

SENATE COMMITTEE ON RULES AND REDISTRICTING

February 08, 2001 Hearing Room C
03:00 P.M. Tapes 16 - 18

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: Executive Appointment
Racing Commission
Informational Meeting
Election Reform
Redistricting Overview
Public Hearing
Election Reform
Work Session
Amendments to Committee Rules
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 16, A		
003	Chair Harper	Calls meeting to order at 3:03 p.m. and opens the public hearing and work session on the executive appointment of Jeff Gilmour to the Oregon Racing Commission.
<u>EXECUTIVE APPOINTMENT - PUBLIC HEARING</u>		
<u>OREGON RACING COMMISSION – JEFF GILMOUR (EXHIBIT A)</u>		
006	Jeff Gilmour	Reviews his background. States he enjoys the time he has served on boards and commissions. He has a horse that is cared for by someone else. States he does not see racing as a thriving industry in Oregon. He realizes the commission is not set up to promote racing but believes racing should be promoted in some way.
	Committee	Questions Gilmour in jest.
218	Chair Harper	Closes the public hearing and opens a work session on the executive appointment.
<u>EXECUTIVE APPOINTMENT - WORK SESSION</u>		
199	Sen. Courtney	MOTION: Moves the APPOINTMENT of Jeff Gilmour to the Oregon Racing Commission to the floor with the recommendation that the appointment BE

235	Chair Harper	CONFIRMED. VOTE: 7-0 Hearing no objection, declares the motion CARRIED. SEN. HARPER will lead discussion on the floor.
248	Chair Harper	Opens an informational meeting on election reform.
<u>ELECTION REFORM - INFORMATIONAL MEETING</u>		
254	Bill Bradbury	Oregon Secretary of State (SOS). Presents a prepared statement (EXHIBIT B) .
290	Bradbury	Continues presentation.
318	Bradbury	Comments on a resolution of the National Association of Secretaries of State Conference (EXHIBIT B, page 2) .
375	Bradbury	Continues comments (EXHIBIT B, page 2) .
394	Bradbury	Introduces Dana Jenkins, President, Oregon Association of County Clerks. States that the association and the SOS have worked together on a review of vote-by-mail in the first primary and general elections to see what kinds of things worked and what needs improvement.
419	Bradbury	Reviews methodology of the task force (EXHIBIT B, page 2) .
474	Bradbury	Presents copies of the task force report (EXHIBIT C) .
TAPE 17, A		
012	Dana Jenkins	Lincoln County Clerk and President of the Oregon Association of County Clerks. Reviews proposed administrative changes (EXHIBIT B, page 3) .
	Chair Harper	Asks if the SOS would adopt by rule the standards as proposed by the task force.
024	Bradbury	Responds affirmatively.
033	Bradbury	Presents the second proposed administrative change (EXHIBIT B, page 3) .
050	Jenkins	Presents the proposed administrative change relating to a uniform vote tally and voter registration system (EXHIBIT B, page 3) .
056	Bradbury and Jenkins	Present proposed statutory changes (EXHIBIT B, page 3) .
063	Sen. Minnis	Asks if there is an estimate of cost to create a centralized voter registration system.
	Jenkins	Responds that the cost was estimated at \$6 million two years ago.
074	Minnis	Asks why it costs so much.
	Jenkins	Explains that a large portion of the cost is to connect all the computers in the state.
090	Bradbury	States he believes the major cost is in trying to link together the different kinds of computer systems.
107	Chair Harper	Comments he believes there will be a lot of ideas come forth.
	Bradbury	Comments he understands and shares the concerns about the cost.
127	Jenkins	Comments he believes a large portion of the \$6 million would be for a study.
135	Jenkins	Resumes presentation of proposed statutory changes relating to drop sites (EXHIBIT B, page 3) .
152	Bradbury	Presents proposed statutory changes for revising ORS chapter 258 relating to hand recounts.

