

HOUSE COMMITTEE ON RULES, ELECTIONS, AND PUBLIC AFFAIRS

April 8, 1999 Hearing Room D

3:30 P.M. Tapes 33 - 35

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. Dan Gardner

Rep. Kevin Mannix

Rep. Max Williams

MEMBER EXCUSED: Rep. Randall Edwards

Rep. Kitty Piercy

Rep. Jim Welsh

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

Kevin E. Wells, Administrative Support

MEASURE/ISSUES HEARD: HB 3285 Public Hearing

HCR 8 Public Hearing and Work Session

HB 2415 Work Session

HB 2414 Public Hearing

HB 2920 Public Hearing

HB 2435 Public Hearing

HB 2207 Public Hearing

HB 3252 Public Hearing

HJR 37 Public Hearing

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 33, A		
004	Chair Simmons	Opens Public Hearing HB 3285. Asks for staff summary.
<u>WORK SESSION HB 3285</u>		
021	Moore	Explains HB 3285 creates the position of Legislative Ombudsman. Discusses the history and operation of Ombudsman in Oregon, as the guarantor of all citizens' rights.
035	Rep. Jackie Winters	District 31. Testifies in support of HB 3285. Discusses the office of Legislative Ombudsman in other states. Explains why the office should operate under the auspices of the Legislature. Discusses the finances of the office.
090	Rep. Winters	States that having the office of Ombudsman in the Legislature brings stability to the office and makes it more impartial (EXHIBITS A, B and C). States that the proposed system is simplified and provides better service to all citizens of Oregon.
125	Dave Morgan	Legislative Extern, Willamette University. Supports HB 3285. Explains the support the bill has from various quarters. Explains the need for the office of Legislative Ombudsman.
150	Rep. Mannix	Asks why the 5 amendment makes it difficult to remove the Legislative Ombudsman. States that if 2/3 of the committee wants the Ombudsman removed the officer should be removed.
165	Rep. Winter	Responds it is acceptable to allow the majority of the committee to remove the Ombudsman. Explains that the language of HB 3285 comes from a national model.
170	Rep. Mannix	Explains that HB 3285 would allow the majority of the committee to select someone, but would require a super-majority to remove them.
170	Rep. Gardner	Asks who is on the Legislative Administrative Counsel Committee.
170	Rep. Winters	Responds that she does not know but will provide that information.

174	Rep. Gardner	States that the Governor is not on Legislative Administrative Counsel Committee.
175	Rep. Winter	States that her office is working with the Governor on HB 3285.
179	Rep. Gardner	Expresses concern that the Governor would not have a vote, but only a consultation on whom would be the Ombudsman for the state.
181	Rep. Mannix	Explains that members of either the Administrative or Legislative branch cannot vote on matters in other branches.
190	Rep. Gardner	Asks how many Ombudsman offices are active in the state currently.
193	Rep. Winter	States there are 8-11 that she knows of today. Explains that HB 3285 is a vehicle to satisfy complaints at the lowest level of government possible.
215	Michael Mills	Executive Ombudsman, Portland. Supports HB 3285. Comments on the ñ5 amendment. Explains how an Ombudsman addresses grievances and concerns of citizens.
267	Chair Simmons	Closes Public Hearing HB 3285. Opens Public Hearing HCR 8. Asks for staff summary of the resolution
<u>PUBLIC HEARING HCR 8</u>		
275	Moore	Explains HCR 8 encourages citizens to learn about their ancestors.
280	Rep. Betty Close	District 36. Testifies in support of HCR 8. Explains that HCR 8 encourages citizens to learn and preserve the stories of our parents and grandparents (EXHIBIT D) . Explains the importance of preserving the history of our ancestors.
332	Chair Simmons	Closes Public Hearing HCR 8. Opens Work Session HCR 8.
<u>WORK SESSION HCR 8</u>		
337	Rep. GARDNER:	MOTION: Moves HCR 8 be sent to the floor with a BE ADOPTED recommendation.
342	Rep. Beck	Asks what is Memoir Trail, a program or a general encouragement to reflect on the century. Asks if there is anything official called Memoir Trail 2000.
361	Rep. Close	Explains that this is an effort by a private citizen in Albany, who is asking others

