

# SENATE COMMITTEE ON RULES AND REDISTRICTING

March 15, 2001 Hearing Room C  
3:00 PM Tapes 32 - 34

**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:** Redistricting  
Public Hearing  
SB 940  
SB 937  
SB 939  
SB 175  
SJR 15  
SB 182  
SJR 11  
Work Session  
SB 825

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 32, A</b>		
004	Chair Harper	Calls meeting to order at 3:05 p.m. and announces that witnesses will be allowed five minutes to present testimony on the measures scheduled for public hearing.
019	Chair Harper	Opens a public hearing on redistricting.
<b><u>REDISTRICTING - PUBLIC HEARING</u></b>		
018	Chair Harper	Asks members to let staff know if they would like to continue receiving copies of all documents relating to redistricting. Enters into record the following documents: E -mail from Baker City ( <b>EXHIBIT A</b> ) Letter from City of Philomath ( <b>EXHIBIT B</b> ) Letter and list of recipients of second mailing ( <b>EXHIBIT C</b> ) Letter from Nestucca Valley Chamber of Commerce ( <b>EXHIBIT D</b> ) Letter from Dave Henderson relating to distribution of data ( <b>EXHIBIT E</b> )
037	Chair Harper	Reminds members the first road trip is next Friday. Requests members return the questionnaire regarding travel and food to

		staff by Friday afternoon.
050	Chair Harper	States that no one has signed up to speak on redistricting.
051	Chair Harper	Closes the public hearing on redistricting and opens the public hearing on SB 940.
<b><u>SB 940 – PUBLIC HEARING</u></b>		
050	Sen. Ginny Burdick	District 6. Introduces Christian Leonard, Oregon Education Association. Testifies in support of SB 940. SB 940 would require regular reporting of contributions and expenditures during the signature-gathering phase of initiative petitions. Comments she was surprised to learn that no reporting of contributions or expenditures was required until two weeks after the signatures were turned in. They realized they were not going to be able to get all the necessary signatures with volunteers and received a grant of \$70,000 from a national group that works on gun control throughout the country. States that is something the public had a right to know when they were debating whether to sign the petition. Explains that she released the information to the press but was not required to. She also gave reporters permission to look at their contributor record and to report results of the record. Believes that to not have disclosure would be very similar to not having people disclose who is supporting a person's candidacy during a primary election.
120	Christian Leonard	Oregon Education Association (OEA). Testifies in support of SB 940 ( <b>EXHIBIT F</b> ).
146		Issues discussed: <ul style="list-style-type: none"> <li>• What harm will be prevented by maintaining the current system</li> <li>• Whether a citizen would refuse to sign if they are provided information about who is behind the measure</li> <li>• Whether potential signers are prohibited from asking who is sponsoring the initiative</li> <li>• Previous measure rejected by court</li> </ul>
200	Becky Miller	Oregon Taxpayers United. Testifies in opposition to SB 940. It is an unnecessary change to the status quo. States that who contributes to a candidate does matter because the voters deserve to know what interests might be buying a future vote or influence. However, a ballot measure cannot be changed because somebody contributed. There is a difference between candidates and ballot measures. Also do not have objection to disclosure on signature drives; everything is fully disclosed, but it gives the public more information than they care about. Frequent disclosure is a burden and there are always bills that haven't been paid but they are shown as accounts payable, etc. and by the time the Secretary of State's office (SOS) has questioned the statement, the next C & E has already been turned in and there are overlaps. It can cause a nightmare when the reporting periods are too close together for petitioners and SOS. More frequent disclosure is unnecessary and confusing.
276	Sen. Brown	States she understands the reporting periods would include cumulative information and as opposed to doing all the work at the end, it is being done over a period of time.
	Miller	Gives example of mistakes that overlap and what happens with

