

SENATE COMMITTEE ON RULES AND REDISTRICTING

April 05, 2001 Hearing Room C
3:00 P.M. Tapes 52 - 53

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: **Cara Filsinger, Committee Administrator**
 Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: **Redistricting**
 Public Hearing
 SB 505
 SB 955
 Public Hearing and Work Session
 HB 2458 A
 SJR 40
 SB 487
 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 52, A | | |
| 004 | Chair Harper | Calls meeting to order at 3:09 p.m. |
| <u>REDISTRICTING</u> | | |
| 005 | Chair Harper | Notes there are no witnesses signed up to testify on redistricting. Enters into the record a letter received from Frank Brawner, Nestucca Valley Chamber of Commerce, urging that Tillamook County be reunited during redistricting (EXHIBIT A). |
| 009 | Chair Harper | Announces reorganization of the agenda items and opens a public hearing on SB 505. |
| <u>SB 505 – PUBLIC HEARING</u> | | |
| 013 | Scott Tighe | Elections Division, Secretary of State's Office. Testifies in support of SB 505 and proposes amendments (EXHIBIT B). Issues discussed: |
| 071 | Chair Harper Tighe | Asks what issue the bill is intended to resolve. Responds he can only speculate. In a rare instance where there may be a petition that is close to the line on being accepted or rejected, if there is a challenge to the statistical sampling formula, the chief petitioners may want to go ahead with a full |

081 Ed Dennis verification. Adds that he does not know if that is the intent. Secretary of State's office (SOS). Explains conversation with Sen. Miller and John Lindback, Director, Elections Division, in which Sen. Miller suggested it is a fairness issue. If the petitions challenge and win, the SOS should pay for it and vice versa. He also suggested it might cut down on complaints around statistical sampling.

099 Charles Stern Yamhill County Clerk. Comments the county clerks are not overly excited about this bill. Would like to look at the window of time. Explains scenario and asked what the priority would be to go back and check all signatures on the statistical sampling and how to establish the priority of workload. Cost is big item. SOS bears the costs but counties do the checking. Does not know if the bill says the SOS should write a check to the counties. Also shares concern that the petitioner should post a bond so there is assurance the larger sum of money will be available.

121 Chair Harper Closes hearing on SB 505 and opens public hearing on HB 2458-A.

HB 2458 A – PUBLIC HEARING

126 Rep. Kurt Schrader District 23. Testifies in support of HB 2458-A. HB 2458-A is fairly straightforward and has had a long history. A similar bill was initiated last session. It passed the House and Senate overwhelmingly and the Governor vetoed the bill. An interim work group was developed. Governor's concern was about incorporating within three miles of an urban growth boundary (UGB). The vetoed bill took away the veto rights of the city and the Governor's concerns have been taken care of in HB 2458-A. Explains it is an issue of fairness—whether a city should have jurisdiction to prevent citizens from developing their own destiny. Bill preserves the right in UGBs, provides for a discussion process, and allows the city to have access to information they otherwise would not.

170 Explains current process for incorporation by cities within urbanized area.

224 Submits and explains HB 2458–A7 amendments that have blessing of the Department of Land Conservation and Development (DLCD), Metro, Association of Oregon Counties (AOC), and League of Oregon Cities (LOC) (**EXHIBIT C**).

281 Discusses letter from Mayor of Gresham relating to newly incorporated cities outside the UGB.

291 B. J. Smith Government Relations Director, Clackamas County, introduces planning director from Clackamas County. Comments they were not identifiably involved in the work group and have been looking at the various amendments. Believes the policy and intent around the bill are excellent. The bill tries to deal with problems in Clackamas County and the urban area and deals well with trying to make a reasonable incorporation decision for a community.