		to preserve their memoirs of the century.
364	Rep. Beck	Asks if people are supposed to send their memoirs to her.
370	Chair Simmons	States that the object is to remember our roots.
374	Rep. Close	Explains that HCR 8 gives this woman's efforts to encourage others to remember the history of the century the dignity of legislation.
379	Rep. Atkinson	States that the intent is not a program, but to recognize and act on the fact that the current generation is losing much of its past history.
401	Rep. Mannix	Explains that HCR 8 encourages people to understand their history.
403		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Edwards, Piercy, Welsh
405	Chair Simmons	The motion CARRIES. REP. CLOSE will lead discussion on the floor.
410	Chair Simmons	Closes Work Session HCR 8. Opens Work Session HB 2415. Asks for explanation of amendments.
<u>WORK SESSION HB 2415</u>		
TAPE 34, A		
002	Moore	Offers an update on HB 2415. Explains the #4 amendment incorporates SB 369 and HB 2109 into HB 2415 (EXHIBIT E).
024	Rep. Beck	Asks if there has been a hearing on HB 2415.
025	Chair Simmons	Explains that they have heard HB 2109, HB 2209, HB 2415, and SB 369.
031	Rep. Beck	Explains that amendments relating to voluntary campaign expenditure limits have been drafted for HB 2209.

033	Chair Simmons	Suggests that that a workgroup be convened to work out details.
036	Rep. Beck	Asks if HB 2415 is a technical bill to repeal provisions of Measure 9.
039	Chair Simmons	Responds that is correct. States that HB 2415 is not to become an omnibus bill.
045	Rep. Beck	Expresses desire to eliminate voluntary spending limits.
058	Rep. Beyer	Agrees that the voluntary spending limit needs to be eliminated. Asks where that provision is in the ñ4 amendments.
080	Moore	Directs the committee to ORS 316.102 Section 4.
085	Chair Simmons	Asks Rep. Beck to have his amendments drafted for HB 2415.
090	Rep. Williams	States that there are those who disagree with the position of eliminating voluntary spending limits. Stresses that Measure 9 provisions need to be repealed efficiently, without controversy.
110	Rep. Mannix	Agrees there is a need for one bill to remove unconstitutional provision from Measure 9 and to use other vehicles for policy issues.
124	Chair Simmons	Suggests time is needed to consider the ñ4 amendment. States that it is appropriate to discuss the spending limits. Cautions against encumbering HB 2415, so that it can move through the legislature without controversy.
132	Rep. Beck	Explains that the only provision of Measure 9 that remains is the voluntary spending limit provision. States that it should be removed with all the other provisions. Asks if support of the drafters of Measure 9 would satisfy concerns about encumbering HB 2415.
150	Rep. Williams	States this raises the issue that Measure 9 was approved by the voters; some legislators do not want to change what voters approved. Stresses the needed for an unencumbered bill to deal with the unconstitutional provisions of Measure 9.
169	Rep. Mannix	States that if the original supporters do not object to removing the voluntary spending limits it is acceptable to move forward.
178	Vice-Chair Devlin	States that voluntary spending limits is not the only provision that has been left in place by the Supreme Court. Notes that they have not ruled on what is left.
191	Chair Simmons	States that HB 2415 will be worked on after members have a chance to consider the amendments and related issues.

195	Rep. Beyer	States that all of Measures 9's provisions should be removed at one time.
215	Chair Simmons	Closes Work Session HB 2415. Opens Public Hearing HB 2414. Asks for staff summary.
<u>PUBLIC HEARING HB 2414</u>		
225	Moore	Explains HB 2414 modifies procedures for filing supplemental campaign contribution and expenditure (C&E) reports.
236	Fred VanNatta	Oregon Builders Association. Supports HB 2414. Explains the bill deals with technical flaws of current campaign finance reporting laws relating to permanent political action committees (PAC). States many permanent PACs are required to submit local C&E reports even when they are not involved in any local campaigns.
290	VanNatta	Explains the history of the legislation and those who supported it.
310	Chair Simmons	Closes Public Hearing HB 2414. Opens Work Session HB 2414.
<u>WORK SESSION HB 2414</u>		
320	Rep. Starr	MOTION: Moves HB 2414 to the floor with a DO PASS recommendation.
		VOTE: 7-0 EXCUSED: 5 - Atkinson, Edwards, Mannix, Piercy, Welsh
	Chair Simmons	Hearing no objection, declares the motion CARRIED. REP. STARR will lead discussion on the floor.
335	Chair Simmons	Closes Work Session HB 2414. Opens Public Hearing HB 2920, HB 2435, HB 2207, HB 3252 and HJR 37. Asks for staff summaries.
<u>PUBLIC HEARING HB 2920, HB 2435, HB 2207, HB 3252 and HJR 37</u>		
360	Moore	Reviews HB 2920, HB 2435, HB 2207, HB 3252 and HJR 37. Distributes EXHIBIT F and EXHIBIT G .

