

HOUSE COMMITTEE ON RULES, ELECTIONS, AND PUBLIC AFFAIRS

April 1, 1999 Hearing Room D

3:30 P.M. Tapes 28 - 29

MEMBERS PRESENT: Rep. Mark Simmons, Chair

Rep. Richard Devlin, Vice-Chair

Rep. Bruce Starr, Vice-Chair

Rep. Jason Atkinson

Rep. Chris Beck

Rep. Roger Beyer

Rep. Randall Edwards

Rep. Dan Gardner

Rep. Kitty Piercy

Rep. Jim Welsh

Rep. Max Williams

MEMBER EXCUSED: Rep. Kevin Mannix

STAFF PRESENT: Cletus B. Moore, Jr., Administrator

Kevin E. Wells, Administrative Support

MEASURE/ISSUES HEARD: HCR 9 Public Hearing and Work Session

Informational Meeting: Initiative Process

Public Hearing HB 2421, HB 2776, HB 3024, HB 3487

Public Hearing HJR 27

Public Hearing HJR 31

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 28, A		
004	Chair Simmons	Calls meeting to order at 3:30 p.m. Opens Public Hearing HCR 9.
<u>PUBLIC HEARING HCR 9</u>		
010	Rep. Steve Harper	District 53. Testifies in support of HCR 9. Outlines the career and life of General Raymond. F. Rees. States HCR 9 thanks the General for his years of service to Oregon.
041	Chair Simmons	Agrees that General Rees deserves to be commended. Closes Public Hearing HCR 9. Opens Work Session HCR 9.
<u>WORK SESSION HCR 9</u>		
043	Vice-Chair Devlin	MOTION: Moves HCR 9 to the full committee with a BE ADOPTED recommendation.
		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Edwards, Mannix, Williams
058	Chair Simmons	The motion CARRIES. REP. HARPER will lead discussion on the floor.
060	Chair Simmons	Opens the informational meeting.
<u>INFORMATIONAL MEETING: INITATIVE PROCESS</u>		
067	Cletus Moore	Administrator. Outlines the initiative process (EXHIBIT A). Discusses the history of the initiative process in Oregon.
120	Moore	Explains that the initiative process is a method for citizens to pass laws. Discusses that process.

170	Moore	Discusses the process of certifying, commenting on, and challenging ballot titles.
220	Moore	Reviews the timeline for the initiative process.
245	Chair Simmons	Closes Informational Meeting on the initiative process. Opens concurrent Public Hearing HB 2421, HB 2776, HB 3024, HB 3487.
<u>PUBLIC HEARING HB 2421, HB 2776, HB 3024, HB 3487</u>		
285	Rep. Lynn Lundquist	District 59. Testifies in support of HB 3487. Discusses the importance of the initiative process and the need for reform (EXHIBIT B). Emphasizes that sponsors of initiative petitions need to be in control of the process.
330	Rep. Lundquist	Discusses HB 3487. Explains the need for pre-ballot advisory opinions on the constitutionality of petitions for a ballot measure. Outlines the proposed Citizen Initiative Review Committee (CIRC), which would issue pre-ballot advisory opinions on initiative petitions.
380	Rep. Lundquist	Discusses how CIRC will operate. Emphasizes the need to clarify petitions and the need for simplicity on ballots.
425	Rep. Lundquist	Emphasizes that HB 3487 does not present any obstacles to petition sponsors.
TAPE 29, A		
007	Don Loving	Public Affairs Director, Oregon American Federation of State, County and Municipal Employees (OAFSCME). Opposes HB 2421. States support for a pre-ballot preview in general. Discusses the conflict that could arise if the Attorney General (AG) rules an initiative measure unconstitutional and later has to defend the constitutionality of the measure in court.
037	Rep. Mannix	Comments on the situation of the union which represents Assistant Attorney Generals testifying on policy issues affecting the Department of Justice. Asks if it is standard practices for unions to testify on the policy issues governing their members' agencies or departments.
047	Loving	Replies that he is not sure what other unions do, but this is a first for his union. States that the OAFSCME is new and just getting active now.
050	Rep. Mannix	Discusses the conflict facing AG if HB 2421 passes.
059	Ray Phelps	Oregonians to Maintain Community Standards. Opposes HB 2421 and HB 3024 (EXHIBIT C). States that unconstitutional measures should not be placed on the ballot. Explains that ruling measures unconstitutional after an election disenfranchises voters.

