

SENATE COMMITTEE ON RULES AND REDISTRICTING

February 06, 2001 Hearing Room C
03:00 PM Tapes 13 - 15

MEMBERS PRESENT: **Sen. Steve Harper, Chair**
 Sen. Peter Courtney, Vice-Chair
 Sen. Jason Atkinson
 Sen. Lee Beyer
 Sen. Kate Brown
 Sen. Randy Miller
 Sen. John Minnis

STAFF PRESENT: **Craig Allen, Committee Administrator**
 Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: **Informational Meeting**
 Election Reform
 Work Session
 Introduction of Committee Measures

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 13, A 003	Chair Harper	Calls meeting to order at 3:02 p.m. Comments that the committee is holding two meetings on election reform to see if the process can be simplified, whether the legislature should be doing something to simplify the process, and whether the legislature needs to do anything to cut down or eliminate fraud. Informs members they will hear what the laws are today and perhaps some examples of complaints that have been received by the office of Secretary of State.
<u>ELECTION REFORM - INFORMATIONAL MEETING</u>		
024	Scott Tighe	Operations Manager, Elections Division, Secretary of State's office (SOS). Gives overview of the complaint process. <ul style="list-style-type: none">• SOS generally receives a wide variety of complaints including complaints about school bond levy brochures, special district brochures advocating the passage of a measure, accusations of people voting twice or more times, and accusations of someone lying in the Voter's Pamphlet.
045		<ul style="list-style-type: none">• In the 1999-2000 election cycle, SOS received 634 complaints; 442 of the complaints were filed in the year 2000.
049		<ul style="list-style-type: none">• Generally SOS does not receive complaints from the public about someone voting twice or matching signatures; complaints are generally received from the county clerks.
054		<ul style="list-style-type: none">• 53 referrals related to people who possibly voted twice in the general election, and 139 referrals related to signatures

not matching when compared with the voter registration card.

- 058
- SOS has never received a report from anyone complaining that his or her ballot had not been deposited or not received by the county clerk.
- 065
- Voting twice would be considered a class C felony if SOS finds the person voted twice intentionally.
- 070
- Majority of cases are not prosecutable because the person would normally have to act with criminal intent.
 - Explains that the referrals to the SOS of voting twice were instances where somebody signed their ballot and felt they could not mail it in time so they asked for a replacement ballot, and their original ballot ended up arriving at the county clerk's office.
- 095
- Chair Harper
- Asks what happens when the complaint gets to the office of the district attorney.
- 098
- Tighe
- Explains process when a complaint is filed.
- 127
- Chair Harper
- Asks how many of the cases are investigated.
- Tighe
- Responds that two out of the 53 complaints about voting twice have been sent to the Attorney General's office for prosecution.
- 120
- Sen. L. Beyer
- Asks if the two ballots of the voter did not get counted.
- Tighe
- Explains that neither of the ballots was counted. If the signature does not match, the county clerk sends the ballot to SOS; the ballots are not counted.
- 142
- Sen. L. Beyer
- Asks how many people have been prosecuted.
- Tighe
- Explains that since the 1995 election, eight people have been referred and convicted.
- 148
- Sen. Brown
- Asks if all counties handle the situations the same.
- Tighe
- Responds that everybody does it the same because it is part of the vote-by-mail procedures and is in the SOS's directive.
- 153
- Sen. Brown
- Comments on being contacted by her county elections office asking for verification of her signature. Asked if everybody statewide is given the same opportunity so that his/her ballot is not thrown out.
- 158
- Tighe
- Responds that all counties will try to make contact with the voter where the signatures do not match. If they are not able to make contact, the ballot will not be counted.
- 172
- Sen. Miller
- Asks if those who are accused of voting twice register under the same name and address.
- Tighe
- States that is generally the case. If a clerk detects that a signature is exactly the same but the names are different, they will refer it to SOS for investigation. It is rare to receive a referral where the names are different but the handwriting is the same.
- 183
- Sen. Miller
- Asks what information is asked for on the voter registration form.
- Tighe
- Reviews information requested on the form.
- Sen. Miller
- Asks if the information is cross checked to make sure the person actually exists because it seems it would be easy to sign up under fictitious names and participate.
- 213
- Tighe
- Comments that the registration form also requires the person to swear he/she is over 18 and has told the truth on the registration form. Adds that a warning below the signature box says if he person signs the card knowing the information to be false, he/she