TAPE 33, B

022	Secretary of State Phil Keisling	Supports HJR 37 (EXHIBIT H). Opposes HB 3252 (EXHIBIT H). Supports HB 2207 (EXHIBIT I). Explains C&E reporting laws for petitioners. States HB 2207 provides voters with timely information about initiative petitions and those who sponsor them.
057	Sec. State Keisling	Reviews other initiative petition provisions that need to be addressed in light of the Buckley decision. Asks that a minimum age requirement be set for petition circulators. Urges an expansion of the sworn statement from each petition circulator to include a statement that all relevant laws were complied with.
075	Chair Simmons	Asks about the filing requirement for petition circulators.
080	Sec. State Keisling	Explains current regulations regarding C&E report filing requirements for petition circulators.
092	Rep. Williams	Asks about HB 3252 and the residency requirement.
100	Sec. State Keisling	States that requiring residency of petition circulators is good policy and that he supported the stricter voter registration requirement. Explains why it may be difficult to enforce the residency requirement. Notes there may be constitutional problems as well.
124	Rep. Williams	Asks if there has been any research on if a residency requirement would withstand the scrutiny of the Buckley decision.
128	Sec. State Keisling	Responds that he is unsure but will find out.
131	Rep. Williams	Expresses desire to explore the issue of enforcing residency requirements. Notes that residency requirements are enforced for other purposes, which suggests it is possible.
142	Sec. State Keisling	States that the Attorney General believes that the residency requirement could be enforceable. Supports the residency requirement.
157	Rep. Gardner	Asks if it is enforceable to require residency for voter registration.
159	Sec. State Keisling	Explains the differences between the two cases. States that as a practical matter it is difficult to check the residency of petition circulators.
200	Keith Garza	Staff Attorney, Oregon Supreme Court. States the Court is neutral on HB 2435 (EXHIBIT J). Relates Supreme Courts concerns about the bill: <ul style="list-style-type: none">• How will length of ballot title will be determined

		<ul style="list-style-type: none"> • What text will be counted
227	Chair Simmons	States that Rep. Mannix will explain the intentions of HB 2435.
237	Vicki Ervin	President, Oregon Association of County Clerks; Director of Elections, Multnomah County. Opposes HB 2920. Submits examples of old and proposed new ballots (EXHIBITS K and L). Reviews history of legislation.
285	Ervin	Continues to explain the old and new mail-ballots. Explains the cost to voters for the new system (extra postage and printing).
340	Chair Simmons	Asks if HB 2920 would require the use of the new ballots, which are heavier and more expensive.
342	Ervin	Replies that they would have to use the new ballots.
347	Rep. Beyer	Asks if counties that still use the single punch cards would have to switch systems and use the new multiple-sheet ballot.
351	Ervin	Explains they would not be required to discontinue use of the single punch card, but there would be a 20% increase in costs for printing additional sheets of information.
371	Andrea Myers	Legislative Director, American Civil Liberty Unions. Opposes HB 2435. Expresses concern about keeping the initiative process understandable. States that a short summary of ballot measure needs to be available. Discusses the legal term "plainly wrong."
429	Rep. Gardner	Asks if anyone is advocating for the bill.
430	Chair Simmons	Asks for written testimony.
TAPE 34, B		
012	Richard Pepper	Oregon Public Employees Union. Expresses concerns about HB 2435, that a plain English summary would no longer be included with the measure and the change in standard for review. Supports and discusses HB 2207. States that early C&E reports are in the public's interest. Explains HJR 37 provisions are necessary, but that a special election is not needed to enact those provisions.
057	Dan Meek	Oregon Council for American Constitutional Law Foundation. Opposes HB 2435. States that many initiatives and referrals have ballot titles less than 50 words, but are not descriptive of their purpose or effect. Discusses the new standard for review of a ballot title.

101	Meek	Opposes HB 2207. States that the bill creates inequality in the circulation time of petitions. Explains that opponents of a measure do not need to disclose sources of campaign contributions.
131	Rep. Beck	Asks if proponents of a ballot measure are required to report after they gather signatures.
136	Meeks	Explains that petitioners are required to form a PAC, which is required to file C&E reports.
138	Rep. Beck	Asks if there is any requirement for opponents to file C&E reports.
140	Rep. Gardner	Replies that there is no requirement to do so unless a PAC is formed.
145	Meeks	Continues to discuss problems with C&E reporting requirements, specifically requiring reporting of amounts paid to each individual petition circulator.
153	Rep. Gardner	Asks how it is determined that reporting amounts paid to individual petition circulators is unconstitutional.
156	Meeks	Explains the Buckley decision states that reporting the expenditure on individual circulators is a not substantially justified interest.
190	Meeks	Opposes HB 3252. Discusses the Buckley decision as regards the residency requirement. Asks for justification of the requirement.
225	Meeks	Supports HJR 37.
238	Rep. Mannix	Explains HB 2435 allows people to vote up or down on what a measure says, rather than depending on the filtering reviews of committees and courts. Explains legislative referrals depend on the executive and judicial branches for ballot titles.
285	Rep. Mannix	States the legislature can write their own ballot titles.
304	Chair Simmons	Asks about section 3; what is the "plainly wrong" test.
315	Rep. Mannix	Explains that there are many interpretations of ballot titles, which are not clearly right or wrong. States the plainly wrong tests allows the legislature to present its case to the voters without filters.
326	Chair Simmons	Asks if there is judicial basis for "plainly wrong" or is this a new term.

