

**SENATE COMMITTEE ON RULES AND ELECTIONS**

March 2, 1999 Hearing Room B

4:30 p.m. Tapes 21 - 23

**MEMBERS PRESENT: Sen. Charles Starr, Chair**

**Sen. Randy Miller, Vice-Chair**

**Sen. Neil Bryant**

**MEMBER EXCUSED: Sen. Lee Beyer**

**Sen. Kate Brown**

**STAFF PRESENT: Brian E. Smith, Administrator**

**Rachel E. Halupowski, Administrative Support**

**MEASURE/ISSUES HEARD: Initiative Petition Verification Process**

**Drafting and Measure Introduction Requests**

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
<b>TAPE 21, A</b>		
000	Chair Starr	Opens meeting at 4:34 p.m. and opens informational hearing on the Initiative Petition Verification Process.
<b><u>INITIATIVE PETITION VERIFICATION PROCESS</u></b>		
010	Brian E. Smith	Administrator. States the committee is meeting for information on the Initiative Petition Verification Process. States the testimony will specifically cover how the State Elections Division verifies signatures.

020	Greg Chaimov	Legislative Counsel. States ORS Chapter 250 sets out the standards for gathering and signing petitions. States there are no consequences for failures to meet the standards prescribed in ORS Chapter 250. States that dealing with the consequences are the purview of the courts and the Secretary of State.
030	Ted Reutlinger	Legislative Counsel. States, in the Oregon Constitution, Section 1 Article 4 specifies the total number of signatures necessary to qualify a petition for the ballot. Explains that state initiative petitions must be filed with the Secretary of State. States the signature verification process must be completed four months before the general election in which the petition will be voted on. States the Oregon Constitution requires that initiative petitions be submitted to the public, as provided by law. States ORS 250.045 specifies that the chief petitioners need to file a prospective petition to get into the system, file 25 sponsorship signatures, and then must have the cover sheets and sponsor sheets approved by the Secretary of State. States the petition cover must list the name and address of no more than three chief petitioners, instructions for the circulators, and the ballot title. States the signature sheets must show the caption of the ballot title only and must contain only signatures of electors of one county. States that if petition circulators are being paid, the sheet must specify that fact. States the law is being reviewed for constitutionality. States the law requires only 20 signatures per petition page. States that each page must be verified with a signed statement of the circulator stating those signing the sheet did so in the presence of the circulator and the circulator believes that each individual is an elector.
090	Reutlinger	States under ORS 260.715 it is a Class C felony to make a false statement under the elections laws. States the circulator must carry a copy of the actual initiative position and show it to anyone who requests to see it while signing the petition. States ORS 250.105 is the actual signature verification statute. Explains the law requires that petitions must be filed with the Secretary of State for verification that the required number of signatures have been gathered. States the signatures will not be accepted unless there are 100% of the number of signatures required. Explains the Secretary of State cannot reject a petition for not having enough signatures, unless two statistical samplings have been taken and show the necessary signature requirements have not been met. States the existing statutes carry the requirement that circulators must be registered voters. States there are currently no specific penalties for failing to comply with provisions. States Chapter 260 prohibits selling signature sheets, making false statements, and issues of conduct for the circulators. States those laws do not go into the verification aspect.
134	Vice-Chair Miller	Asks if it is unconstitutional to pay circulators.
140	Reutlinger	Explains the issue is raised because notice is required on the signature sheets, stating that the specific circulator is being paid. States, in a Colorado case, the United States Supreme Court struck down a badge requirement stating the circulator's name, address, and whether they are being paid. States the Supreme Court believed it unfair to disclose the circulator's name and address, because it took away the anonymity of the circulators. States that the circulators are filed with the Secretary of State and anyone can see if the circulator is being paid.
167	Vice-Chair Miller	Asks if the circulator must personally witness the elector sign the petition.
169	Reutlinger	Replies they must.

