

SENATE COMMITTEE ON RULES AND ELECTIONS

February 11, 1999 Hearing Room B

4:30 p.m. Tapes 13 - 14

MEMBERS PRESENT: Sen. Charles Starr, Chair

Sen. Randy Miller, Vice-Chair

Sen. Lee Beyer

Sen. Kate Brown

Sen. Neil Bryant

MEMBER EXCUSED:

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: SB 466 Public Hearing and Work Session

SJR 4 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 13, A		
000	Chair Starr	Opens meeting at 4:32 p.m. and opens public hearing on SB 466.
<u>SB 466 PUBLIC HEARING</u>		
004	Brian E. Smith	Committee Administrator. Explains SB 466 limits the time period during which signatures on recall petitions for certain district officers may be obtained. Stipulates that such district officer recall petitions shall not be accepted for signature verification if the petitions contain less than the required number of

		signatures. Requires that such recall petitions shall not be filed until the required number of signatures is verified.
011	Jan Lee	Executive Director, Oregon Water Resources Congress. Presents (EXHIBIT A) . States the special district's law does not have any time requirements for a petitioner to turn in recall petitions. Requests the special districts law be amended to correlate with the general election recall provisions.
019	Burton Weast	Special Districts Association of Oregon. Supports SB 466. States SB 466 would make special district procedures the same as cities and counties to create uniformity.
031	Chair Starr	Closes public hearing and opens work session on SB 466.
<u>SB 466 WORK SESSION</u>		
040	Vice-Chair Miller	MOTION: Moves SB 466 to the floor with a DO PASS recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Brown, Bryant
		Chair Starr The motion CARRIES. SEN. BEYER will lead discussion on the floor.
043	Chair Starr	Closes work session on SB 466 and opens public hearing on SJR 4.
<u>SJR 4 PUBLIC HEARING</u>		
047	Smith	Explains SJR 4 proposes an amendment to the Oregon Constitution to decrease to 5% the number of signatures required to propose initiative laws and increase to 12% the number of signatures required to propose initiative amendments to the Constitution.
051	Phil Keisling	Secretary of State. Presents (EXHIBIT B) . States SJR 4 addresses the issue of signature requirements for changing statewide initiatives. States SJR 4 lowers the signature requirement, from 6% to 5%, but raises the signature requirement for Constitutional amendments, from 8% to 12%. States, since 1992, 28 out of the 49 proposed initiatives were requests for Constitutional amendments. States some of the initiatives were needed as Constitutional amendments, but a number

		<p>of the initiatives were inappropriate. States Oregonians have been asked to amend the Constitution on issues such as insurance reimbursement policies for chiropractors, collective bargaining issues, testing of students, and specific requirements for prison work programs. States those issues should not clutter Oregon's framework document. Explains that by researching other states, Oregon is the leader in having the highest proportion of initiatives for Constitutional amendments.</p>
099	Keisling	<p>States the goal of SJR 4 is not to reduce the number of initiatives. States there are many issues that led Oregonians to the initiative process because they felt the legislature did not address those issues. Believes distrust is high with Oregonians. Believes the issue should be how to strike a better balance. States the Constitution is 40 pages long. States if the five measures currently being proposed pass, six pages will be added to the Constitution. Believes only one of the five measures needs to be in the Constitution. Believes the debate is really about creating incentive for more appropriate policy choices. States there are valid arguments in using a super majority for passing a Constitutional amendment. States the downside of using a super majority is that one would need to be used to take out inappropriate or bloated language in the Constitution. States Constitutional amendments keep the legislature from thwarting the public.</p>
190	Keisling	<p>Believes Oregon has adequate safeguards to keep the legislature from thwarting the public. States much of the debate over SJR 4 has been to imply the initiatives are less legitimate or worse than the legislature. States Oregonians want legislation in two co-equal branches, reserving the vast majority of bills that come up for the legislature, and the initiative process as a separate "stem" of the legislative branch. Asks how Oregon can concentrate on improving the legislative process. Believes in Constitutional integrity.</p>
244	Vice-Chair Miller	<p>Asks if the publicly financed campaign proposal is a Constitutional amendment.</p>
260	Keisling	<p>States that proposal is not a Constitutional amendment.</p>
264	Vice-Chair Miller	<p>Asks how many of the 49 initiatives voted on since 1992 have been passed.</p>
265	Keisling	<p>States 19 have been passed.</p>
266	Vice-Chair Miller	<p>Asks, of the 28 Constitutional amendments, how many have passed.</p>
269	Keisling	<p>States he is uncertain, but he believes 12 have passed.</p>
288	Keisling	<p>States several of those 12 have been ruled unconstitutional.</p>
292	Vice-Chair Miller	<p>Asks if he believes that 12 amendments are too many in that time frame.</p>
296	Keisling	<p>States in the 1998 cycle, he strongly opposed Measure 59 and 62 as Constitutional amendments. States Bill Sizemore is available to answer any questions regarding why he chose to have union dues issues as a Constitutional</p>