336 Smith States they had some concerns with the original bill and the amendment language relating to the minimum density requirement and how it affected a part of the urban reserve area. The community is close to the metropolitan UGB and is now

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| | | outside the boundary and might be subject to the application of this bill. Two years from now the boundary of Metro might encompass that area. They have been working on amendments that would make it clear that the provisions of this bill would apply to that rural community if they wish to incorporate. The amendments have been requested but are not available at this time. |
| 342 | Sen. L. Beyer | Asks if Clackamas County has seen the –A7 amendments and if they address the concerns of Clackamas County. |
| | Smith | Responds the amendments make the bill better than the bill that came from the house but they still have a couple of concerns on the –A7 amendments. |
| 363 | Doug McLain | Planning Director, Clackamas County. Comments he believes Ms. Smith’s summation is correct. The -A7 amendments are an improvement. They had concerns about imposing statewide density standards in a local community. Still has some concerns with first couple of phrases. Believes it would require a new city to plan for an urban density the same as an existing city with a similar geographic area. Is not sure what that means. |
| 424 | | The second part of the phrase provides minimum urban residential standards within three miles of Metro’s boundary. Suggests inserting Metro’s UGB boundary. Also language is to apply the statewide housing rule and is not sure they would have objection to that. |
| TAPE 53, A | | |
| 004 | Jon Chandler | Land Use Specialist, Oregon Building Industry Association. States they are fine with the HB 2458–A7 amendments. Issues discussed: |
| 024 | Rep. Schrader | <ul style="list-style-type: none"> • Whether the language "Metro's UGB" is appropriate. Comments that the wording has come from DLCD and Legislative Counsel. While the bill may not be perfect, it is probably as good as they can get. The second portion applying to Beaver Creek would apply to the Metropolitan Service District in Portland. It is the correct reference and it works. |
| 037 | Chair Harper | Asks if the language means the Metropolitan Service District in Portland. |
| 037 | Rep. Schrader | Responds affirmatively. Explains that Metro's boundary is the UGB. |
| 073 | Art Schlack | Association of Oregon Counties (AOC). Comments that the HB 2458–A7 amendments address their concerns with the clarification that we are looking at Metro’s UGB. |
| | Rep. Schrader | Explains difference between Metro’s boundary and the UGB. |
| 094 | Chair Harper | Asks if the rules are different inside the boundary and outside the UGB. |
| | Rep. Schrader | Responds there are a variety of rules and it depends on where the rules apply. |
| 096 | Chair Harper | Asks if he were to build something inside the boundary line and outside the UGB whether the rules would be different. |
| | Rep. Schrader | Responds affirmatively and states the idea is to protect the existing cities. Adds that the goal of the bill is to make incorporation doable. Currently the way the law is written, it is undoable. |
| 107 | Chair Harper | Closes the public hearing on HB 2458-A and opens a work |

session on HB 2458-A.

HH 2458-A - WORK SESSION

116 Sen. Brown

MOTION: Moves to ADOPT HB 2458-A7 amendments dated 04/05/01.

120

VOTE: 5-0

EXCUSED: 2 - Atkinson, Miller

Chair Harper

Hearing no objection, declares the motion CARRIED.

126 Sen. Brown

MOTION: Moves HB 2458-A to the floor with a DO PASS AS AMENDED recommendation.

129

VOTE: 5-0

EXCUSED: 2 - Atkinson, Minnis

Chair Harper

Hearing no objection, declares the motion CARRIED.

SEN. BROWN will lead discussion on the floor.

140 Chair Harper

Closes the work session on HB 2458-A and opens a public hearing on SB 487.

SB 487 – PUBLIC HEARING

146 Keith Putman

A retired PERS employee and employee of the Legislative Administration Committee during legislative sessions. States this will be his fourth session to serve as a committee administrator. States he was surprised to learn he was not an employee of the Legislative Assembly. Explains that current law allows PERS retirees who are employees of the Legislative Assembly to exceed their 1,040 per year employment limit. Because he works for the Legislative Administration Committee, the law does not exempt him.

States he is not here for himself. Believes there are a number of people who have the experience and more importantly the institutional memory to provide a benefit to the legislature especially in this era of term limits. States he has been encouraged by legislators to try to get a bill like this passed so persons with his experience and background don't have to leave about July 2.

169 Chair Harper

Closes the public hearing on SB 487 and opens a work session on SB 487.

SB 487 - WORK SESSION

177 Sen. Courtney

MOTION: Moves SB 487 to the floor with a DO PASS recommendation.

179

VOTE: 5-0

EXCUSED: 2 - Atkinson, Miller

Chair Harper

Hearing no objection, declares the motion CARRIED.

SEN. R. BEYER will lead discussion on the floor.

186 Chair Harper

Opens a public hearing on SJR 40.

