

HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

March 27, 2003 Hearing Room E
1:00 PM Tapes 31 - 32

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

MEMBER EXCUSED: Rep. Phil Barnhart
Rep. Betsy L. Close

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

MEASURE/ISSUES HEARD: HCR 3 – Public Hearing and Work Session
HCR 4 – Public Hearing and Work Session
HR 1 – Public Hearing and Work Session
HCR 5 – Public Hearing and Work Session
Introduction of Speaker-approved bills – Work Session
HJR 29 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
Tape 31, A		
004	Chair Doyle	Calls meeting to order at 1:32 p.m., announces order of agenda items, and opens a public hearing on HCR 3.
<u>HCR 3 – PUBLIC HEARING</u>		
012	Rep. George Gilman Rep. Verger	District 55. Testifies in support of HCR 3. Comments on Lombard and his three sons being Eagle Scouts.
038	John Watt	Testifies in support of HCR 3.
069	Roger Martin	Testifies in support of HCR 3.
090	Dave Barrows	Testifies in support of HCR 3.
111	Chair Doyle	Closes the public hearing and opens a work session on HCR 3.
<u>HCR 3 – WORK SESSION</u>		
125	Rep. Flores	MOTION: Moves HCR 3 be sent to the floor with a BE ADOPTED recommendation.
132		VOTE: 5-0-2 EXCUSED: 2 - Reps. Barnhart, Close Hearing no objection, declares the motion CARRIED. REP. GILMAN will lead discussion on the floor.
	Chair Doyle	Closes the work session on HCR 3 and opens a public hearing on HCR 4.
<u>HCR 4 – PUBLIC HEARING</u>		
130	Rep. Mary Nolan	District 36. Testifies in support of HCR 4 (EXHIBIT A).
175	Michael Tolley	Reads statement for Sen. Lenn Hannon in support of HCR 4 (EXHIBIT B).
225	Dave Barrows	Testifies in support of HCR 4.

	Chair Doyle	Closes the public hearing and opens a work session on HCR 4.
<u>HCR 4 – WORK SESSION</u>		
272	Rep. Flores	MOTION: Moves to ADOPT HCR 4-1 amendments dated 03/27/03 (EXHIBIT C).
279		VOTE: 5-0-2
	Chair Doyle	EXCUSED: 2 - Reps. Barnhart, Close
		Hearing no objection, declares the motion CARRIED.
281	Rep. Flores	MOTION: Moves HCR 4 be sent to the floor with a BE
		ADOPTED AS AMENDED recommendation.
287		VOTE: 5-0-2
	Chair Doyle	AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 2 - Reps. Barnhart, Close
		The motion CARRIES.
		REP. NOLAN will lead discussion on the floor.
		Closes the work session on HCR 4 and opens a public hearing on HR 1.
<u>HR 1 – PUBLIC HEARING</u>		
290	Rep. Butler	Testifies in support of HR 1.
	Chair Doyle	Closes the public hearing and opens a work session on HR 1.
<u>HR 1 – WORK SESSION</u>		
315	Rep. Flores	MOTION: Moves HR 1 be sent to the floor with a BE
		ADOPTED recommendation.
320		VOTE: 5-0-2
	Chair Doyle	AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 2 - Reps. Barnhart, Close
		The motion CARRIES.
		REP. BUTLER will lead discussion on the floor.
325	Chair Doyle	Closes the work session on HR 1 and opens a public hearing on HCR 5.
<u>HCR 5 – PUBLIC HEARING</u>		
	Chair Doyle	Advises the committee of the receipt of a combined statement from Bruce Fitzwater, Jane Glasser and Gwen Whitmore.
	Bruce Fitzwater	Introduces himself.
	Gwen Whitmore	Introduces herself.
	Jane Glasser	Introduces herself
	Gwen Whitmore	Reads statement in support of HCR 5 (EXHIBIT D).
	Chair Doyle	Closes the public hearing and opens a work session on HCR 5.
<u>HCR 5 – WORK SESSION</u>		
478	Rep. Flores	MOTION: Moves HCR 5 be sent to the floor with a BE
		ADOPTED recommendation.
		VOTE: 5-0-2
	Chair Doyle	AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 2 - Reps. Barnhart, Close
		The motion CARRIES.
		REP. KRUMMEL will lead discussion on the floor.
494	Chair Doyle	Closes the work session on HCR 5.
<u>TAPE 32, A</u>		
030	Chair Doyle	Opens a work session for the purpose of introducing a committee measure.

