of HB 2076.
039	Greg Chaimov	Legislative Counsel. Explains ballot title review process and concerns of Supreme Court in reviewing ballot titles. Explains that HB 2076 makes a similar procedure for explanatory statements; the Supreme Court would refer the explanatory statement back to the appropriate committee for further review and work.
059	Rep. Close	Asks if explanatory statements are not needed until the measure is qualified for the ballot.
	Chaimov	Responds affirmatively.
	Rep. Close	Asks if this will add costs to the process.
	Chaimov	Details process currently; the Supreme Court would be relieved of performing a task the Supreme Court has suggested the legislature does not have the authority to require it to do.
	Rep. Close	Asks if the petitioner is not required to go through a process before the measure is qualified for the ballot.
	Chaimov	Responds this only takes place after a measure is qualified for the ballot.
	Rep. Close	Asks if HB 2076 and HB 2081 need to be combined.
	Chaimov	Explains that conflict amendments would be prepared if both bills move forward.
068	Rep. Monnes Anderson	Asks who prepares the statement.
	Chaimov	Explains the process of preparing explanatory statements.
116	Rep. Monnes	Clarifies her understanding of the process.

	Anderson		Further explains the process of drafting explanatory statements.
	Rep. Williams		Comments on explanatory statements being challenged.
	Rep. Williams		Comments that only one statement that was prepared by a legislative committee has been challenged during his 10 years in Legislative Counsel.
	Chaimov		
	Rep. Williams		Comments that he was a member of the committee that drafted the statement and was named in the lawsuit.
155	Rep. Flores		Asks if statements are challenged because they are insufficient.
	Rep. Williams		States that writing explanatory statements is a function of the legislature and that is why the Supreme Court should not write the statements; the Supreme Court is not the legislative branch..
172	Rep. Verger		Comments that the ballot title and explanatory statement determine the outcome of the measure. Asks if there would be finer tuning of the statements by the people who understand the process.
	Rep. Williams		Responds he does not know if the product will be better; the court should not be performing a legislative function. Any measure where an explanatory statement has been rewritten by the court, presents itself to being the subject of a lawsuit. The desire is to fix the system so it takes away the ability to challenge a measure based on the fact that the court rewrote an explanatory statement and therefore stepped outside its constitutional limited power as that branch of government.

HB 2081 – PUBLIC HEARING

	Chair Doyle		Asks Rep. Williams to also comment on how the attorney general’s office, also not the legislative branch, is drafting the ballot titles, and whether there is a way to connect the two.
229	Rep. Williams		Comments that he questions whether drafting ballot titles is a proper role for the attorney general’s office. States he has considered suggesting that if there is going to be an office drafting ballot titles, it might be Legislative Counsel, recognizing ballot titles are an exercise of legislative function, whether they come through the initiative process or the legislature by referral.
			States he hopes to have a broader discussion as a result of HB 2081. This would relieve the Supreme Court of ballot title review, which must happen in a very short timeframe. HB 2081 would move the review to the Court of Appeals, but he is not sure that is the appropriate place.
263	Rep. Close		Asks how many ballot titles were reviewed in the last two years.
	Rep. Williams		Believes there have been a large number over the last four years. The Supreme Court does spend a considerable amount of time.
	Rep. Close		Asks if transferring the duties to the Court of Appeals would narrow the review by having three people making the decisions.
	Rep. Williams		Responds affirmatively. Notes this is a discussion point.
	Rep. Close		Comments she thinks those filing petitions would see this as less access to the judicial system and if the two measures are combined everything would be in the Court of Appeals.
			Believes that would be a problem.
318	Chair Doyle		Asks Rep. Williams what his feelings are on not allowing an appeal to the Supreme Court on the issues.
	Rep. Williams		Comments that in some cases one of the advantages of having a two-tier appellate system is to make it operate efficiently, not

336	Chair Doyle	necessarily extending complete appellate jurisdiction on every issue to the Supreme Court. Believes the ballot title challenges could be handled just as effectively in the Court of Appeals. Asks if there are other areas where the Court of Appeals is the last resort.
	Rep. Williams	Responds he thinks there are a couple of areas where there is limited jurisdiction that may stop at the Court of Appeals. Believes representatives of the court can address the questions.
354	Chair Doyle	Closes the simultaneous public hearings on HB 2076 and HB 2081 and opens a public hearing only on HB 2076.