SJR 40 - PUBLIC HEARING

176 Lee Hazelwood

Stayton resident. Testifies in opposition to SJR 40 and the –1

amendments because of the 12-year limit. Would like to see term limits removed. States he has previously submitted testimony that the United Seniors of Oregon and the Oregon State Council of Senior Citizens opposing term limits. Comments on the 12-year limit and states his opposition to someone from Virginia spending a lot of money and telling Oregonians about term limits.

215 Sen. L. Beyer

Asks if the committee is interested in referring to the voters three options in one measure. Advises that Legislative Counsel has said it can be done but he has not asked that amendments be drafted.

249

Issues discussed by committee:

- Date of election.
- Right of public to vote on term limits.
- Whether to give voters three choices: keep it the way it is, repeal it entirely, or restrict service to 12 years without specification of service in either house.
- "Lifetime" and "ban".

Chair Harper

Closes the public hearing on SJR 40 and opens a work session on SJR 40.

SJR 40 - WORK SESSION

411 Sen. L. Beyer

Asks if it is possible to include the three options in one measure so the public would have a choice.

420 Ted Reutlinger

Deputy Legislative Counsel. Responds that in a previous discussion he expressed doubt about whether the three options could be referred in one measure. States it seems pretty clear that the Constitution requires that amendments be voted on separately. Believes the legislature could send out three different resolutions amending the term limits provisions. The issue would be what would happen if they all pass. The statutes now say that if competing or conflicting constitutional amendments pass, the one that gets the highest number of "yes" votes wins. States he has some doubt about whether the legislature has the authority by statute to say that is what the result is, but that is what the statute says.

454 Sen. L. Beyer

Reutlinger

Asks if multiple measures could be included in one bill. The issues could show up on the ballot as separate measures in successive order and the legislature could write the ballot titles. Responds that they pursued that approach last session with some of the victims' rights issues that were struck down in the Armatta case. Legislative Counsel interpreted the case to say that the amendments have to be presented so the people vote on them separately, not necessarily that the Legislative Assembly has to vote on the separately. Believes the three choices could be combined into one resolution with language that directs the Secretary of State to separate them out so when they are presented to people on the ballot they are voted on separately.

379 Sen. Brown

Suggests passing SJR 40 and another measure on the lifetime ban and placing them on the ballot at the November 2001 election and not refer anything on total repeal or whether to leave the term limits provision the way it is.

489 Sen. L. Beyer

States he is trying do something unique and write the Voters' Pamphlet statement so it would be very clear, honest, and up-

front with the voters in saying they have three choices. Adds that he does not care whether they are referred by separate measures.

TAPE 52, B

039 Committee

Discusses requirement for votes to pass a ballot measure if more than one choice is referred to the voters.

071 Sen. L. Beyer

Asks if Legislative Counsel could have an amendment ready for the committee by next week on combining the three issues in one resolution. States he is willing to work with Legislative Counsel.

092 Chair Harper

Closes the work session on SJR 40 and opens a public hearing on SB 955.

SB 955 - PUBLIC HEARING

104 Chair Harper

Closes the public hearing on SB 955 temporarily and opens a work session for introduction of committee bills.

INTRODUCTION OF COMMITTEE MEASURES

108 Chair Harper

Advises members that the committee has received LC 4200 from Rep. Morgan. It is a memorial for Women for Agriculture.

110 Chair Harper

MOTION: Moves LC 4200 BE INTRODUCED as a committee bill.

110

VOTE: 4-0

EXCUSED: 3 - L. Beyer, Brown, Miller

Chair Harper

Hearing no objection, declares the motion CARRIED.

NOTE: LC 4200 IS INTRODUCED AS SJM 7.

111 Chair Harper

Advises that LC 4215 urges Congress to extend current Canada-United States Softwood Lumber Agreement.

113 Chair Harper

MOTION: Moves LC 4215 BE INTRODUCED as a committee bill.

113

VOTE: 4-0

EXCUSED: 3 - L. Beyer, Brown, Miller

Chair Harper

Hearing no objection, declares the motion CARRIED.

NOTE: LC 4215 INTRODUCED AS SM 1.

114 Chair Harper

Closes the work session on introduction of committee measures and reopens the public hearing on SB 955.

SB 955 - PUBLIC HEARING

116 Chair Harper

Explains that he has been working on SB 955. The bill came out of discussions with Chief Justice Carson and the Attorney General's office about the total costs of the ballot title process, ballot title shopping, and the number of measures. Adds that Justice Carson indicated about 23 percent of the resources of the Supreme Court are spent on ballot titles, and the Attorney General's office has 10 lawyers working to some degree on the ballot measure process.