		attempts to correct errors.
337	Chair Harper	Closes the public hearing on SB 940 and reopens the public hearing on SB 940.
351	Greg Wasson	Presents prepared statement in opposition to SB 940 because it makes it impossible to use the initiative process ( <b>EXHIBIT G</b> ).
<b>TAPE 33, A</b>		
005		Closes the public hearing on SB 940 and opens a work session on SB 825.
<b><u>SB 825 – WORK SESSION</u></b>		
010	Chair Harper	Reminds members that SB 825 changes the sequence numbering system for ballot measures and initiatives. Explains that Mr. Hering gave testimony that the California Secretary of State's office hung up on him. Mr. Hering wants to clarify that they did not hang up on him and that he got caught in the voice mail system and hung up on the voice mail.
014	Sen. Courtney	<b>MOTION: Moves SB 825 to the floor with a DO PASS recommendation.</b>
015	Chair Harper	<b>VOTE: 7-0</b> <b>Hearing no objection, declares the motion CARRIED.</b>
<b>SEN. YIH will lead discussion on the floor.</b>		
024	Chair Harper	Opens a public hearing on SB 937.
<b><u>SB 937 – PUBLIC HEARING</u></b>		
029	Sen. Ginny Burdick	District 6. Testifies in support of SB 937. SB 937 would require anyone who signs a petition to not only fill in his/her signature, but also to fill in his/her printed name and residence address. Explains that currently the signature gatherer fills in the address and the printed name of the person. This is a relatively small change but believes it would make people devote their time to each petition.
		Issues discussed:
040		<ul style="list-style-type: none"> <li>• Assistance for a person who is blind</li> <li>• Whether there is a penalty if the circulator fills in the information</li> <li>• What is going to be fixed with this bill</li> </ul>
070		Administrator. Advises members that violation by the circulator would be a class C felony.
104	Craig Allen	
113	Dan Meek	Coalition for Initiative Rights. Testifies in opposition to SB 937. They do not believe there is a problem. Signatures are verified according to the signature, not according to the printed name or address of the person signing. Also the Secretary of State and county election offices have no printing samples on file and therefore cannot determine who has printed the name and address. States that such a requirement would only disqualify valid signatures of those persons who may have illegible printing and make the signature collection process more time consuming, more expensive, and more likely to rely on large contributions. <b>(SEE EXHIBIT N OF COMMITTEE MINUTES DATED MARCH 8, 2001.)</b>
131	Tom Cropper	Portland resident. States he has been involved in the political process since 1994 and has helped people with their ballots. Believes the signature should be verified and that the signature

144 Becky Miller should be that of the person. Adds that he sees no mention of the precinct area but it is important information because then they would know which Betty Brown is signing.  
Oregon Taxpayers United. Testifies in opposition to SB 937. States that one cannot get people to circulate petitions for money if they cannot make a decent living at it. Explains that one of the reasons they can make a decent living is that they can carry multiple petitions and try to get as many signatures as possible in a short a time. Gives example of Oregon Taxpayers' booth at the State Fair.  
States that only a signature is required on a petition. All the other information is optional and is only there as a courtesy to assist the election people in finding who the voter is and verifying his/her signature. There is no value in saying who fills in the rest of the information.

220 Chair Harper Closes the public hearing on SB 937 and opens a public hearing on SB 175.

**SB 175 - PUBLIC HEARING**

204 Dave Hunnicutt Oregonians in Action. Testifies in support of SB 175. States that SB 175 will be helpful to chief petitioners. Purpose is to stop delay between the time you submit your proposed initiative to the SOS and the time it is certified by the Supreme Court. It is designed to give a chief petitioner time to request an oral argument.  
Believes the courts can decide cases on the briefs. Delay is inordinate and unnecessary and chief petitioner should be the one to ask for an oral argument.  
It is a nice way to speed up the process without making major changes to the initiative process. Has talked to Keith Garza and is aware of the more fundamental separation of powers issue. Is willing to look at any other proposal and would accept a policy statement to the courts saying speed up the process as quickly as possible and avoid oral arguments, if possible.

306 Sen. L. Beyer Hunnicutt Suggests language that says, "...shall decide the matter upon the briefs unless the court decides the need for oral arguments...". Responds that he would be satisfied with the language suggested by Sen. L. Beyer. States he put "chief petitioner" in because he wanted to give the person who is bringing forward the idea the opportunity to seek oral argument.

320 Sen. Brown Asks what kind of impact this bill would have on the Supreme Court.

322 Chair Harper Hunnicutt Responds that currently the Supreme Court spends 23 percent of their resources on ballot measures.  
Responds he does not know, but this would save time. In March of last year, the court was fairly routinely denying oral arguments.

348 Chair Harper Comments that a work group has been working for about a month and this issue has come up from the court. Adds that something like Sen. L. Beyer's suggestion might work.