119	Phelps	Supports HB 2776 (EXHIBIT D). Explains how the bill assists and benefits petitioners in a non-intrusive manner.
137	Phelps	Opposes HB 3487 (EXHIBIT E). Explains the bill. Notes that the proposed review committee does not ensure a quality review of petitions. States that HB 3487 is intrusive and disenfranchising.
165	Greg Chaimov	Legislative Counsel (LC). Explains how the proposed bills fit with current practice. States that HB 2421 would require LC to be involved in advising all potential petitions. Notes that LC currently is directed to assist petitioners under certain circumstances.
183	Rep. Piercy	Asks if chief petitioners are informed of LC's services.
188	Chaimov	Explains that those services are clearly outlined in the initiative manual and Oregon Revised Statutes.
189	Chair Simmons	Asks about the 50 signature petition threshold required for assistance.
191	Chaimov	Explains the threshold test. Notes there are other mechanisms to receive help from LC on an initiative petition.
200	Rep. Williams	Asks if Legislative Counsel Committee (LCC) contacts petition sponsors or if the sponsors have to contact LCC.
210	Chaimov	States that he is not aware of LCC initiating contact.
216	Rep. Williams	Asks if there is a problem in LCC not initiating the contact.
230	Chaimov	States that it is more appropriate for LC to work with petitioners.
244	Rep. Mannix	Asks if the process should be made more open and precise with the goal of making the services of LC more available to serious petitioners. Asks what the impact would be on LC if they had to interact with so many petitioners on a regular basis.
269	Chaimov	States that it would cost about \$200,000 per biennium.
275	Chaimov	Discusses HB 3024. Explains that the bill provides for a committee of the legislative body to rule on citizen initiative. Suggests it may not be an appropriate role for LCC or a non-elected committee. States that LC is qualified and staffed to provide opinions.
301	Rep. Mannix	Asks if there is a demand for LC to draft petitions for initiative drives.

310	Chaimov	Explains that LC is approached only occasionally for their services.
317	Rep. Mannix	Asks if it would be simpler to have the services of LC promoted in the initiative manual.
327	Chaimov	States that it would strain LC to provide such services during the legislative session.
331	Rep. Mannix	Asks if it would be appropriate to ask petitioners to wait until the end of session for LC's services.
335	Chaimov	Agrees with that proposal.
337	Rep. Mannix	States that LC's services need to be promoted and restricted to the interim, rather than during the Legislative session.
341	Chair Simmons	Comments that the need to make information more available is an issue that has come up in informal meetings.
344	Rep. Piercy	Asks if there should be a separate Counsel, separate from LC, that works primarily on initiatives.
355	Chaimov	States that they have not thought of that proposal. Notes that private counsel serves that function.
380	David Schuman	Deputy Attorney General. Opposes HB 2431 (EXHIBIT F). States that the bill would cause resource problems for the AG.
TAPE 28, B		
002	Schuman	Discusses the complexity of rendering opinions on constitutional issues. Notes that a positive opinion on constitutionality does not mean it would withstand a court challenge. Explains that the bill would draw the AG's office into political battles.
041	Chair Simmons	Asks if the witness is available for expert advice for a work group.
042	Schuman	Responds that he is available as needed.
050	Dave Moss	Associated Oregon Industries. Supports HB 2421 (EXHIBIT G). Discusses similar statutes in other states. States the need for pre-ballot examination of initiative petitions. Stresses that the initiative process is designed to side step the legislature; it is vehicle for citizens to pass laws directly.

090	Chair Simmons	Asks about the potential conflict of the AG defending a measure that he declared unconstitutional.
095	Moss	Suggests that the complexity of rendering an opinion was overstated. Questions if the AG is required to defend constitutional challenges.
110	Chair Simmons	Asks for information regarding the AG's duty in defending constitutionality of statutes.
115	Moss	States that the cost of rendering advisory opinions needs to be compared with the cost of defending the constitutionality of measures.
127	Vice-Chair Starr	Asks about the proposal to have the Supreme Court rule on the constitutionality of measures before it is placed on the ballot.
134	Moss	States that the Supreme Court is reluctant to rule on measures until it has become law.
140	Vice-Chair Starr	Asks if a constitutional amendment to allow a pre-ballot test of constitutionality would address the issues before the committee.
147	Moss	States that using the courts for pre-ballot review creates more problems than it corrects.
154	Rep. Williams	Asks for a position on HB 2776.
157	Moss	Responds that he has no position on HB 2776.
158	Rep. Williams	Asks why HB 2776 is not a good first step.
163	Moss	States that the initiative process, by its nature, is suspicious of the legislative community and its mechanisms.
175	Lloyd Marbet	Coalition for Initiative Rights (CIR). Opposes HB 3487 (EXHIBIT H). Submits written testimony on HB 2421, HB 3024 (EXHIBIT I), and HB 2776 (EXHIBIT J). Discusses HB 3487 and potential problems, including "bureaucratic delay."
240	Marbet	States that the immunity granted to CIRC committee for statements made about petitions leaves petition sponsors without recourse for even for the most egregious errors or misrepresentations. Notes that the legislature can already create a committee to review initiative petitions.
286	Chair Simmons	Asks why there is an inherent distrust between the initiative community and the