328	Rep. Mannix	Responds that he is unsure if the term exists in statute.
334	Chair Simmons	Asks Rep. Mannix for comments on HJR 37.
338	Rep. Mannix	Explains HJR 37 corrects portions of Oregon's Constitution that have been ruled unconstitutional.
357	Rep. Beck	Asks if there are other measures in the Constitution that courts have deemed unconstitutional.
360	Rep. Gardner	Notes a portion of the Constitution, relating to term limits, that is contradictory with other sections of the Constitution.
367	Rep. Beck	Asks why some parts of the Constitution are important to clean up and others are overlooked. Suggests the legislature clean up the Constitution in 2000.
376	Rep. Mannix	Explains why he brought HJR 37 forward. Agrees it is worth examining the Constitution for revisions of plainly unconstitutional provisions.
383	Vice-Chair Devlin	Suggests that any such exercise be limited in scope to provisions relating to elections or elected office.
391	Rep. Mannix	Explains the timetable for HJR 37 and HB 2354.
398	Chair Simmons	Asks Rep. Gardner for comments on HB 3252.
400	Rep. Gardner	Explains HB 3252. Discusses the Buckley decision as regards the residency requirement. States that while lobbyists are not required to be residents, they are required to register. Stresses that if one is going to lobby for change in Oregon, one should be subject to that change.
TAPE 35, A		
015	Rep. Gardner	Reviews other areas of public life where the residency requirement is constitutional and enforceable.
019	Chair Simmons	Closes Public Hearings HB 2920, HB 2435, HB 2207, HB 3252 and HJR 37. Opens Work Session HB 3340. Asks for staff summary.
<u>WORK SESSION HB 3340</u>		
025	Moore	Explains the 2 amendment to HB 3340. Notes additional information provided by Legislative Counsel; the bill and amendment do not effect the intentions of

		the sponsors; it goes further than intended.
057	Rep. Starr	MOTION: Moves to ADOPT HB 3340-2 amendments dated 4/7/99.
060	Rep. Mannix	Asks if the ñ2 amendment corrects the language of HB 3340.
062	Chair Simmons	Replies that is correct.
063		VOTE: 8-0 EXCUSED: 4 - Atkinson, Edwards, Piercy, Welsh
	Chair Simmons	Hearing no objection, declares the motion CARRIED.
066	Rep. Starr	MOTION: Moves HB 3340 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 8-0 EXCUSED: 4 - Atkinson, Edwards, Piercy, Welsh
	Chair Simmons	Hearing no objection, declares the motion CARRIED. REP. GIANELLA will lead discussion on the floor.
074	Chair Simmons	Closes Work Session HB 3340. Adjourns meeting at 5:40 p.m.

Submitted By, Reviewed By,

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

EXHIBIT SUMMARY

A ñ HB 3285, information packet, Rep. J. Winters, 20 pp.

B ñ HB 3285, information packet, Rep. J. Winters, 4 pp.

C ñ HB 3285, LC amendment ñ5 (4/7/99), Rep. J. Winters, 7 pp.

D ñ HCR 5, written testimony, Rep. B. Close, 2 pp.

E ñ HB 2415, LC amendment ñ4 (3/23/99), staff, 40 pp.

F ñ HB 3252, information packet, staff, 12

G ñ HB 3252, ORS 247.035, staff, 1 p.

H ñ HB 3252, HJR 37, written testimony, Sec. State P. Keisling, 2 pp.

I ñ HB 2207, written testimony, Sec. State P. Keisling, 2 pp.

J ñ HB 2435, written testimony, Keith Garza, 5 pp.

K ñ HB 2920, example ballot, Vicki Ervin, oversized

L ñ HB 2920, example ballot, Vicki Ervin, oversized

M ñ HB 3340, LC amendment ñ2 (4/7/99), staff, 1 p.