325 Dan Meek Coalition for Initiative Rights. Does not oppose SB 175 and believes most of the time that oral arguments are not necessary. It is good work for lawyers. Adds that he has had an additional week to think about the bill and that he now supports the bill.

374 Chair Harper Closes the public hearing on SB 175 and recesses the meeting at

386 Chair Harper 3:58 p.m. pending arrival of sponsors of other measures.  
Reconvenes the meeting at 4:00 p.m. and opens a public hearing on SJR 15.

**SJR 15 – PUBLIC HEARING**

395 Sen. Rick Metsger

District 14. Advises that at the meeting last Thursday a letter from Sen. Clarno, co-sponsor of SJR 15, was submitted **(EXHIBIT H)**. States there may also be comments from others but will cover comments for Mary Botkin for AFSCME and Oregonians for Food and Shelter.

405

SJR 15 is a referral to the voters regarding the initiative referenda process. The initiative system does two things: 1) provides access to the ballot, and 2) their vote has some meaning, it does count.

458

Sen. Metsger

Gives example of Measure 47, Measure 7, and Measure 82.

Explains this is different than the initiative system. We continue to see people casting their vote and yet, because of the business nature of the initiative system those votes are not important unless those votes are in favor of the proponents. That is articulated by the fact that within days of the last election proponents of measures turned down by the voters were working to put the measures back before the voters again.

SJR 15 says that we have a term limit on initiatives, whether the initiative is by the citizenry or the Legislative Assembly. If the voters say no, we should also respect that and give them some breathing room before the measures are brought before the electorate again.

**TAPE 32, B**

045

Sen. Miller

Asks if this would be constitutional if it were drafted as a statute.

055

Sen. Metsger

Responds no, his understanding is that it would have to be a constitutional amendment.

050

Sen. Miller

Asks which provision of the Constitutional it would violate.

052

Sen. Metsger

Responds it is an amendment to the initiative process that is in the Constitution.

066

Sen. Miller

Comments that in the last 10 years, of 416 proposed initiatives, 24 have passed. States he is still looking for the problem.

072

Sen. Metsger

Responds that so many of the initiatives have not passed four, five, and six consecutive times. That is the issue. People have spoken and said no and the initiatives continue to come back.

088

Sen. Miller

Asks Sen. Metsger to define "substantially similar."

Sen. Metsger

Explains there is a definition of "substantially similar" in the bill. Adds that a provision in the bill says that if a petitioner disagrees with the decision by the Secretary of State that an initiative is substantial similar, there is a direct appeal to the Oregon Supreme Court for a decision.

Various

A list of supporters of SJR 15 was submitted to the committee **(EXHIBIT I)**.

Chair Harper

Closes the public hearing on SJR 15 and opens a public hearing on SB 182.

**SB 182 - PUBLIC HEARING**

108

Sen. Cliff Trow

Testifies in support of SB 182 and proposes an amendment **(EXHIBIT J)**. Explains that SB 182 deals with a problem with the initiative process. Sometimes bills that get into the process are poorly worked out or have statutory or legal problems of

violating contract, etc. Those need an up-front review. SB 182 would ask the Attorney General to do a review within 20 days of receiving a prospective petition. Believes the proposal in this bill has not been accepted before because there was a belief that it would set up a process that would be expensive and bureaucratic, and would be a tremendous burden on the Attorney General. Explains that the amendment (**EXHIBIT J**) would change the timeline and narrow the scope so there would not be an Attorney General Review unless, within 10 days of the Attorney General receiving the initiative measure, the Governor, the President of the Senate, or the Speaker of the House of Representatives requested such a review. They would have 10 days to do that. After the request the Attorney General would have 20 days to do the review. The review would become advisory and would accompany the measure. Also the Attorney General could confer with the chief petitioners. Believes the up-front review could be accomplished without creating a heavy burden on the Attorney General.

184 Sen. L. Beyer

Asks if Sen. Trow has discussed SB 182 with the Attorney General.

Sen. Trow

Responds he has not. Explains that this measure would mean the review would only be done occasionally.