165	Sen. Brown	States she would support moving forward with the proposed change relating to hand recounts.
178	Bradbury	Explains that a partial recount cannot change the results; it enables people to ask for a smaller recount before paying a lot of money.
193	Bradbury	States there would be a problem with meeting the Electoral College timeline in a presidential recount. The proposal is that the statute should provide that only a full recount could be ordered in a presidential recount and the timelines for that recount should be shortened so the recount can be completed in time for the Electoral College meeting.
223	Chair Harper Bradbury	Asks if a full recount is statewide. Responds that it is statewide for President. Explains that for the count to be timely for the Electoral College there is not enough time to have a five percent recount first.
229	Chair Harper Bradbury	Asks if county-specific recounts are done. Responds negatively.
230	Sen. Minnis Bradbury	Asks what would trigger a recount for President. Explains that the two leading contenders have to be within one-fifth of one percent. In Oregon, slightly less than a 4,000 vote difference would have been the trigger; there was a 6,500 vote difference. The candidates or the parties can demand a recount and pay for it.
243	Chair Harper Bradbury	Asks if the rules are different in the race for governor than for president. Responds he believes so because there is no pressure of timing for the Electoral College in the governor race. States they are proposing that in a presidential race if someone wants a recount, it would have to be completed in time for the Electoral College.
232	Jenkins	Continues presentation of proposed statutory changes on election contests (EXHIBIT B, pages 3 and 4) .
250	Bradbury	Comments on vote tally equipment (EXHIBIT B, page 4) . One of the efforts would be to agree on a timeline with flexibility for counties to identify the best upgrade. Also wants to identify positive funding sources; hope is there will be a federal match. Wants to create a more coordinated strategy between the SOS, the legislature, and county clerks to move forward in a positive way.
332	Sen. Minnis Bradbury	Asks where the money for vote tally equipment would come from. Responds that currently the vote tally equipment is the responsibility of each county. Believes if the legislature mandates a change, the legislature needs to help counties pay for that change.
378	Sen. Minnis	Comments that if the legislature is going to help pay for it, the legislature should have some say in what is purchased.
385	Jenkins	Continues presentation of statement on vote tally equipment (EXHIBIT B, page 4) .
409	Sen. L. Beyer	Comments that the Constitution requires that the state pay for it if they mandate it.
420	Bradbury	States the Constitution is very clear that if the legislature mandates an increase in service, then the legislature has to pay for it.

TAPE 16, B

001	Jenkins	Presents other highlights in the task force report (EXHIBIT B, page 5).
031	Bradbury	Continues presenting highlights of the task force report (EXHIBIT B, page 5).
043	Chair Harper Jenkins	Asks what the issue is about proof of residency. Explains that one only needs to fill out the voter registration card and send it in or drop it off at the county clerk's office. The task force discussed the issue and felt that requiring proof of residency would put quite a few roadblocks in the way of how people register now.
	Chair Harper	Asks if requiring proof would slow the process.
	Jenkins	Responds the task force felt it would.
	Minnis	Asks how it could be proven where a person lives. Gives examples of persons who may own homes in other states.
075	Jenkins	Explains that the post office is not supposed to deliver mail for someone who does not live at an address.
090	Bradbury	Comments he thinks there are things that can be done to make the election system work even better.
100	Bradbury	Comments that he has been very impressed with the implementation of the first vote-by-mail system in the country. Thinks we have seen a significant increase in participation because we are voting by mail. Believes vote-by-mail fits with modern life style. Thinks there are things that can be done to make it work even better.
111	Chair Harper	Compliments those who worked on the task force report.
112	Chair Harper	Closes the informational hearing and opens the public hearing on election reform.

ELECTION REFORM – PUBLIC HEARING

130	Rep. Betsy Close Chair Harper	District 36. Presents prepared statement (EXHIBIT D). Asks if Rep. Close is working with Rep. Wilson on her house bill.
	Rep. Close.	Responds affirmatively.
228	Sen. Miller	Asks Rep. Close to explain what she means by "allow family members only to assist senior and disabled citizens with their ballots."
236	Rep. Close	Responds that she was thinking of situations such as people in the hospital who have family members come in to assist them in marking and mailing their ballots.
	Sen. Miller	Questions who would identify the relationship of the person who might assist the elderly.
237	Ross Day	Attorney and Keizer resident. States he has reviewed the task force summary. Would ask the committee to look at three things. One is what is a vote. States there is no standard in Oregon to determine what a vote is. ORS 254.505 says "ballots from which it is impossible to determine the elector's intent... shall not be counted." States the SOS issues a directive prior to every primary election, but those directives may change from year to year. Asks that the committee put the definition in statute rather than administrative rule.
292		States that Oregon has a unique recount process. To the extent a five or 10 percent recount is not allowed to alter the result of an