171	Vice-Chair Miller	Asks if there are criminal penalties associated with filing a petition where the circulator did not witness the gathering of signatures.
173	Reutlinger	Replies there are.
182	Vice-Chair Miller	Asks, if a circulator is being paid, but the petition does not state it, what the consequence is to the circulator.
194	Reutlinger	States there is no specific remedy in the elections laws, but there is a civil penalty provision that applies to violations.
201	Vice-Chair Miller	Asks if a measure would be invalidated should the circulator be paid and fail to provide notice on the petition.
215	Reutlinger	States the courts try to interpret the statutes to benefit the signers of the petitions. Explains the courts are not going to invalidate the petition, but would take up the issue with the circulator.
239	Chaimov	States the courts would most likely count the signatures. The courts would only discount the petition if the circulator misrepresented the measure. States there are no written guidelines, but the Secretary of State has adopted rules to guide in determining when to accept signatures.
258	Vice-Chair Miller	States the laws render the restrictions meaningless. Asks why anyone would play by the rules if those who do not comply with the petition laws still get their measures placed on the ballots.
297	Chair Starr	Recesses the hearing and opens the work session on drafting and measure introduction requests.
<b><u>WORK SESSION DRAFTING AND MEASURE INTRODUCTION REQUESTS</u></b>		
<b>300</b>	<b>Sen. Bryant</b>	<b>MOTION: Moves LC's: 4007 dated 3/2/99, 3390, 3885, 3949, 4031, 4030, 4063, and 4087 dated 3/1/99, 1729, 3956, and 4060 dated 2/26/99, 228, and 3798 dated 2/25/99 BE INTRODUCED as committee bills.</b>
		<b>VOTE: 3-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Beyer, Brown</b>
	<b>Chair Starr</b>	<b>The motion CARRIES.</b>

		<p>LC 4007 is introduced as SB 1050.</p> <p>LC 3390 is introduced as SJR 31.</p> <p>LC 3885 is introduced as SJR 30.</p> <p>LC 3949 is introduced as SB 1048.</p> <p>LC 4031 is introduced as SB 1046.</p> <p>LC 4030 is introduced as SB 1045.</p> <p>LC 4063 is introduced as SB 1044.</p> <p>LC 4087 is introduced as SB 1047.</p> <p>LC 1729 is introduced as SB 1049.</p> <p>LC 3956 is introduced as SB 1041.</p> <p>LC 4060 is introduced as SB 1043.</p> <p>LC 228 is introduced as SB 1042.</p> <p>LC 3798 is introduced as SB 1039.</p>
355	Sen. Bryant	<b>MOTION: Moves drafting and introduction requests from Sen. Duncan, Sen. Nelson, and two requests from Sen. Starr BE APPROVED.</b>
		<p><b>VOTE: 3-0</b></p> <p><b>AYE: In a roll call vote, all members present vote Aye.</b></p> <p><b>EXCUSED: 2 - Beyer, Brown</b></p>
	Chair Starr	<b>The motion CARRIES.</b>
364	Chair Starr	Closes work session and reconvenes the informational hearing on the Initiative Petition Verification Process.
<b><u>INITIATIVE PETITION VERIFICATION PROCESS</u></b>		
369	Colleen Sealock	Director, Elections Division. Presents <b>(EXHIBIT A)</b> . States, for a visual example, she has brought eight boxes from prospective petition identification number 71 that have not been sampled. States the initiative process began in Oregon in 1902 and was voted on and adopted by the people.

**TAPE 22, A**

001	Sealock	States, in the 1960s and the 1970s, the circulators would collect signatures and bring them to the county clerk's office as the petitions were being circulated. States, in the mid-sixties, many initiatives were circulated that never acquired the necessary signatures, so in 1965, the circulators had to show 200 signatures per day. States, in 1967, there was a change which established the 15 day window, post-deadline. States the 15 day window was added to complete the signature verification process. States, in 1973, HB 2763 permitted (but did not require) statistical sampling. States the first rule to provide statistical sampling was temporarily adopted in November 1973 and finalized in December 1973, which required one sample comprised of 3,000 signatures per petition.
050	Sealock	States, in 1979, there was a rule changed permanently requiring two samples: the first sample consisted of 1,000 signatures, the second sample consisted of 4,000 signatures. States signature verification became a random process. States current practice does not invalidate a signature if the registered address does not match the address given on the petition. States, for a person who has signed a petition and was not an active voter at the time the petitions were counted, it is the responsibility of the county clerks to make sure the person was registered to vote at the time the petition was signed.
100	Sealock	States, in 1985, the legislature passed SB 882 requiring the signatures contained on one sheet to all be from the same county. States, in 1985, there was a constitutional referral voted on by the people that clarified the Secretary of State's right to use statistical sampling.
150	Sealock	States the Elections Division allows for a margin of error in statistical sampling and that allows them to place, by rule, on the ballot a petition that is 173 signatures short of the required number. States the court said their rule conflicted with the statute. States the Elections Division will adjust that rule to no longer allow for the margin of error. States there is a duplication factor and asks if there is another method, other than basing duplications on a flat 2% of the signatures. States chief petitioners can turn in signatures early. States there is not a rule to address a third sampling. States there is current litigation that her office cannot discuss at this time.
200	Sealock	States referendums, recalls, minor parties, county, city, and state initiatives, and candidate filings all use the same process and forms. Explains <b>EXHIBIT A</b> shows how the signature verification process works.
250	Sealock	States there are ten log sheets per petition. States her office sorts the petition sheets by county, the correct petition, and approves format, color, and correct ballot title.
304	Sealock	States a stack of sheets were pulled because they were not signed on certified petitions. States, for every petition, there will be a stack of petition sheets that will be removed and not entered into the database. States there is a numbering system to help proof and keep page sequences. States the information is entered via computer.