INTRODUCTION OF COMMITTEE MEASURE

033 Rep. Flores **MOTION: Moves LC 3540 BE INTRODUCED as a committee bill (EXHIBIT E).**
VOTE: 5-0-2
EXCUSED: 2 - Reps. Barnhart, Close
Chair Doyle **Hearing no objection, declares the motion CARRIED.**

040 Chair Doyle Closes the work session on introduction of committee measures and opens a public hearing on HJR 29.

HJR 29 – PUBLIC HEARING

Rep. Dennis
Richardson

District 4. Testifies in support of HJR 29. Comments on federal court case that said the judiciary would have final say on the constitutionality and therefore, had tremendous power over the judicial and legislative branches. Comments on tensions between branches of government and states the tension is good because it provides checks and balances. States that Oregon has four branches of government because the initiative process is in the Constitution. States that the system worked well until the late 90s when there became an imbalance in power when the judiciary interpreted the Oregon Constitution in such a way that the right of the people to pass their initiatives was turned over to the control of the judiciary. The power of the people has been grossly reduced. The purpose of HJR 29 is to restore to the people that power to have their voices heard through the initiative process. Reads Article XVII of the Oregon Constitution. States that the court now feels they need to look at each initiative to see if there is any significant difference between how the initiative will affect different laws or subjects, they say it will not be allowed to be added to the Constitution. Reads HJR 29.

105 Ted Reutlinger Legislative Counsel. Explains two ways to amend the Constitution. Comments on the court rulings on more than one issue in an initiative petition. States the courts have struck down several initiatives. This will remove the single amendment requirement.

149 Rep. Monnes
Anderson
Reutlinger
Rep. Monnes
Anderson
Reutlinger
Asks which measures were passed by the voters and struck down.
Lists measures and dates they were struck down.
Asks why the crime victims measure was struck down.
Explains that the court set forth tests. The court said the measure changed the Constitution in more than one place. States that the changes can be contained in the measure or they can be implicit changes—changes that occur without actually amending a section of the Constitution. Adds that in the measures that have been struck down they have either determined the sections in the Constitution that were amended were not closely related or the changes themselves were not closely related.

214 Rep. Monnes
Anderson
Reutlinger
Asks how many amendments are in the Constitution.
States that sections of existing law are now in the Constitution. The Constitution is a relatively large document.

224	Rep. Backlund	Comments it is more interesting to read the U. S. Constitution.
231	David Fidanque	Executive Director, ACLU of Oregon. Testifies in opposition to HJR 29. Comments on measures ACLU was involved in. States the ACLU believes it is critical for voters to understand the impact of amendments to the Constitution they are voting on, and that is the reason for the multiple amendment rule and separate vote requirement.
314	Fidanque	Comments on the result when the voters had the choice to vote on various components of the original victims rights measure. Believes the separate vote is very important so they know what the voters are voting on.
363	Rep. Monnes	Asks if the petitions should be checked by the court or legislature before they are put on the ballot.
	Fidanque	Comments on history of reviews. Court does review initiatives for certain things. Explains review process of initiative petitions and the ability to challenge the decisions.
TAPE 31, B		
001	Kappy Eaton	League of Women Voters. Testifies in opposition to HJR 29. They stand in agreement with much of Fidanque's testimony. Comments on process used by the League of Women Voters when amending their by-laws. They do not believe bundling amendments is a good idea.
028	Margaret Olney	Attorney. Testifies in opposition to HJR 29 (EXHIBIT F).
103	Rep. Monnes	Asks if amendments have passed that had dual provisions and have not been challenged.
	Anderson	Responds that she suspects there have been.
	Rep. Monnes	Comments that when the Court of Appeals was formed, Article VII had numerous provisions. Asks if the Court of Appeals should be struck down.
	Anderson	
	Olney	Responds that one must be careful about distinguishing initiatives that might deal with broad subjects with initiatives that contain multiple amendments to the Constitution. Just because it is complicated, does not necessarily mean that it contains multiple amendments to the Constitution.
183	Rep. Flores	Asks if this is more of a contemporary mode by the court as opposed to a long-standing historical practice.
	Olney	Responds that in the <i>Armatta</i> case the Supreme Court spends many, many pages reviewing the historical development of the single subject and separate vote requirement. It is not a new doctrine. The single subject requirement has become so diluted. The court said they are still concerned about log rolling.
210	Rep. Verger	Comments on multiple readings of bills before action is taken in the House of Representatives. Believes we should be protective of the initiative process and never get rid of it.
273	Ross Day	Oregonians in Action. Submits co-authored article from <u>Brainstorm</u> magazine (EXHIBIT G). States that since the article was published, two measures were thrown out by the courts based on the <i>Armatta</i> challenge, the term limits measure and Measure 7. States he would like to correct Ms. Olney's historical recitation of the separate vote amendment, Article XVII, Sections 1 and 2 of the Oregon Constitution. States there was a prohibition prior to 1906 in the Constitution which prohibited more than one amendment but it prohibited the legislature from