		election, if the candidate or elector makes that challenge, the percentages are correct. However, if a county clerk has a partial recount of five or ten percent, those recount totals can be added to the rest of the tally to create the official recount (ORS 258.171 (2)). The potential problem is equal protection—if one vote gets looked at twice, all votes should be looked at twice.
329	Day	Comments that his third point, and the reason his law firm is suing the SOS and Multnomah County Clerk, is the inactive voter status. Asks for clarification of inactive voter status. States that the voter cannot vote until he/she reactivates his/her registration. The voting restriction is pretty clear, but also the person is not allowed to sign an initiative petition. The restriction on signing a petition is not in a directive or order, and it is not clear in statute. People found out after the fact that they did not have the right to sign a petition.
357	Sen. Minnis Day	Asks if the case was settled out of court. Explains that the court determined that the process used by the SOS and the county clerks was a violation of the client's Fourteenth Amendment Due Process rights.
	Sen. Minnis Day Day	Asks if the decision has been appealed. States that to his knowledge the decision has not been appealed. States the statute is not clear and would ask the committee to make it clear that an inactive voter cannot sign a petition.
393	Sen. Courtney Day	Asks if an “inactive” voter is a registered voter. Responds that their argument was that they were registered voters in the manner provided by law. As a result they had to be given notice before they could be deprived of the right to sign an initiative petition.
410	Sen. Courtney Day	Asks if the phrase "inactive voter" is in law. Responds affirmatively.
416	Sen. Courtney	Asks if it is correct that one would be less than an active voter, but more than an unregistered voter.
420	Day	Responds affirmatively. Adds that the initiative signature requirements simply require that a person be registered. An inactive voter is still registered; they are just not eligible to vote.
458	Sen. Brown	Asks what the status says about convicted felons being allowed to vote.
466	Day	Responds that he does not know.
025	Chair Harper	Closes the public hearing on election reform and opens an informational hearing on redistricting overview.

REDISTRICTING OVERVIEW - INFORMATIONAL MEETING

032	Sen. Gene Derfler	District 16 and President of the Senate. Explains that they want to set a record to tell what they would like to see happen in redistricting and they are also making a record so the court will understand that we are working together to come up with a fair system so everyone gets a fair shot at redistricting. The new figures from the Census have not been received. Comments there has been a lot of new ways of doing things. Technology is very good and it is going to be difficult to do anything but be honest with each other and do the right thing. We intend to engage everyone on a fair basis and have input from everyone. It
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		is up to this committee to decide where the lines are drawn. They hope this committee and all the members will be involved in coming up with a system that treats everyone fairly in redistricting.
057	Sen. Kate Brown	District 7 and Senate Democratic Leader. States she wants to express her support for a fair and inclusive process and thank Sen. President Derfler for his commitment. Hopes that as the discussions begin about new district boundaries we take the opportunity to have as much public input as possible. We should include early and often minority groups, cities, counties, school districts, and civic and business organizations. We should also include our friendly neighborhood associations because we need to hear how they feel they should be represented in this process. We should not assume we have all the information we need, but should strive to seek more input as we strive for consensus.
081	Chair Harper	Comments that when the process is explained to everyone, we will see that all the ideas will be implemented.
	Sen. Derfler	Adds that there are lots of good techniques and information and believes everyone will understand what is taking place.
090	Sen. David Nelson	District 29 and Senate Majority Leader. Comments it is his understanding that the redistricting process will be an open process and will get all the legislators involved. The legislators will be broken into 30 teams of three to go out into the communities and involve both parties.
107	Sen. Courtney	Asks if it is correct that this committee will be the committee of original jurisdiction for drawing the lines for the five congressional districts, and the House committee that is designated will be the committee of original jurisdiction that will define the lines of all state representative and state senate seats.
117	Sen. Derfler	Responds that Sen. Courtney is correct, and that this committee will have a chance to review the work on the state representative and state senator district lines and make changes as necessary. Hopefully, there will be a joint agreement. Adds that in 1981 a plan was drawn, passed by both the House and Senate, and signed by the Governor.
133	Marjorie Taylor	Coordinator for Redistricting, Committee Services. Explains set up of the staff office and services provided by staff. Presents information on redistricting including an explanation of redistricting, responsibilities, timelines and criteria for drawing district lines, categories of census statistics, and a summary of the history of redistricting in Oregon from 1951 to 1991 (EXHIBIT E) .
166	Steve Barnett	GIS Analyst, Committee Services. Explains his duties in the staff office. Submits information on Portland State University population estimates as of July 1, 2000 for counties and cities in Oregon, and two documents that have been derived from the Oregon house and senate district population estimates as of July 1, 2000 (EXHIBIT F) .
170	Chair Harper	State Senator from Klamath Falls (District 30). Speaking from the witness table explains that the intent is to get a bill signed by the Governor. The main way to do this is to involve every legislator and the public as much as humanly possible over the next several months. Explains that the administrative process is outlined (EXHIBIT G) . Reviews process. Explains that the

committee will provide the 3-member teams with all the resources available to let them go out to the communities. At the end of the two months, the teams will come back and let the committee know where the lines should be. Believes that 50, 60, or maybe 70 percent of the work will be done by agreement among those representatives and senators and their neighbors. Acknowledges that there will be disagreement and states those differences will have to be resolved to figure out where the lines will go.