		amendment instead of a statute. States there is no need to amend the Constitution to have the legislature take a more active role in administrative rules. Asks if the lottery installation needed a Constitutional amendment. Believes the lottery issue was an inappropriate use of the Constitution.
336	Vice-Chair Miller	Respects Keisling's view that Oregonians should make the choice as to what is included in the Constitution. Asks if, based on the number of initiatives (49 since 1992), SJR 4 proposes "Öraising the bar."
365	Keisling	States SJR 4 clearly raises the bar for Constitutional amendments.
369	Vice-Chair Miller	Asks if those who pursue an issue by choosing the Constitutional route are impacted by raising the signature requirement.
380	Keisling	States SJR raises the bar because most people see how low the bar is now and are going directly to the Constitutional route. States for the 2000 election cycle there are 25 measures filed with the Secretary of State and 80% are proposed Constitutional amendments. States people are making a choice and going the Constitutional route because for a 2% signature increase they get an "Öiron-clad, 100% guarantee that the legislature can't even think about changing it." Asks if SJR 4 passes will there be fewer initiatives or will they just be filed differently.
TAPE 14, A		
000	Keisling	Believes SJR 4 may leave Oregon with more initiatives on the ballot because of lowering initiative signatures for statutory proposals.
014	Vice-Chair Miller	Believes the reason Constitutional changes are being pursued is because Oregonians have low confidence in the legislature changing statutes. Asks if the legislature can achieve rule review without changing the Constitution.
028	Keisling	States it is theoretically possible to have a statute pass and have the legislature repeal that statute and put an emergency clause on the repeal to prevent the referendum power from coming into place. States the legislature has used the emergency clause several times in the 1990s.
045	Sen. Brown	Comments on having credibility with the voters especially on the Death with Dignity Measure that Oregonians voted on once in 1996 and again in 1998. States the legislature is still looking at making changes to the measure. States in hindsight it would have been cheaper for the petitioners to have a Constitutional amendment on the issue.
055	Keisling	States the issue of the emergency clause is an outlet if the legislature has subverted what the public desires. Believes Oregon needs to re-channel the energy that is here to increase public regard for the proper role of laws in Constitutional amendments.
083	Kappy Eaton	League of Women Voters of Oregon. Presents (EXHIBIT C) . States the

		<p>Constitution is the basic framework of state government and it should only be amended after great thought and consideration. States the league supports the initiative process. Believes citizens need the right to bring issues before the public which have not been addressed by the legislature. Believes most legislation should be statutory and Oregon should reluctantly amend the Constitution by initiative. States it took an initiative petition for women to receive the right to vote in Oregon in 1912. Believes petitioners are using the Constitutional route because they do not want the legislature to overturn decisions easily and once in the Constitution it is difficult to change or eliminate the initiative.</p>
135	Eaton	<p>Believes it is necessary to change the number of signatures needed to change a Constitutional amendment. Believes there should be a judicial review of initiative petitions to look at legality and constitutionality. Believes the Bill of Rights issues should not be subject to an initiative Constitutional amendment. Supports the signature changes recommended in SJR 4.</p>
178	Bill Sizemore	<p>Oregon Taxpayers United. Believes many statutes are put into the Constitution to insure that the legislature will not change or eliminate them. Comments that the Secretary of State asked why the measure to abolish Metro needs to be in Constitution. Responds that the legislature referred an amendment to Oregonians putting the authorization for Metropolitan Service Districts into the Constitution. States Measure 47 was written as a Constitutional amendment because the authorization was already in the Constitution for cities and counties to increase tax bases 6% per year without a vote of the people. States the only way to override and place a small cap on property tax increases is to amend the Constitution. States contracting out can be done statutorily, but a statute would be subject to the home rule of local governments, therefore there cannot be contracting out on a statewide basis unless it was in the Constitution.</p>
228	Sizemore	<p>States there have been national commissions and task forces that have concluded that state Constitutions around the nation are not like the United States Constitution, but are cluttered with issues that could have been mandated statutorily. Believes SJR 4 is a draconian approach to the problem. States that by changing the signature percentage from six to eight percent, there is over a 50% increase in the necessary signatures for Constitutional amendments, but changing the statutory percentage to five, a one percent drop, is a huge unnecessary spread between the two.</p>
270	Sizemore	<p>States he has a Constitutional amendment drafted in the House that would lower the 6% to 5%, raise the 8% to 9%, and create a number in the middle at 7% for a new process of Constitutional amendments with referral to the legislature. States that when filing these new 7% initiatives there is an agreement that once the signatures are collected, it is then sent to the legislature who can either put it on the ballot as written, or with the chief petitioners approval, they can amend it. States Constitutional amendments have not been submitted to Legislative Counsel. Believes there is room for flexibility on having initiatives submitted to the legislature. Encourages people to file Constitutional amendments where there is a give and take relationship between the legislature and the initiative process.</p>
312	Sizemore	<p>States Measure 47 was a better piece of law than the replacement. States he was willing to work with the Revenue Committee for bipartisan support. Strongly opposes SJR 4.</p>