208 Sen. L. Beyer

Comments he believes it is good to have a legal opinion. In 1995 and 1997 the Attorney General's office had a concern, not necessarily that there was a need, but they did not want to be in the position of being the state's lawyer of putting an opinion out saying there are constitutional problems only to have it pass and then be put in a position of having to defend it against their own opinion. Adds that one of the suggestions that came up during the discussion was an advisory role that Legislative Counsel could do because they would not have the same conflict.

Explains position of the Supreme Court. States that Legislative Counsel would not have the same situation.

Sen. L. Beyer

Asks if Sen. Trow would be opposed to having the review done by Legislative Counsel.

230 Sen. Trow

Responds he thinks it needs to be done. Legislative Counsel could do it effectively and he would not be opposed to that.

Believes that the Attorney General could speak with more authority but Legislative Counsel could do it.

235 Chair Harper

Closes the public hearing on SB 182 and opens a public hearing on SJR 11.

### **SJR 11 - PUBLIC HEARING**

221 Sen. Trow

Comments SJR 11 is a simple bill. People say it is too easy to amend the Oregon Constitution. This bill would say that if you are going to amend the Oregon Constitution, you need a super, two-thirds, majority vote.

266 Chair Harper

Asks if Sen. Trow would agree to require a two-thirds majority on SJR 11.

Sen. Trow

Responds affirmatively.

304 Chair Harper

Closes the public hearing on SJR 11 and reopens the public hearing on SJR 15.

### **SJR 15 - PUBLIC HEARING**

290 Dave Hunnicutt

Oregonians in Action. Testifies in opposition to SJR 15 because

it is unconstitutional. It violates the full text provisions of Article IV, Section 1(2)(d) of the Constitution because it makes changes to the free speech provisions of Article I, Section 8 and does not incorporate the free speech provisions of Article I, Section 8 in the text of the measure.

329 Sen. L. Beyer

Asks if the violation would be resolved if this were written and referred by the Legislature as a revision to the Constitution.

Hunnicutt

Responds that the legislature does have the authority to refer revisions to the voters. They must pass by a two-thirds majority. This is written as an amendment. Adds that this also violates separate votes provisions of Article 17, Section 1, as interpreted by the Oregon Supreme Court in the Armada case. It makes amendments to the power of the people to amend the Constitution via the initiative, and the power of the legislature to amend the Constitution via the referral.

370 Dan Meek

Coalition for Initiative Rights. Testifies in opposition to SJR 15. Compares prohibition of re-filing initiatives in consecutive years to restricting measures from being reintroduced in the legislature in following sessions. **(ALSO, SEE EXHIBIT N OF COMMITTEE MINUTES DATED MARCH 8, 2001.)**

413 Tom Cropper

Portland. Testifies in opposition to SJR 15. Comments the Coalition for Initiative Rights has voted to oppose this measure because the initiative process is a basic right; it is a form of free speech.

451 Becky Miller

Oregon Taxpayers United. Testifies in opposition to SJR 15. Asks if candidates who fail when running for office should be prohibited from running again for four years, and questions whether there should be a prohibition on school bond measures being repeatedly sent to voters. Comments that the target is probably Oregon Taxpayers United paycheck protection efforts. Questions meaning of "substantially different."

### **TAPE 33, B**

030

Issues discussed:

- Whether it would be a good idea to put the measure on the ballot to give the public a chance to consider it.

089 Greg Wasson

Testifies in opposition to SJR 15. States that political reality is that sometimes repeated submissions are necessary. Adds that Article 17 is a product of an initiative.

115 Mary Botkin

American Federation of State, County, and Municipal Employees (AFSCME) testifies in support of SJR 15. Thinks it makes sense to give the legislature an opportunity to act on measures between ballot measures and initiatives being re-referred. Believes initiatives and ballot measures should go through a public hearing process. Thinks waiting for four years to resubmit an idea is good because it gives the legislature an opportunity to act in the meantime. Thinks the legislative process is a better process because it allows for more debate.

Closes the public hearing on SJR 15 and reopens a public hearing on SB 182.