		presenting more than one amendment or making more than one amendment to the Constitution. The amendment in 1906 is now codified in Article XVII, Sections 1 and 2 of the Constitution. HJR 29 is trying to resolve the last sentence of Article XVII, Section 1. Reads Article XVII, Section 1.
	Day	Explains there were three cases prior to the <i>Armatta</i> case which dealt with Article XVII, Section 1. Comments on the three cases. Since the <i>Armatta</i> decision, three measures have been thrown out. Comments on his challenge to the Secretary of State's reapportionment plan.
	Day	States there are a myriad of challenges in the Constitution that would not survive the <i>Armatta</i> challenge.
406	Day	HJR 29 address what the last sentence in Article XVII mean. It says "impair". States that the rule of law in constitutional construction is those words have meaning, although the Oregon Supreme Court has never answered the question of what does that last sentence mean. The separate vote requirement should not be used to impair the right of the people to amend the Constitution by initiative.
TAPE 32, B		
031	Steve Doell	President, Crime Victims United of Oregon. Testifies in support of HJR 29. Expresses disagreement with Fidanque's testimony referring to the crime victims bills. Comments that this has happened, not because of Measure 40, but because it disturbed the legal elite. States that the voters were not confused by Measure 40. The <i>Armatta</i> decision was nothing more or less than a political hijacking of the Oregon Constitution to diminish and impede the right of the people to the initiative process.
081	Doell	Comments on Measure 22 last election to district the appellate courts.
098	Dave Hunnicutt	Speaks for himself. Comments that the Constitution is the people's and people ought to be able to amend it. Agrees the Oregon Constitution is exceedingly long and some parts would probably be better placed in the statutes. Suggests if there is a problem with the Constitution clutter, we should look to the legislature as opposed to the people through the initiative process. . Comments on the <i>Armatta</i> decision. The problem the court created with the <i>Armatta</i> decision is the 92 years worth of amendments that the voters had approved. One could go in with a lawsuit and those measure would be declared to be unconstitutional. Comments on amendments to Article VII that amended the judicial section of the Oregon Constitution and essentially authorized the legislature to create the Court of Appeals. That initiative made 15 changes. States that the <i>Armatta</i> decision is far the worst decision by the Oregon Supreme Court. HJR 29 un-rings the bell and ought to be supported by this body.
220		Closes the public hearing on HJR 29 and adjourns meeting at approximately 3:10 p.m.

EXHIBIT SUMMARY

- A – HCR 4 – prepared statement, Rep. Nolan, 2 pp**
- B – HCR 4, prepared statement, Michael Tolley for Sen. Hannon, 2 pp**
- C – HCR 4, HCR 4-1 amendments, Rep. Nolan, 1 p**
- D – HCR 5, prepared statement, Gwen Whitmore, 2 pp**
- E – Introduction of Speaker approved committee measure, staff. 4 pp**
- F – HJR 29, prepared statement, Margaret Olney, 3 pp**
- G – HJR 29, article from Brainstorm, Ross Day, 4 pp**