

SENATE COMMITTEE ON RULES AND REDISTRICTING

March 08, 2001 Hearing Room C
3:00 PM Tapes 28 - 29

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

MEMBER EXCUSED: Sen. Randy Miller

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

MEASURE/ISSUES HEARD: Work Session
SB 843
Public Hearing
SB 629
SB 825
SB 464

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 28, A		
004	Chair Harper	Calls meeting to order at 3:05 p.m.
<u>REDISTRICTING</u>		
004	Chair Harper	Announces no one has signed up to testify on redistricting. Enters into the record a letter received from Tillamook County (EXHIBIT A) and a letter and list of people letter was sent to from chairs and vice-chairs of the Senate Rules and Redistricting and House Rules, Redistricting and Public Affairs committees (EXHIBIT B) .
	Chair Harper	Opens a work session on SB 843.
<u>SB 843 – WORK SESSION</u>		
016	Marc Hellman	Oregon Public Utility Commission (PUC). Introduces Teya Penniman, Assistant Attorney General, Department of Justice.
	Teya Penniman	Assistant Attorney General, Oregon Department of Justice. States her purpose is to explain the differences between the first portion of the bill relating to arbitration as initially introduced and the subsequent SB 843-3 amendments (SEE EXHIBIT A OF MARCH 6, 2001 COMMITTEE MINUTES) .
028		<ul style="list-style-type: none">• Coalition that proposed original language included public utilities, PUC staff, consumer advocacy groups, industrial consumers, and environmental interests.• Bill did not originally specify that the PUC would designate

a particular arbitrator. Instead, the commission rule would have established the selection process. The commission's draft rules provided that appraisers hired by the parties involved in arbitration would play a significant role in the selection process.

044

- The SB 843-4 amendments (**EXHIBIT C**) leave the process to be determined by commission rule.
- As initially considered by members of the coalition, the legislation would not provide for any specific role of PUC staff, except to clarify that staff would have party status in any arbitration. The intent was to enable staff to participate in arbitration even though under the Administrative Procedures Act (APA) staff is not ordinarily considered a party. The PUC does not anticipate that a single employee will participate in the arbitration process and the PUC has no intent to designate an employee, or give a specific employee the authority to make binding offers on its behalf. The SB 843-4 amendments revert back to the original intent, which is that the commission may, by rule, establish a party status in the arbitration proceedings.

063

- Another substantive change involved the role of the different parties. As initially contemplated by members of the coalition, a number of different interests would participate in an arbitration. It could include the consumer advocacy groups, the utilities, electric companies, staff, and industrial consumers. The original legislation provided that only the utility could challenge either the selection of an arbitrator or the ultimate decision of the arbitrator. The language in the SB 843-4 amendments provides that all the participants in the arbitration process would have the ability to challenge a decision.

075

- Another significant change relates to the status of the arbitrator. As initially considered by the coalition, it established that the arbitrator acts in a public capacity. The purpose of the language was to address the concerns of the Department of Justice about delegation of authority by the commission to an arbitrator who was a private individual to act on behalf of the state agency. The language now states that the arbitrator acts on behalf of the commission in performing the duties that are delegated to the arbitrator.

085

Hellman

Explains that the SB 843-4 amendments now have language that is consistent with the intent of this process and the intent of what the parties had agreed should be the arbitration process, and also reflects language that both counsel and Legislative Counsel worked out so that any concerns have been addressed with the new language.

090

Sen. Minnis

Asks if the selection of the arbitrator will be by rule adopted by the commission.