### **SB 182 – PUBLIC HEARING**

188

Philip Schradle

Special Counsel to the Attorney General. Testifies in opposition to SB 182. Submits and summarizes prepared statement **(EXHIBIT K)**. Adds that he appreciates Sen. Trow's comments

		that Attorney General opinions may carry substantial weight but believes Legislative Counsel could do the function as well. Is willing to have discussions on having Legislative Counsel review the measures.
240	Dan Meek	Coalition for Initiative Rights. States that as a member of the Oregon State Bar, he was prepared to support the bill because it would require hiring at least five to ten additional full-time attorneys. Believes the \$600,000 is an under estimate of the cost. States that the amendment proposed by Sen. Trow would cause him to oppose the bill even more <b>(EXHIBIT J)</b> because it would make it apply only to those measures that the President of the Senate and Speaker of the House or the Governor do not like. It would be worse than having it apply to every measure. Adds that having an opinion from the Attorney General saying a measure is constitutional doesn't help very much, but having an opinion that says it is unconstitutional would be devastating. Has found that in the courts the Attorney General opinions hold up about one-half of the time.
250	Becky Miller	Oregon Taxpayers United. Testifies in opposition to SB 182. States that the Attorney General opinion is just an opinion and is something that would be used extensively in campaigns by opponents of the measure. States that Oregon Taxpayers United seek legal counsel advice on every measure for constitutional issues before they file. Gives examples of Measure 8 in 1995 and Measure 7 in 2000. Adds that the attorney general position is a political position; an attorney general is elected based on party. It is not the same case with the courts. Explains that the Attorney General can keep a measure from going forward if it violates the single subject rules. The issue in Measure 7 is new and goes beyond anything that has been done before and could not have been anticipated by the Attorney General or anyone else in advance.
330		Issues discussed:
346	Chair Harper	<ul style="list-style-type: none"> <li>• Whether the Legislative Counsel process would be helpful.</li> </ul> Closes the public hearing on SB 182 and opens a public hearing on SJR 11.
<b><u>SJR 11 – PUBLIC HEARING</u></b>		
327	Becky Miller	Oregon Taxpayers United. States that a two-thirds majority vote would be required to pass SJR 11 because of voters' approval of Measure 63 in 1998. Comments on previous comments that the Oregon Constitution is being cluttered with things that don't belong. Gives example of attempts by legislature to change sentencing under Measure 11.
415	Dan Meek	Coalition for Initiative Rights. Testifies in opposition to SJR 11 <b>(SEE EXHIBIT N OF COMMITTEE MINUTES DATED MARCH 8, 2001.)</b> Adds that he believes the measure violates the concept of one person, one vote, and could also be unconstitutional under the U. S. Constitution.
475		Issues discussed:
		<ul style="list-style-type: none"> <li>• Whether there will be an initiative to abolish the legislative branch of government.</li> </ul>
<b>TAPE 34, A</b>		
030	Tom Cropper	Member of Coalition for Initiative Rights. States they oppose

		SJR 11. Agrees we do need to protect the Constitution and there are things in the Constitution that should be removed. Does not support amending the Constitution by two-thirds vote because it gives a dictatorship of the vote to a minority one-third group. Would support an absolute majority of registered voters. Approves of the goal of protecting the Constitution but does not believe this is the way to do it.
053	Dave Hunnicutt	Oregonians in Action. Testifies in opposition to SJR 11 because it violates the separate vote provision of the Article 17, Section 1 of the Constitution. It contains two components. Issues discussed:
071	Sen. Courtney	<ul style="list-style-type: none"> <li>• Where Oregonians in Action stand on the issue of super majority.</li> </ul>
083	Chair Harper	Closes the public hearing on SJR 11 and adjourns the meeting at 5:05 p.m.

Submitted By,

Reviewed By,

Annetta Mullins,  
Committee Assistant

Craig Allen,  
Committee Administrator

**EXHIBIT SUMMARY**

- A - Redistricting, comments received via internet, Baker City, 2 pp**
- B - Redistricting, letter, City of Philomath, 1 p**
- C - Redistricting, letter from chairs and vice-chairs, staff, 17 pp**
- D - Redistricting, letter, Nestucca Valley Chamber of Commerce, 1 p**
- E - Redistricting, memorandum from Dave Henderson, staff, 1 p**
- F - SB 940, prepared statement, Christian Leonard, 1 p**
- G - SB 940, prepared statement, Greg Wasson, 3 pp**
- H - SJR 15, statement, Sen. Clarno, 1 p**
- I - SJR 15, support list, various, 1 p**
- J - SB 182, proposed amendment, Sen. Trow, 1 p**
- K - SB 182, prepared statement, Philip Schradle, 2 pp**