334	Lloyd Marbet	Coalition for Initiative Rights. Presents (EXHIBIT D) . Opposes SJR 4. Believes Oregonians have a right to use the initiative and referendum process without unnecessary restrictions, requirements, or interference imposed by government. States the effect that SJR 4 would ultimately have on the initiative process was addressed in 1996 by the City Club of Portland in a report entitled "The Initiative and Referendum in Oregon." States the report outlined City Club's objectives for making Constitutional amendments more difficult. Believes that Oregonians must retain the choice of amending the Constitution. Believes Oregonians seek to prevent the legislature from either amending or nullifying what was originally adopted by a vote of the people. States the initiative process acts as a check and balance to a legislature which is controlled by vested interests.
404	Marbet	Suggests the legislature should acknowledge the right of Oregonians to create their own laws.
TAPE 13, B		
000	Marbet	Suggests providing sponsors of initiative petitions voluntary access to Legislative Counsel in order to obtain help in drafting petitions. States, to encourage greater trust in the legislative process, the need to stop attaching emergency clauses to proposed legislation as a way to prevent bills which are passed into law from being subject to the referendum process.
028	Vice-Chair Miller	Asks if the number of signatures needed for Constitutional amendments were raised, what impact that would have on signature verification.
034	Marbet	Explains the concern with the signature verification process is relative to an initiative the Secretary of State supported (vote-by-mail). States there were discrepancies in the way that measure was handled in the verification process. States the discrepancies led to a lawsuit, involving the Coalition For Initiative Rights, in hopes of resolving the rules as to how the verification process is supposed to work.
045	Tricia Smith	Oregon School Employees Association. States she likes raising the signature requirements for the Constitution. Alarmed at the deterioration of the esteem of the Constitution because of the initiative process. States there is too much time spent protecting and amending the Constitution. States the Constitution is a mechanism, a guide of what our government should be. States the statutory measures and bills before the legislature are the appropriate mechanism to change the law. Believes the current process is appropriate and by-passing the legislature is not appropriate. Believes laws should be made in the Capitol.
093	T. Smith	Believes that some would like to by-pass the committees altogether because it is easier to develop a 30 second "sound-bite" selling an idea rather than to sit in a committee meeting and describe the issue in detail. States there is a deliberative process where the issues can be explored fully.
102	Vice-Chair Miller	Asks if the committees should pass the laws and change the Constitution. Asks why there is such little faith in Oregon voters.

120	T. Smith	States she does not have a distrust of the voters. States the voters cannot come to an informed decision on the issues if the voters opinions are determined on commercials or pieces of literature sent through the mail. States the committee is in place to spend the time, learn the facts, and ask the necessary questions. States she does not distrust the voters, but feels the voters are given more responsibility through the initiative process than they can accomplish, given the mechanism for information that they have today.
142	Vice-Chair Miller	States he has a lot of confidence in the voters
162	T. Smith	Believes the voters do not get enough information to decide the issues. Suggests that very complicated issues have no business in the Constitution, because those issues do not deal with the form or functions of the rights of the citizens. Believes there is nothing in SJR 4 to prevent issues from making it to the ballot.
181	Sen. Brown	Believes the credibility issue lies in the legislature not trusting the voters.
194	Chair Starr	Closes public hearing on SJR 4 and adjourns the meeting at 5:47 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 466, written testimony, Jan Lee, 1 p

B ñ SJR 4, written testimony and news articles, Phil Keisling, 7 pp

C ñ SJR 4, written testimony, Kappy Eaton, 1 p

D ñ SJR 4, written testimony, Lloyd Marbet, 2 pp