Hellman

Responds yes, and explains that the commission has looked at rules that they are inclined to adopt if there is legislation that allows them. In that process the appraisers get together and nominate an arbitrator who then gets approved or not approved

		by the commission.
106	Sen. Minnis	Asks what happens if the decision of the arbitrator is challenged.
102	Penniman	Explains that under subsection (7) of the bill that would occur if one of the parties who participated in the process files exceptions on a specific basis. The commission would either vacate or modify the order or refer it back to the arbitrator with instructions for correction or re-hearing.
120	Sen. Minnis	Asks if the commission could send it back to the same arbitrator.
	Penniman	Responds affirmatively. States she believes the commission will address that in the rules.
123	Sen. Minnis	Asks why they would not go to a different arbitrator.
	Penniman	Responds she thinks it would depend on the nature of the mistake or the problem with the decision.
124	Sen. Minnis	Asks if they would have the ability to choose another arbitrator.
	Penniman	Responds that even though it is not specified under the statute, she believes the process would contemplate that.
127	Sen. Minnis	Asks if an arbitrator or the commission would make the final decision under the intent of the bill.
	Penniman	Responds that the commission will have to approve or adopt any arbitration decision as part of a final order.
130	Sen. Minnis	Asks if the commission has the ability to reject the arbitrator's decision if there is no challenge.
	Penniman	Responds that is not the intent of the bill. The intent of the bill is to reach a final conclusion through arbitration unless there is a specific identified problem.
134	Sen. Minnis	States then if the arbitrator comes through with a decision and there is no challenge, Penniman is saying that the commission is not going to change the decision.
	Penniman	Responds that Sen. Minnis is correct.
137	Chair Harper	Comments there is still subsection (8) that provides for appeal to the Court of Appeals.
139	Penniman	Responds that Chair Harper is also correct.
142	Sen. Courtney	MOTION: Moves to ADOPT SB 843-4 amendments dated 3/8/01.
143		VOTE: 5-0
		EXCUSED: 2 - Brown, Miller
	Chair Harper	Hearing no objection, declares the motion CARRIED.
148	Sen. Courtney	MOTION: Moves SB 843 to the floor with a DO PASS AS AMENDED recommendation.
149		VOTE: 5-0
		EXCUSED: 1 - Brown and Miller
	Chair Harper	Hearing no objection, declares the motion CARRIED.
		SENS. ATKINSON AND BEYER will lead discussion on the floor.
168	Chair Harper	Opens a public hearing on SB 629.
<u>SB 629 – PUBLIC HEARING</u>	Sen. Burdick	Submits statement and initiative log. Reads prepared statement in support of SB 629 (EXHIBIT D).

236	Sen. Burdick	Adds comments about process in filing her initiative relating to guns.
	Sen. Burdick	Introduces Bruce Bishop and Bill Perry.
270	Bill Perry	Director, Government Relations, Oregon Restaurant Association. Presents a prepared statement in support of SB 629 (EXHIBIT E) .
317	Bruce Bishop	Oregon Association of Hospitals and Health Systems. Presents a prepared statement in support of SB 629 (EXHIBIT F) .
358	Bishop	Comments on chart attached to testimony (EXHIBIT F, page 3) .
390	Bishop	Continues presentation of statement (EXHIBIT F, page 4) .
TAPE 29, A		
017	Kappy Eaton	League of Women Voters of Oregon. Submits prepared statement on all measures scheduled for hearing. Supports previous comments and presents comments on SB 629 (EXHIBIT G) .
050	Tim Nesbitt	Introduces statement submitted by labor organizations in support of SB 629 and SB 464 (EXHIBIT H) .
	Nesbitt	Presents statement for AFL-CIO in support of SB 629 (EXHIBIT I) .
122	Sen. Minnis	Asks what the reason was for the initial requirement for 25 signatures.
	Nesbitt	States the 25 signatures could be kept for circulation; it is inappropriate to start the wheels turning to get the ballot title at this point.
	Sen. Minnis	Suggests doing away with ballot titles and letting the voters figure it out.
145	Sen. Burdick	Comments that under SB 629 the signatures would go toward the total required. States that the ten percent of the required signatures at the beginning of the process show that the person is serious and has some support for the measure before starting the process.
163	Dave Hunnicutt	Oregonians in Action. Speaks in opposition to SB 629: <ul style="list-style-type: none"> • The bill is a pendulum in reverse and would stop ballot title shopping. It will make it impossible for grassroots organizations to bring initiatives. The 10 percent threshold works out to at least \$13,000. If the purpose is to control ballot title shopping, there are alternative ways to do it. The ballot title process could be revised by creating an explanatory statement committee as opposed to asking the Attorney General to get involved. Another way is SB 175 that would limit oral arguments at the Supreme Court.
220	Sen. L. Beyer	Asks if the issue is they would not want to spend the time to get signatures until they had a ballot title.
	Hunnicutt	Explains the process of getting an initiative on the ballot. States that they may not get a title that accurately reflects the measure. At that point they are out \$20,000 and have to start over again. States they can only count up to 10 percent of the signatures and will probably have to gather 13 or 14 percent of the required signatures.
	Chair Harper	Comments that would be an easy fix.
	Hunnicutt	Responds they would appreciate that fix, but it is not the only issue for them. The ballot title is so important. States that for a