		can be convicted and fined up to \$100,000 and/or jailed up to five years.
219	Sen. Brown	Asks if the statewide voter database would solve or help solve the multiple registration problems.
	Tighe	Responds that a statewide, real time, centralized voter registration would help solve the problem. It would allow detection of people who would register in more than one county. It would also allow the clerks to cross check during the signature verification process when people update their registrations or move and re-register.
232	Sen. L. Beyer	Comments that a centralized system would not necessarily pick up a female who married and chose to adopt her spouse's name.
	Tighe	Agrees with Sen. L. Beyer.
240	Charles Stern	Yamhill County Clerk. States he will talk about "voter intent" and show examples of this past election that were "over voted" or "under voted" by the computer.
258	Stern	Responds to concerns raised during previous discussion:
		<ul style="list-style-type: none"> • The non-respondent person: Yamhill County sends the person a final notice that inactivates the voters. • Verification that a person exists: Yamhill County sends a non-forwardable piece of mail to the person and if the mail comes back to the county, the person is sent a notice that inactivates his/her voting status.
270		
285	Sen. Miller	Asks how they know if they have a single person with different identities at the same address.
286	Stern	Explains that the post office has been helpful in returning ballots as non-deliverable. Explains that if a person updates his/her registration in the window of time after the 20 th day and election day, the county clerks always verify the information with the county the person is moving from. One voter who attempted to vote in Washington and Yamhill counties received a fine. Explains that the Yamhill ballot came back because the person had moved. Sometimes the county clerks send their databases to private entities to do a crosscheck based on name, birth date, etc. to try to find matches.
327		<ul style="list-style-type: none"> • Whether a person might use "multiple names." The biggest issue to discuss, should the legislature choose to provide the SOS with the necessary funds to move forward, is a centralized system with voter identification numbers. States the number must be something the voter already has so that no matter where the person registers in Oregon or how many times that person may register in Oregon, the person uses the same identification number. States that those states that are successful with a central system have a single type of voter identification already possessed by the registrant. The name is then not the issue because everything is tied to the voter identification number.
359	Stern	Compares the Florida voting system with Oregon's voting system:: <ul style="list-style-type: none"> • Florida has seven days in which to do recounts and certification; Oregon has 20 days in which to certify and then consider recounts. • Oregon's recount occurs after certification; Florida was

doing recounts and did not have all their ballots.

- Oregon has made a decision not to accept postmarks.
- Oregon uses a four-member board rather than a three-member board.

407 Stern States that the interest in how Oregon conducts elections has never been higher.

424 Stern Explains that Oregon Law provides that if it is impossible to determine the elector's choice in any vote, the vote will not be counted. The issue is "voter intent." Shows examples of ballots from Yamhill County that had been corrected or changed by voters, and ballots that required the intent of the voter to be determined.

TAPE 14, A

050 Stern Continues presentation.

111 Chair Harper Asks if the board members are selected.

Stern Responds that the board members cannot be of the same party. Adds that occasionally a board member will be a non-affiliated voter. The membership is defined in statute.

117 Stern Adds that the Nation is looking at Oregon because Oregon has done well on some of the rules in law that allow for scrutiny differently than Florida.

Chair Harper Asks if the report that will be presented on Thursday will tell the legislature what needs to be done.

Stern Explains that the report will be in four sections. In the first two sections, about half the recommendations will identify things that need to be done better, differently, more progressive. Some things will not require legislation.

128 Sen. L. Beyer Asks if someone other than the voter should be allowed to drop the ballot in the box.

Stern Responds that the issue is security and everybody needs to look at it. Giving one's ballot to someone else to drop is only one of the issues. States that we have to address the problem with the senior who is not able to get their ballots to the mail box or post office and rural neighbors helping other neighbors by bringing their ballots in. There is a window of time to vote after it is too late to vote by mail. It is a difficult problem. A bill in the House looks at that to some degree. The clerks are looking at it as an issue of providing informed consumer information so that the consumer knows when they are dealing with an official versus unofficial drop site. Comments on locations of drop boxes in Multnomah County.