HB 2076 – PUBLIC HEARING

364	Fred Neal	Elections Division, Secretary of State. Offers to answer questions about the explanatory statement process. States there is no concern with the separation of powers and whether it is appropriate for the Supreme Court to draft explanatory statements that are printed in the Voters' Pamphlet. The concern is their office needs to get the final copy to the printer for the Voters' Pamphlet. ORS 251.230 allows an escape for the Secretary of State to use the Legislative Counsel statement if neither the explanatory statement committee nor Legislative Counsel Committee adopts a statement; the statute allows the measure to be printed in the Voters' Pamphlet without the explanatory statement. Suggests an amendment to ORS 251.230 to allow the Secretary of State to print the Voters' Pamphlet without the certified explanatory statement if it has not been received by the 55 th day before the election.
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TAPE 7, A

020	Keith Garza	Supreme Court Senior Staff Attorney. Reports that since 1990 there have been 13 review proceedings before the Supreme Court, about two reviews per election cycle. The court has modified the statements in seven of the 13 proceedings.
	Chair Doyle	Asks how much time the Supreme Court is spending on review of explanatory statements.
	Garza	States he has not tracked the time separately. Notes that the reviews are in late August in election years. Comments on timelines for completion of work by the court; there is about a two to three week turnaround. Explains court timelines and process in challenges to explanatory statements and ballot titles.
070	Garza	Reports on number of ballot titles filed in previous years: for the 1998 election cycle, there were about 48 petitions challenging ballot titles; for the 2000 election cycle, there were 92 proceedings before the court; the 2002 General Election cycle, there were 96 proceedings; and the court has received about 10 for the upcoming election cycle.
	Kappy Eaton	League of Women Voters of Oregon. Presents prepared statement in support of HB 2076 and proposes that a time limit be placed in the bill. (EXHIBIT A) .
	Rep. Monnes Anderson	Suggests that the League of Women Voters speak with Rep. Williams about their proposed amendment to the bill.
122	Rep. Verger	Asks for clarification of testimony that there would be a review by the Supreme Court.
133	Greg Chaimov	Legislative Counsel. Explains effect of Supreme Court review and recommendations back to the explanatory statement

		committee. Explains when Legislative Counsel would be involved in the rewriting of the statement.
150	Rep. Verger	Comments that she wants to make sure the League of Women Voters understands that this bill makes a shift from the court back to Legislative Counsel Committee. Adds that she feels this is trying to fix something that is not broken.
	Chaimov	Comments on jurisdiction of the Supreme Court's duties.
	Chair Doyle	Asks what an ideal model would be for review of explanatory statements.
	Eaton	Responds they have discussed the subject but she cannot respond now. They have felt for some time that there could be some better way of informing the public through an explanatory statement than what happens now.
	Eaton	Comments her understanding is that HB 2076 would give the court the opportunity to issue some comments if they felt the statement was insufficient to explain what the ballot measure was about.
182	Rep. Verger	Comments she believes the explanatory statement is a very important part of the process. Asks if Eaton can suggest a time frame.
	Eaton	Responds it is a concern but she does not know how it can be done.
198	Ross Day	Oregonians in Action. Testifies in Opposition to HB 2076 as written. Comments that challenges to statements are rare. The changes in HB 2076 reflect a change of policy and would add an unnecessary step in the process.
235	Chair Doyle	Closes the public hearing on HB 2076 and opens a public hearing on HB 2081.