135 Keith Garza

Senior Staff Attorney, Oregon Supreme Court. Summarizes prepared statement (**EXHIBIT D**).

Issues discussed:

204

- Multiple choices of ballot titles for court to choose from.
- How to relieve the court from obligation of writing opinions on ballot titles.

245 Sen. Minnis

Comments that ballot titles are not required by the Constitution; it is a legislative prerogative. Suggests that the statute be

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| 248 | Philip Schradle | <p>eliminated.</p> <p>Special Counsel to the Attorney General (AG). Their office believes that whatever system that would be established needs to keep in mind the ultimate result of the needs to have a ballot title that is accurate and impartial because the people use in the ballot title in making their decisions on how to vote. Comments that:</p> <ul style="list-style-type: none"> • As their office understands SB 955, it would remove the AG's office from a vast majority of the ballot title drafting, which are on the proposed initiative measures. • Does not think SB 955 addresses the goals that he understood are underlying ballot title reform. • Does not believe it eliminates the incentives that currently exist for filing multiple measures; if anything, this might exacerbate that problem to some extent. There may be incentives in this proposal that would cause a proponent to submit a number of iterations of the same measure hoping that a ballot title they are allowed to draft will make it through the process. |
| 303 | | <ul style="list-style-type: none"> • The controlling factor would rely on the vigilance of other participants in the ballot title process to challenge the process or the ballot title, and ultimately rely upon the Supreme Court to determine if something substantially complies. |
| 316 | | <ul style="list-style-type: none"> • Unless the matter is brought before the Supreme Court under SB 955, the only participants who would have had any input into the ballot title would be the proponents of the measure. |
| 330 | | <ul style="list-style-type: none"> • Anticipates there would be more challenges under this proposal. • Believes SB 955 would have the possibility of leading to additional expenditure of resources of the court in the need to send a matter back and potentially have the court address it again without involvement of any disinterested or impartial third party. |
| 344 | Schradle | <p>States that the AG's office is happy to do the work but is not compelled to do the work. Believes there are some benefits in having an impartial third party be a drafter and active participant in the process. That gives a benchmark at the outset to know that if nobody engages in the process enough to have challenged the AG's ballot title, the committee and members of the public would have some assurance that an impartial third party had a piece of the process.</p> |
| 358 | Schradle | <p>Comments he wants to keep the door open for continuing to look at this because he believes there are some benefits. Explains that some of the proposals have dealt with things such as a measure summary to circulate for the signature gathering process, and some delayed mechanism to review ballot titles. Some have proposed to have some kind of threshold signature filing requirement before triggering the ballot title process.</p> |
| 366 | Schradle | <p>One question was whether there is a way to help the court get the caseload processed a little more efficiently or effectively. One possibility is to look at the standards that currently exist in the statute for the court's review--what the ballot title needs to have in it, and the level of scrutiny or level of review the court gives to</p> |

that. Those would be amendments to ORS 250.035 or in the actual standards that the court would apply in reviewing ballot titles drafted.

Issues discussed:

413

- Binding arbitration for disagreements over ballot titles.
- Question by the court itself whether it should be writing ballot titles.

503

- Whether the court would be relieved of writing opinions if another party to the process rewrites a ballot title.

TAPE 53, B

051

- Any, and conceivably every proposed measure, can go before the Supreme Court, whether or not it will have support to get enough signatures to get on the ballot. Suggests a signature threshold could have an impact on the number of measures.

112

- Efforts to delay a measure getting on the ballot.
- Whether a pool of arbitrators, such as retired judges, could have ballot titles referred to them.

134

- Whether Legislative Counsel should be available to people to avoid the drafting of ballot measures by individuals.

136

Chair Harper

Adjourns meeting at 4:45 p.m.

Submitted By,

Reviewed By,

Annetta Mullins,
Committee Assistant

Cara Filsinger,
Committee Administrator

EXHIBIT SUMMARY

A - Redistricting, letter from Nestucca Valley Chamber of Commerce, Frank Brawner, 1 p

B - SB 505, prepared statement, Scott Tighe, 2 pp

C - HB 2458, HB 2458-A7 amendments, Rep. Schrader, 1 p

D - SB 955, prepared statement, Keith Garza, 2 pp