180 Chair Harper Asks if the security issues will be covered in the report.

Stern Responds there will be some security issues in the report but that is not the whole scope of it because the clerks feel they need to flush it out more.

189 Sen. Minnis Comments that in Oregon's vote-by-mail system, the ballot is required to be sealed and signed. It is a substantial security measure--as long as there is some capacity on the part of clerks to judge whether the ballot has been tampered with. His concern is the unofficial site. Gives scenario of how ballots could be collected and not delivered.

206 Stern Points out that the security issue also applies to registration forms. It is an overall issue. Believes an education program

		should be targeted.
212	Sen. Miller	Comments on attempting to determine how someone voted when the voter has not followed the instructions. Asks what deference is given to the rules that are provided to the voter to follow.
224	Stern	Responds that Oregon does not address that in the statute. The statute says "if you are unable to determine the intent of the voter" you will not count the vote. It relies solely on intent.
	Sen. Miller	Asks if the language is "determine the intent" or "clearly ascertain."
233	Stern	Responds he believe the language is "determine the intent" but will check.
240	Linda Smith	Klamath County Clerk. Comments on the general election activities in Klamath County: <ul style="list-style-type: none"> • Klamath County mailed out over 37,000 ballots • After processing undeliverables, Klamath County had an 80 percent turnout. The ballot in Klamath County consisted of two ballots for each voter and 56,000 ballots were returned. • The inspection process was very time consuming. The inspection boards worked on perhaps five percent of the ballots returned that were either duplicated or enhanced so that machine would clearly read the voter intent. • Klamath County is an optical scan county. • There were over votes in the presidential race of .4 percent and under votes of .8 percent.
263		<ul style="list-style-type: none"> • Klamath County had about a five- percent undeliverable rate; about 1,900 ballots came back. • Between the cutoff date for new registrations and election day, 828 people came in to update their registrations.
280		<ul style="list-style-type: none"> • 122 people were in the clerk's office to fill out new registration cards; these were people who were active or inactive voters somewhere in Oregon. Some people had been mailed ballots for Klamath County. The county clerks in other counties had to be contacted regarding the other registrations. Explains that the ballots were tracked carefully.
310		<ul style="list-style-type: none"> • Explains there are nine drop sites in Klamath County and over half the ballots returned in the election came through the drop sites. There were no complaints but did receive request for more drop sites. • Received about 10,000 ballots back on Monday and Tuesday.
329	Chair Harper Smith	Asks if the 20-day lead time is adequate. Responds she believes it is adequate. It worked well for Klamath County.
346	Sen. Brown	Asks if registration on the day of election would be advisable.
350	Smith	Responds that the issue was discussed at length during the county clerks recent conference and was addressed by a task force. The clerks do not feel it is a good idea. The 21-day cutoff has worked well. Most counties have people coming in to update registration and it would be difficult because of the number of people coming in on election day.
368	Sen. Minnis Smith	Asks if it is true there is no cutoff for updating one's registration. Responds affirmatively.