HB 2081 – PUBLIC HEARING

250	James Nass	Oregon Judicial Department. Submits prepared statement and testifies in opposition to HB 2081 (EXHIBIT B).
385	Rep. Barnhart	Asks if there is any other situation where the Court of Appeals has the final say.
	Nass	Responds negatively.
	Rep. Close	Asks if this could cause all other cases to be put on hold to allow the court time to hear ballot title cases.
	Nass	Explains that a panel of three may not get much else done during the timeframe. Comments on the need for consistency from the various panels.
370	Rep. Backlund	Asks what would be the response of the Supreme Court on these duties.
	Nass	Comments that the work is probably not the most satisfying of professional work, but somebody has to do it.
403	Rep. Backlund	Comments on reviewing procedures periodically.
	Nass	Comments that they would be in favor of this if it were solving something.
446	Ross Day	Comments on the need for consistency of decisions.
TAPE 6, B 022	Day	Continues comments in opposition to HB 2081 and need for consistency of decisions. Notes backlog in the Court of Appeals, and adding another layer of cases without further appeals would place an undue burden on the court. Agrees that under the bill, the Court of Appeals is the last review.

	Chair Doyle	Comments there would be no recourse on the decision by the three-person panel.
	Day	Agrees with Chair Doyle.
	Rep. Verger	Requests that Day provide written testimony.
	Day	Responds he will be glad to provide a letter to the committee.
	Chair Doyle	Asks if Day has any ideas of how to make the system work better.
	Day	Responds there have been a number of proposals across the country. Gives examples and volunteers to work with a group on the ballot title process.
082	Rep. Barnhart	Comments he is concerned about ending review without the Supreme Court review.
	Chair Doyle	Closes public hearing on HB 2081 and opens a public hearing on HB 2146.
<u>HB 2146 – PUBLIC HEARING</u>		
	John Lindback	Elections Division, Secretary of State. Submits summary of HB 2146 and testifies in support of the bill. Comments on election in New York and the lack of authority of the city to delay the election (EXHIBIT C).
147	Rep. Barnhart	Asks if this would allow the Secretary of State to provide for an Oregon ballot being late.
	Lindback	Comments on intent being disastrous situations.
	Rep. Barnhart	Comments on the differences between Oregon vote-by-mail system and the New York voting system. Suggests they could consider extending the time so that the mail-in process could be completed.
	Lindback	Agrees with Rep. Barnhart.
	Rep. Close	Comments she is concerned that this could send a message to terrorist that they could stop an election.
	Lindback	Comments they are open to changes if “civil disorders” is too loose.
196	Rep. Backlund	Asks for an interpretation of the last sentence of the bill, “and shall specify the date that the election will be held”.
	Lindback	Responds he would have no problem with adding language to set parameters.
	Chair Doyle	Asks if there are concerns about an election being canceled and whether there could be legal challenges. .
	Lindback	Comments on possible reasons for litigation.
233	Annette Newingham	Oregon Association of County Clerks and Lane County Elections official. States that the county clerks have discussed HB 2146 and have asked themselves what they would do in a situation like New York. Notes floods, and earthquake, and a fire in previous years. States that the county clerks would turn to the Secretary of State for direction in case of a disaster but felt the Secretary of State does not have the latitude to provide a workable solution.
	Chair Doyle	Asks if the Secretary of State could cancel a statewide election because of something that might be happening in one county.
	Newingham	Comments on events they would need to be prepared for.
	Chair Doyle	Closes the public hearing on HB 2146 and reminds members they are scheduled for a meeting with Senate Rules Committee at 3:00 p.m.
323	Chair Doyle	Adjourns meeting at 2:50 p.m.

EXHIBIT SUMMARY

A – HB 2076, prepared statement, Kappy Eaton, 1 p

B – HB 2081, prepared statement, James Nass, 2 pp

C – HB 2146, section-by-section summary, John Lindback, 1 p

HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

February 11, 2003 Hearing Room 343

3:00 PM NONE

CORRECTED COPY

MEMBERS PRESENT: Rep. Dan Doyle, Chair
Rep. Linda Flores, Vice-Chair
Rep. Laurie Monnes Anderson, Vice Chair
Rep. Vic Backlund
Rep. Phil Barnhart
Rep. Betsy L. Close
Rep. Joanne Verger

MEASURE/ISSUES HEARD: Oregon initiative, referendum, and recall petition process – Informational Meeting

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
Tape NONE		

NOTE: THE COMMITTEE MEETS WITH THE SENATE COMMITTEE ON RULES. PLEASE SEE THE TAPE LOG AND TAPES 6 AND 7 OF THE SENATE COMMITTEE ON RULES FOR THIS DATE.

EXHIBIT SUMMARY

NONE