		grass-roots organization, submitting another measure in search of a new ballot title is not an option because there is no pot of gold at the end of the rainbow.
319	Sen. Minnis	States that it seems if we didn't have ballot titles, the only basis for not understanding the measure they were voting on was the measure itself.
335	Hunnicutt	Responds that he thinks the purpose behind the ballot title requirements was to give voters a synopsis of a measure. Whether the process works or not is debatable. Does not think it is wrong for an organization to say the people will not understand the ballot title and go back for another ballot title.
372	Greg Wasson	Explains where the 25 signature requirements originated. Presents statement in opposition to SB 629 (EXHIBIT J). Comments that the voters have said they do not want to make it harder to use the initiative process. The requirement of single subjects will result in not having to shop for ballot titles.
TAPE 28, B		
050	Bill Sizemore	Executive Director, Oregon Taxpayers United. Testifies in opposition to SB 629. Contends that the paid petitioners would love this bill and the Elections Division in Clackamas County would not like the increased number of required signatures. States that 25 or 10,000 signatures are not an indication that the measure has any support statewide. The reason for the 25 signatures is so everybody cannot just run down and file an initiative.
083	Sizemore	States he always asks legislators to do to themselves anything they do to the initiative process. Gives example of introducing a bill and the process of amending the bill. Makes analogy to the way a bill goes through the legislature being amended to submitting various measures in search of an appropriate ballot title.
119	Sizemore	States that if people think ballot measures are poorly drafted now, this would lead to people saying they are too far invested and there is not time to start the process over and will go ahead with what they have. States that voters do not vote on ballot measures; they vote on the Attorney General's description. Contends that it is not ballot title shopping but is similar to amendments in this building.
184	Sen. Minnis	Comments that about half a million dollars was spent in court time and the Attorney General's time. Ballot titles are not constitutionally mandated and believes one could make the argument that ballot titles might be restrictive.
191	Sizemore	States there are other alternatives. Adds that he believes the answer is to get the Supreme Court and the Attorney General out of the ballot title business.
194	Chair Harper	Closes the public hearing on SB 629 and opens the public hearing on SB 464. Apologizes to those in the audience for not having time to hear testimony on all the measures scheduled.
	Dan Meek	Coalition for Initiative Rights. Submits statement in opposition to SB 629 (EXHIBIT N, page 1).
	Dale Crabtree	Eugene. Submits via e-mail comments in opposition to SB 629 and SB 464, and stating no position on SB 825 (EXHIBIT Q).
SB 464 – PUBLIC HEARING		
209	Sen. Susan Castillo	Presents a prepared statement in support of SB 464 (EXHIBIT

- 294 Chair Harper **K).** Asks if this will bind the legislature to only those three appropriations.
- Castillo Responds no, it would just identify the three major sources of funds--education, health care, and public safety.
- 330 Sen. Lenn Hannon District 26. Testifies in support of SB 464:
- SB 464 is a truth-in-government bill.
 - Compares initiative process to process in Ways and Means.
 - Not in business of selling false promises.
 - Urges committee to pass the bill and pass the facts on to the public.
- 372
- 303 Sen. Castillo Submits letter for Fred Miller, Portland General Electric, in support of SB 464 (**EXHIBIT L**).
- Tim Nesbitt Introduces statement submitted by labor organizations in support of SB 629 and SB 464 (**EXHIBIT H**).
- 402 Chair Harper Temporarily closes the public hearing on SB 464 and opens a public hearing on SB 825.