- 219 Sen. Courtney States that while the numbers presented are very credible, they are not the official numbers from the U. S. Census Bureau and those numbers will not be here for a few weeks.
- 235 Sen. Harper States the numbers are estimates but feels they are enough to get started on.
- 246 Chair Harper Closes the informational meeting on redistricting overview and opens a work session for the purpose of adopting amendments to the Committee Rules.

COMMITTEE RULES AMENDMENTS - WORK SESSION

- 255 Chair Harper Explains the purpose of the work session is to adopt specific committee rules for redistricting.
- 239 Craig Allen Explains proposed amendments to committee rules (**EXHIBIT H**)
- 281 Sen. Courtney **MOTION: Moves to ADOPT the proposed amendments to the Committee Rules on redistricting.**
- 285 **VOTE: 7-0**
Chair Harper **Hearing no objection, declares the motion CARRIED.**

INTRODUCTION OF COMMITTEE MEASURES - WORK SESSION

- 287 Sen. Courtney **MOTION: Moves LC 2290 AND LC 2291 BE INTRODUCED as committee bills.**
- 292 **VOTE: 7-0**
Chair Harper **Hearing no objection, declares the motion CARRIED.**
- LC 2290 is introduced as SB 501.**
LC 2291 is introduced as SB 500.
- 298 Chair Harper Closes the work session and reopens the public hearing on election reform.

ELECTION REFORM - PUBLIC HEARING (Cont'd)

- 280 Fillard Rhyne Fair Vote Oregon. Submits prepared statement (**EXHIBIT I**). States that he is here to note a problem and suggest a solution to Oregon's election system. The voters are sometimes faced with the prospects that voting for his/her preferred candidate may help elect the candidate he/she least prefers. The most recent example is the 2000 Presidential election because people who preferred Ralph Nader were penalized if they chose to vote for that candidate because they were not able to participate in the choice between the two major candidates. Suggest implementation of a system called "Instant Runoff". Explains that the voters simply would indicate their choices of candidates in numerical order. Explains how the computers would read the ballots. Explains that this process has been used in Australia for 75 years and is used by the American Political Science Association. It is also in the Oregon Constitution. In 1908 the voters passed a ballot measure initiative to say that instant runoff was permissible for

		use.
351	Rhyne	States that Fair Vote Oregon requests a hearing to further discuss instant runoff. Rep. Diane Rosenbaum has submitted a bill to Legislative Counsel and suggests all the members consider sponsoring the bill.
	Rhyne	Advises that the ballot scanning machines in use in some counties of Oregon are compatible with instant runoff. Requests that any ballot tally systems authorized this session also be compatible with instant runoff in the same way.
365	Sen. Brown	Asks for an example other than the 2000 election.
368	Rhyne	Gives example of the 1990 Oregon gubernatorial election where Al Mobley and Dave Frohnmayer combined had a majority of the votes. It is probable under instant runoff that the people who voted for Al Mobley would have had the opportunity to have their votes count through to the end and help elect Dave Frohnmayer. States that instant runoff is a non-partisan reform. It is good for all voters because it means each voter gets to vote for the candidate of his/her choice without being penalized.
383	Debbie Whitcomb	Fair Vote Oregon. Speaks in favor of instant runoff voting. Believes the 2000 campaign was a source of demoralization and a depressing period. It had nothing to do with whether their candidate won or lost. It is their belief that they live in a democracy that has been shattered. Once money was ruled as a protected form of free speech, some voices are not as loud as others were. People who voted for a minor party candidate were faced with wasting their votes, having a spoiler vote, or choosing the lesser of two evils. States that up until this election no one now living has every experienced the electoral college contradicting and taking precedence over the popular vote. They were also shocked to hear from the Supreme Court justice that voters have no constitutional right to directly elect their president. States that voting has become a very degraded act.
490		States that instant runoff is fair. Requests hearing on instant runoff voting and asks that any new machines purchased be compatible with the system.
TAPE 18, A		
031	Sen. Minnis Whitcomb	Asks if voters could choose "None of the Above." Responds that people have considered that and some would like that.
034	Xander Patterson	Co-Chair, Pacific Green Party. Comments the Pacific Green Party is joining Fair Vote Oregon promoting instant runoff voting. This benefits both minor and major parties by allowing minor parties to show the full support without eroding the support of the other party with which they are most closely allied. It allows a voter to vote in a straightforward, non-strategic manner.
083	Patterson	Comments that the single greatest contribution in the development of political history is the notion that forms of government are not written by God. Comments on the Monarchy of England. States that other countries who have sought to create truly representative democracies have adopted other systems, many times through runoff elections.
	Patterson	States that the Portland City Council uses runoff elections. The problems with runoff elections are that they cost money and the