379	Sen. Minnis Smith	Asks if there should be a cutoff date just prior to mailing the ballots out. Responds that she thinks the task force report will address that. Adds that it would be wonderful to say 60 days but realistically the clerks want to serve the voters and do not think that would serve the voters.
420	Chair Harper	Comments that the voters must follow the instructions. It is a two-way street.
434	Sen. Miller Smith	Asks how long the ballots are out before election day. Responds that normally the ballots are mailed three weeks in advance.
TAPE 13, B		
009	Sen. Miller Smith	Asks what the security issues are with the drop boxes in Klamath County. Explains the process of maintaining security at ballot drop boxes.
029	Sen. Miller Smith	Asks if the ballots were removed from the boxes daily. Responds that some boxes were not emptied every day but at night were locked in a back room in a locked building.
044	Sen. Miller Smith	Asks if the report will indicate how many people used the drop boxes instead of the mail. Responds it does not address the numbers in each county because some of the counties did not have a lot of places to put drop sites.
051	Georgette Brown. Smith	Josephine County Clerk. States that her story is very similar to Klamath County's. They have the same type of equipment, 48,000 registered voters (37,000 in Klamath County), Josephine County had fewer drop boxes because there are fewer secure places to put them. Only one incorporated city, Cave Junction, had a drop box because it is in full view of the Recorder. The box was inside the courthouse. States that Josephine County had a lower turnout that statewide and feels it was because she did not have the drop boxes. Explains that the schools asked if they could have unofficial drop sites and she explained through the media that the sites were unofficial but any one who felt comfortable with the school officials collecting the ballots, it was okay. States that she did not sanction the boxes at the school sites but she did not disallow them because she did not have drop boxes in the outlying areas.
084 092	Chair Harper Smith	Asks if she can allow or disallow drop boxes in schools. Responds she doesn't think she could have told them no. The schools only asked if it was okay.
096	Chair Harper Smith	Asks if the security issues are covered by the SOS. Explains that the boxes have to be open at a certain time and must be available to people on election day.
091	Annette Newingham	Lane County Clerk. Reports that Lane County counted 156,000 ballots at the last election, an 82 percent turnout. It was the most labor-intensive election since 1992. They had 17 drop site locations and six drive by boxes. About 50 percent of the ballots were returned at the drop locations. Explains Lane County has a security agreement with each drop site location.
118	Newingham	States that the last two days were the most problematic but not overwhelming. A very high outcome was expected with a

		<p>presidential election and assigned some additional staff to go out to collect ballots and help ease the flow of traffic. Some people lost their ballots and some procrastinated and needed to ask for another ballot and came into the office.</p> <p>Lane County did three methods of checking for duplicate voters prior to the election. Explains that on a monthly basis they check for duplicates by last name and date of birth. Quarterly, they do a check by first name and date of birth.</p>
146	John Kauffman	<p>Clackamas County Clerk. Comments that Clackamas and Lane are among the seven counties that are punch card counties. The Clackamas County election went very smooth. Ninety percent of the ballots were counted by four o'clock the next morning. About 50 percent of the ballots came into the drop boxes. The drop box sites were first used in 1995 at the libraries because they have weekend and evening hours. Clackamas has 16 drop sites including three county libraries. A regular schedule for picking up the entire boxes is maintained.</p>
196	Kauffman	<p>Comments on receiving ballots from voters marked in different ways.</p>
211	Chair Harper	<p>Comments there is a proposal to force counties that have punch cards to change their system. Asks if Kauffman has comments on that.</p>
215	Kauffman	<p>Responds that they recognize that punch cards are not very voter friendly compared to what is used in other counties. Over the last three years Clackamas County has converted their voter registration/election management system to a new computer system and they have chosen to wait until that process is complete before doing something new. Adds that the county commissioners are in agreement and they will wait to see if Congress or this legislature will determine standards that need to be changed or impact the hardware and software that might be used.</p>
	Newingham	<p>Adds that Lane County is looking at the options that are available. The voter friendliness is an issue and anything to make that better is a good idea. There is also a need to look at the money because she saw a cost figure of \$300,000 to change all the counties that use punch cards. Lane County is looking at about \$500,000 for optical scan machines. It would be about \$50,000 for every accounting machine. Adds that they would also need more space and would have to move.</p>
272	Neal Pender	<p>Executive Director, Democratic Party of Oregon. Submits and reviews statement (EXHIBIT A).</p>
332	Pender	<p>Continues presentation.</p>
380	Pender	<p>Continues presentation.</p>
430	Pender	<p>Continues presentation.</p>
TAPE 14, B		
041	Darrell Howard	<p>Executive Director, Oregon Republican Party. Introduces Paul Connelly, legal counsel. Comments on election reform issues:</p> <ul style="list-style-type: none"> • The Republican National Committee selected different counties to look at voter registration and found about 6,000 dual registrations. • Centralized voter file is top tier of what can be done to eliminate at least some of the problems.