		legislative community.
290	Marbet	Explains that the two communities balance and check each other.
312	Chair Simmons	Asks for a description of CIR.
313	Marbet	Reviews the history of CIR. Discusses their activities and membership.
332	Rep. Williams	Asks for a position on HB 2776.
341	Marbet	Explains that HB 2776 takes away about a month of petition circulation time.
356	Rep. Beyer	Asks if Marion County Circuit Court upheld Measure 62.
360	Marbet	Responds that he is uncertain. Restates a pre-ballot review cannot predict how courts will rule on a measure after it passes.
378	Rep. Mannix	Notes that the Supreme Court ruled against the legislature today.
388	Rep. Welsh	Stresses that the initiative process is for the people.
395	Chair Simmons	Closes Public Hearing HB 2421, HB 2776, HB 3024, and HB 3487. Opens Public Hearing HJR 31.
<u>PUBLIC HEARING HJR 31</u>		
401	Rep. Mannix	District 32. Testifies in support of HB 3024. Discusses the importance of the initiative process. States that HB 3024 directs that everything possible be done to make the initiative process as effective as possible.
TAPE 29, B		
020	Rep. Mannix	Discusses existing problems of the initiative process. States that common sense and fairness need to be the primary guiding concepts directing the initiative process. Explains that the initiative process should not be limited by bureaucratic processes.
061	Rep. Beyer	Asks if bureaucratic processes, such as federal law, hinder legislative processes.
070	Rep. Mannix	Comments that the federal government frequently uses mandates to influence the actions of states. Discusses how that happens.

079	Rep. Williams	Asks how HJR 31 affects the court's position vis-a-vis petitioners; does it elevate the petitioners' claims above the work of the legislature. Asks about the proposed right of citizens to circulate initiative petitions; is it aimed at circulation of petitions on private property.
098	Rep. Mannix	Explains that the proposed right has to be balanced with private property rights. States that it is intended to reduce bureaucratic hindrances to circulating initiative petitions.
140	Marbet	Supports HJR 31. Discusses the history of the concept. Comments on the provisions of the resolution. Asks for amendments (EXHIBIT K).
186	Chair Simmons	Closes Public Hearing HJR 31. Opens Public Hearing HJR 27.
<u>PUBLIC HEARING HJR 27</u>		
194	Rep. Gardner	District 13. Testifies in support of HJR 27. Explains the resolution. States that HJR 27 widens the community of discourse concerning initiatives; it provides more options to the citizens.
220	Marbet	Opposes HJR 27 (EXHIBIT L). States that the resolution disenfranchises those who sign petitions by allowing a few sponsors to withdraw initiative measures from the ballot. Suggests that HJR 27 allows the legislature to stifle "the competition" by putting alternative measures on the ballot. States HJR 27 "thwarts the initiative process."
241	Rep. Gardner	Explains that HJR 27 allows the legislature to enact similar legislation and the sponsors of the initiative measure to withdraw their petition.
244	Marbet	States that the resolution's language is too broad for the intended purpose. Explains there is potential for abuse of HJR 27.
254	Staff	Distributes EXHIBIT M .
255	Chair Simmons	Closes Public Hearing HJR 27. Adjourns the meeting at 5:20 p.m.

Submitted By, Reviewed By,

Kevin E. Wells, Cletus B. Moore, Jr.,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ Informational Meeting: Initiative Process, information packet, staff, 18 pp.

B ñ HB 3487, written testimony, Rep. Lundquist, 1 p.

C ñ HB 2421 & HB 3024, written testimony, Ray Phelps, 1 p.

D ñ HB 2776, written testimony, Ray Phelps, 1 p.

E ñ HB 3487, written testimony, Ray Phelps, 1 p.

F ñ HB 2421, written testimony, David Schuman, 2 pp.

G ñ HB 2421, written testimony, Dave Moss, 2 pp.

H ñ HB 3487, written testimony, Lloyd Marbet, 2 pp.

I ñ HB 2421 & HB 3024, written testimony, Lloyd Marbet, 1 p.

J ñ HB 2776, written testimony, Lloyd Marbet, 1 p.

K ñ HJR 31, proposed amendment, Lloyd Marbet, 1 p.

L ñ HJR 27, written testimony, Lloyd Marbet, 1 p.

M ñ HB 2421, HB 2776, HB 3024, HJR 27, & HJR 31, Ruth Bendl & Mike Balanesi, 1 p.