		voter turnout tends to be much lower. Instant runoff elections can give us the increased democracy, the increased free market of political ideas without adding any expense. It gets rid of the spoiler dilemma, guarantees the winner will have a clear majority and it allows people to vote for whom they want and for whom they are willing.
102	Patterson	Asks committee to sponsor the bill and hold another hearing.
124	Darrell Howard	Executive Director, Oregon Republican Party. Provides computer disks with registered voters to members. States he has reviewed the task force report (EXHIBIT C) and while he agrees with a lot of the information in the report, he finds a lot of things missing. The report has statistics about how long it takes to vote, but the statistics, by county, of what went wrong are missing. Asks how many ballots were sent out and how many were returned. Questions how many signatures were found to be invalid, how many people were notified their signatures were invalid, how many revalidated their signatures, how many voters moved within the 21-day window, and how ballot drop sites problems were reported.
182	Howard	Asserts that the 21-day window allows a person to move to a different district even though you will not live there and not have to provide proof of residence or whether the person is a U. S. resident. If a law could be crafted to say the person would be eligible to vote where the person is registered to vote, it should be looked at. States there were reports of busloads of kids going from area to area.
200	Chair Harper Howard	Asks if there is proof that students were being bussed. Responds they have tried to find proof; they do have reports of voting after eight o'clock.
200	Sen. Brown Howard	Asks how Howard feels about the instant runoff voting process. Comments that everyone currently has access to the ballot and access is very easy to obtain in Oregon. States he has seen runoff elections in Louisiana and Texas and participated in a system in Texas. It is the way they do things and it is very different than the system Oregon is operating under. It would be a major change. Instant runoff elections would be the most expensive races ever in Oregon because at that point money will not be an object for either party as it has in every other runoff election in the nation.
255	Sen. Brown Howard Sen. Courtney Howard	Comments that it could not be more expensive than the million dollars that was spent on Senate campaign. Responds that there are various forms of runoff elections and he has never seen the system explained earlier. Asks if Howard is saying the SOS is withholding information. Responds negatively. States he is saying the people they have contacted have refused to come forward for whatever reason, personal safety or otherwise.
278	Howard	Adds that the report (EXHIBIT C) addressed punch card balloting. There are ten or 20 complaints from people who had their ballots re-marked with graphite stamps in Jackson County. They do not know if the ballots were theirs but witnessed the remarking, and they witnessed voting after the eight o'clock

deadline. Adds that the report says the machines would have to be different in order to be able to read ink. States that when they were going through the Bush campaign recount issues Jackson County was very slow. They spoke with Al Davidson, Marion County Clerk, and asked if there would be a problem with the machine reading ink. Davidson told them the Marion County machines have the ability to read ink and that it cost extra to do that, but Jackson County did not have that. Believes that standardized voting machines and vote tallying machines is an issue that has to be addressed.

310	Sen. Brown	Asks if Howard would like to see the state spend the money to have the same or similar process throughout the state.
299	Howard	Responds that he does not know who is responsible for the financial aspect, but thinks there is an issue of some sort of standardization.
317	Chair Harper	Adjourns meeting at 5:18 p.m..

Submitted By,

Reviewed By,

Annetta Mullins,
Committee Assistant

Craig Allen,
Committee Administrator

EXHIBIT SUMMARY

- A - Racing Commission, Oregon, interest form, roster, and legislative review, staff and Governor's office, 4 pp**
- B - Election Reform, prepared statement, Bill Bradbury, 10 pp**
- C - Election Reform, Oregon Elections Task Force Report, Bill Bradbury, 23 pp**
- D - Election Reform, prepared statement, Rep. Betsy Close, 2 pp**
- E - Redistricting, information for redistricting, Marjorie Taylor, 4 pp**
- F - Redistricting, population statistics, Steve Barnett, 12 pp**
- G - Redistricting, process information, Sen. Steve Harper, 5 pp**
- H - Committee Rules, proposed amendments, staff, 5 pp**
- I - Election Reform, prepared statement legislative proposal, Fillard Rhyne, 7 pp**