- 077
 - Does not think people should be collecting ballots.
 - Have received several complaints about people helping others vote. A complaint from Clatsop County has been filed with the Secretary of State claiming that a lady was threatened by a person helping her fill out her ballot that her social security check would be forfeited if she did not vote for Al Gore.
- 087
 - They received many complaints about the last-minute voter registration changes, especially in Lane County. It was reported that many students had changed districts--moved across town. The last night of the election they were "busing students." Some kind of a cutoff date would probably be good. Agrees that the voters do have a responsibility to exercise their citizenship in a manner that is appropriate.
- 103
 - They had complaints about not being able to poll watch. Oregon statutes do not provide adequately for observers from each party.
- 126
 - Comments on process in state of Washington and the extremely high amount of absentee balloting. Believes a lot of the security problems could be addressed in a vote-by-mail system. Contends Oregon does not have a vote-by-mail system; it is vote-by-mail unless you cannot make it to the mailbox in time and must go to the drop site. In Washington state if a ballot is postmarked election day, it is counted.
 - If we are interested in speed rather than accuracy, all ballots should be in the county clerks' hands by election day. Suggests we should come up with some system where people do not tell us ballot boxes are overstuffed and no one was in attendance.
- 168 Howard
 - Does not know the penalty for tampering with ballots, but believes it is a felony to tamper with the U. S. Mail.
 - Agrees we need to do away with punch card ballots. Party would be more than happy to push for things to enhance the process.
 - States that a prominent person's son did not have a chance to cast his ballot because he did not received the request for signature verification in time.
- 191 Sen. Brown

Comments she appreciates Howard's argument about the personal responsibility and requiring people who move to update their address before the day of the election, and has a hard time with the argument that we need to provide additional security for the drop off sites when people have about three weeks in which to mail their ballots.
- Howard

Responds that Oregon has created a system that encourages drop off balloting. Comments that with the vote-by-mail system people do not feel they are participating in the process.
- 227 Paul Connelly

Legal Counsel, Oregon Republican Party. Suggest four areas he feels should receive consideration for legislative enactment.

 - There is a variety of ways of enforcing election laws in Oregon. We have many different laws: state enactment, Oregon Rules of Administrative Procedures (OARs) from the Secretary of State, Secretary of State directives, a

Secretary of State manual that is used by some clerks. At the local level, clerks also have written directives and verbal directives.

- The legislature has given the Secretary of State the duty to discharge the responsibility "to obtain and maintain uniformity in the application, operation, and interpretation of Oregon election laws."

- The Secretary of State has required a ballot drop site plan under OAR. It requires a security plan under directives. Suggests that the Secretary of State require each county to provide to the Secretary of State for review and approval a plan to implement the rules and regulations that the Secretary of State has for implementation of state statute and OARs. Also recommends that we not have directives, instead use the OARs that go through some form of public comment and are published.

278

- Believes that adopting an election plan which would cover budgeting, schedules, use of employees, maintenance of equipment, and other security measures would provide more uniform application of the election rules, whatever they may be.

288

Connelly

- Problems with machine counting and maintenance were experienced. There is no requirement on the part of the clerks to test their voting machine counting equipment pursuant to the manufacturer's written specifications. Adds that the written specifications do not appear to be in existence in many counties.

- They found in one county the machine count was substantially different than the count from the initial test in the May election. Suggests there be a directive that directs those specifications be adhered to and there be testing of the equipment on a regular basis and there be a written record of the test. The SOS would require the types of tests.

- There is no statute on observers. Directive 2000-2 is from the SOS and requires clerks to give observers access to "all ballot processes." They believe the SOS directive is interpreted differently from county to county. Questions what the directive means. There is no standing for the major political parties to have observers. Believes that each major political party should have at least the right to have two observers in the room where all the major ballot processing is going on. Believes that the SOS should require there be enough space so that the counting process can be observed and the integrity maintained.

- Has other proposal regarding observers and will share those with the chair and committee at a later date.

341

- They encountered problems obtaining the vote tally and accounting information during the electoral process from the offices of some clerks. They are told the information is subject to the Public Records Act. Believes there should be access by all major political parties of all the vote tally sheets as the tally goes on, as well as all the accounting information

that is generated during the electoral process. Believes the observers should have access without cost. That would enable them to have confidence that the process is being done with integrity and correctly so if there is a problem it can be brought to the attention of the clerk and the SOS. They also believe the SOS should have the right to come in during the electoral process and direct that a clerk change the process or change the way they do things so there is more top-down maintenance and management of the electoral process.