SB 825 – PUBLIC HEARING

- 410 Sen. Yih District 19. Submits statement in support of SB 825 (**EXHIBIT M**). Introduces Hasso Hering, Editor, Albany Democrat Herald, and states Mr. Hering requested the bill and can explain it.
- 420 Hasso Hering Editor, Albany Democrat Herald. Comments on confusion of repeating ballot measure numbers. Gives examples of familiar measure numbers associated with certain concepts. Suggests the numbering system be infinite, with numbers being consecutive continuing from election to election to avoid duplication of numbers.

TAPE 29, B

- 042 Ed Dennis Secretary of State's office (SOS). Testifies that they do not have a problem with the bill. It would cost about \$150 to have a programmer come in and fix the system and SOS thinks it would be good for voters.
- 048 Dan Meek Coalition for Initiative Rights. Explains makeup of the coalition. Submits prepared statement on bills scheduled for hearing today (**EXHIBIT N**), and testimony submitted in 1999 (**EXHIBIT O**). Testifies in opposition to SB 825. Their coalition has voted to oppose SB 825. They believe it would be more confusing to voters to have numbers in the three digits or in the four digits. Proposes having a different numbering system for referrals by legislature.
- 101 Sen. Courtney Asks if they oppose the bill but propose a different numbering system for referrals and initiatives.
- Meek Responds that if someone believes that the current system causes a great deal of confusion, which their coalition does not, then they believe a better answer, rather than numbering into infinity, is to have a numbering system that adds letters in addition to the number.
- 135 Sen. Brown Comments on Ballot Measure 9 being the same subject in two elections.
- Sen. Brown Asks what groups make up the coalition.
- 149 Meek States that among those who regularly attend their meetings are Ruth Bendl, Don McIntire, Lloyd Marbet, proponents of campaign finance reform and other initiatives.

143	Hering	States he has every confidence in the ability of the Oregon voters to be as least as knowledgeable as California voters who have three digits all the time.
159	Chair Harper	Closes the public hearing on SB 825 and reopens the public hearing on SB 464.

SB 464 – PUBLIC HEARING

170	Dan Meek	Coalition for Initiative Rights. States their coalition voted to oppose the SB 464 because they believe there is no reliable way to know what government services would be reduced if an initiative were to decrease government revenues, and the Voter's Pamphlet is available for arguments on that subject.
176	Bill Sizemore	Oregon Taxpayers United. Testifies in opposition to SB 464. States that apparently one side of the campaign wants to make their campaign on the ballot. States the proponents would not be able to list the positive impacts the measure would have on real situations. Thinks it is one of the worst ideas ever. The bill would require that the three services be listed in the 25 words. That means the side that proposes the yes vote is going to have fewer words to state their case of what happens with a yes vote. The no vote does not have the requirement that the effects of the measure be listed. States that the Supreme Court has dealt with this issue many times. It is speculative and campaigning and does not belong in the ballot title and the courts have said so a number of times.
210	Ray Swinehart	Oregon State Grange. Testifies in support of SB 464 (EXHIBIT P).
245	John Marshall	Oregon School Boards Association. Testifies in support of SB 464: <ul style="list-style-type: none"> • Supports testimony by Senator Hannon and Senator Castillo. • It is a no-free-lunch measure. • Voters should be given information so they can make informed decisions.
272	Ozzie Rose	Confederation of Oregon School Administrators. Testifies in support of SB 464: <ul style="list-style-type: none"> • It would require that the cost of the measure as well as its benefit or the benefit of the measure as well as its costs would be stated. • With clearer information, more informed decisions will be made.
292	Mary Botkin	American Federation of State, County and Municipal Employees (AFSCME) testifies in support of SB 464: <ul style="list-style-type: none"> • Voters need to be informed of the interaction of the decision with other decisions that will be made. • Believes voters are persuaded by the 30-second TV spots and forget that the spots are focused on winning and losing. The fact that the decision relates to other decisions gets lost. • There are unintended consequences because people do not realize what they are going to buy with the total package.
		American Federation of State, County and Municipal Employees (AFSCME) testifies in support of SB 464: <ul style="list-style-type: none"> • Gives example of Measure 11. The people knew the bad guys would get locked up but they did not understand the cost of that incarceration. They did not understand there were huge impacts on the rest of state government as a result