- 368 Chair Harper Asks if the intent is to be consistent across the state and that the requirements must be at least in rule if not in statute so that everybody understand the requirements.
- 377 Connelly Responds affirmatively.
Sen. Courtney Asks if Connelly is speaking about observers in general. Asks if the independents would have representatives.
Connelly Responds that he suggests at a minimum that the major political parties have at least two observers if they choose. Those two could pinch hit for each other. If other parties have significant presence, he would not object to them having standing also.
- 406 Sen. Minnis Asks if the media have the same standing.
Connelly Responds that currently the process for selecting observers is so loose that he is assuming that members of the media could become observers because there are no rules or regulations for observers. Would assume, based on their exercise of the First Amendment right, they may have super observer status.
- 415 Sen. Minnis Asks what his feeling is on the vote tallies.
Connelly Responds they believe they ought to be able to have access to the tallies after they are completed, but does not know about the media.
- 387 Chair Harper Comments that the committee is trying to learn the rules and process and that the committee wants to fix whatever is agreed to be broken. Asks that the Democratic Party of Oregon and the Oregon Republican Party representatives get together and come up with resolutions of the issues.
Sen. Minnis Asks if it is possible for a person with access to the computer program to change the count.
- 460 Howard Responds that is why he thinks the observer process and having access to the testing data is critical.
- Tape 15, A**
038 Kappy Eaton League of Women Voters of Oregon. Presents prepared statement on election law reform (**EXHIBIT B**).
- 140 Sen. Rick Metsger District 14. States he echoes the comments from the League. Believes the most important things to look at are access for citizens, accuracy of the process, and the integrity of the process. Advises that he will be sponsoring, along with Senator Castillo, SB 457 which includes the need to have a uniform statewide ballot, the issue of eliminating punch card ballots, and the critical issues of providing access for citizens. Comments on need for information in languages other than English. In 1990, approximately 3.3 percent of Oregon households were of Hispanic origin. Oregon's population of Hispanic origin will rise from 150,000 in July 1995 to 429,000 in July 2025. Clackamas

County has 4.5 percent population of Hispanic origin. Jackson County has 6.5 percent. Washington County has 7.5 percent Hispanic. Marion County has 13 percent of the population of Hispanic origin.

The federal requirement is from the Director of the Census. Reads U. S. Code, Title 42, Section 197 (1973) requiring that ballots be printed in languages other than English if more than five percent of the citizens of voting age of the state or political subdivision are members of a single language minority and are limited English proficient. States that the population figures given were total populations of Hispanic origin, but believes Oregon is close if not beyond the limit in some of the counties.

217 Sen. Metsger Urges the adoption of some immediate action to put into place in Oregon a mechanism for the time when Oregon falls under the federal mandate or independently decides to take this action, Oregon will be prepared to implement the program to make sure every citizen in Oregon can participate and have access to the voting process.

207 Chair Harper Closes the informational hearing on election reform and announces that on Thursday the committee will hear from the Secretary of State and the report from the county clerks, and will also hear public testimony for about an hour.

231 Chair Harper Opens a work session for the purpose of introduction of committee measures.

INTRODUCTION OF COMMITTEE MEASURES - WORK SESSION

233 Sen. Courtney **MOTION: Moves LCs: 1741, 1949, 2183, AND 2870 BE INTRODUCED as committee bills.**

246 Chair Harper **VOTE: 5-0
EXCUSED: 2 - Sen. Beyer, Brown
Hearing no objection, declares the motion CARRIED.
LC 1741 introduced as SB 629
LC 1949 introduced as SB 627
LC 2183 introduced as SB 628
LC 2870 introduced as SB 626**

229 Chair Harper Adjourns meeting at 5:12 p.m.

Submitted By,

Reviewed By,

Annetta Mullins,
Committee Assistant

Craig Allen,
Committee Administrator

EXHIBIT SUMMARY

A - Election Reform, prepared statement, Neal Pender, 3 pp

B - Election Reform, prepared statement, Kappy Eaton, 2 pp