of that decision.

- Gives example of Measure 17 requiring inmates to work 40 hours a week. The people did not understand there were very few limitations on the occurrences that could affect them in their communities.
- SB 464 gives citizens a better understanding of what they have to give up in order to get what they think they want.
- Believes it is a good measure and gives an opportunity to give voters more information, not to campaign on the ballot.

340 Kappy Eaton

League of Women Voters of Oregon testifies in support of SB 464 (**SEE EXHIBIT, page 2**).

352 Ellen Lowe

Legislative Advocate for the Oregon Law Center. Explains their organization represents low-income Oregonians. Testifies in support of SB 464:

- Their organization is thinking of the people who depend on the services offered by the state and other institutions within the state for their well being.
- Many of those represented by their organization do not have a choice of where to go for their education and are highly dependent on public safety services, health care, and public transportation. These are the people who are often hurt when services must be curtailed.
- They look at SB 464 as an opportunity to educate all Oregonians that there is a connection among all the services offered by government.

393 Dave Hunnicutt

Oregonians in Action. Testifies in opposition to SB 464:

- The explanation could be in the explanatory statement that appears on the following page.
- This might be more likely to work if people could challenge the fiscal impact statement. Gives example of Measure 7 and the opponents and proponents disagreeing on the impact statement.
- Would support SB 464 or stay neutral if there were a process to challenge the fiscal impact statement.

Dan Meek

Coalition for Initiative Rights. Submits statement in opposition to SB 464 (**EXHIBIT N, page 3**).

481 Chair Harper

Closes the public hearing on SB 464 and apologizes for not having time to hear testimony on all the measures scheduled for a hearing.

492 Chair Harper

Adjourns meeting at 5:00 p.m.

Submitted By,

Reviewed By,

Annetta Mullins,
Committee Assistant

Craig Allen,
Committee Administrator

EXHIBIT SUMMARY

A - Redistricting, letter, Tillamook County, 1 p
B - Redistricting, letter from committee chairs and vice-chairs, 18 pp
C - SB 843, SB 843-4 amendments, Sen. Derfler, 53 pp
D - SB 629, prepared statement, Sen. Burdick, 22 pp
E - SB 629, prepared statement, Bill Perry, 1 p
F - SB 629, prepared statement, Bruce Bishop, 6 pp
G - SB 629, SB 464, prepared statement, Kappy Eaton, 2 pp
H - SB 629, SB 464, prepared statement, labor unions, 1 p
I - SB 629, prepared statement, Tim Nesbitt, 3 pp
J - SB 629, prepared statement, Greg Wasson, 2 pp
K - SB 464, prepared statement, Sen. Castillo
L - SB 464, prepared statement of Portland General Electric, Sen. Castillo, 2 pp
M - SB 825, prepared statement, Sen. Yih, 2 pp
N - SB 825, SB 629, SB 464, prepared statement, Dan Meek, 4 pp
O - SB 825, prepared statement, Dan Meek, 5 pp
P - SB 464, prepared statement, Ray Swinehart, 1 p
Q - SB 629, SB 825, SB 464, prepared statement, Dale Crabtree, 3 pp