350	Sealock	States chief petitioners may line out a name to increase the probability of passing the sample process. States the proofing report will ensure there are no skipped pages, pages are in sequence, twenty signatures per page, and those pages have been proofed by staff. States the computer will generate a report.
400	Sealock	States, in teams of two, the computer-generated report is checked.
<b>TAPE 21, B</b>		
006	Sealock	States any errors in data entry will show up on the computer-generated proof sheet. States if the date is missing on the petition, the window of time the petition was circulated will be checked to see if the signer was registered at the time of signing the petition. States, once the report has been checked, her office sends transmittal letters to the county clerk.
033	Al Davidson	Marion County Clerk. Presents <b>(EXHIBIT B)</b> . States the process to verify signatures, once received from the Secretary of State, can be done electronically or from the voter's registration card. Explains the reasons for red check codes. States a signature is always double-checked. States if a signature does not match on the computer terminal, his office will double-check with other resources. States they have an address library to verify signatures that are illegible.
082	Davidson	States Marion County signatures that have Salem addresses can be marked as out of county. States, if registered at the time of petition, the signature will be verified. States anything questionable is reviewed by more than one person. States, when forms are dropped to the Secretary of the State, the county clerks give details of the petition: how many signatures were illegible, did not match, were out of county, and how many were valid. States after sending the information the county clerk waits to see if the Secretary of State requests a second sampling.
112	Sealock	States there are cities that overlap counties, but it is important to send the proper pages to the appropriate counties. States she has been in the Elections Division for four election cycles. States most petitions met the numbers needed to become a ballot measure.
164	Sealock	Discusses the sampling formula. States the current duplication rate is 2%. States she has been questioned if that is a correct number to use. States most duplication rates vary from one to five percent. States the Elections Division statisticians are trying to find the best percentage to apply. States there will be a review in the administrative process. States the administrative rule for the state refers to Appendix One for the formula. States, after doing the first formula, if it fails, the clerks begin looking at the second sample.
228	Ray Phelps	American Federation of State, County, and Municipal Employees (AFSCME), Oregonians to Maintain Community Standards, and International Brotherhood of Electrical Workers, Local 48. Presents <b>(EXHIBIT C)</b> . States Ballot Measure 12 should not have made it to the ballot. Believes 45 to 60 days should be allotted for the Secretary of State to perform the signature verification process. States SJR 3 can be amended for that purpose. Encourages the committee not to take 30 days away from Oregonians to circulate a petition. States the formula for the

		duplication factor has not changed in 20 years. States 2% does not work as a duplication factor.
283	Phelps	States, for Ballot Measure 69, he went through as many signature sheets as possible and established that the duplication rate was 6.33%. States the duplications occur with double signings, stating one woman signed 15 times for one petition.
327	Phelps	Explains HB 2930 provides that every time a sample is taken the entire universe of signatures submitted are sampled, not just a portion of them.
384	Phelps	Explains in the State of Washington, for each petition, the duplicates found for the petition count statistically. States Washington State's duplication system is more accurate than Oregon's.
<b>TAPE 22, B</b>		
010	Phelps	States there is need to change the 2%. States the rules do not work and need to be fixed.
035	Don McIntire	Citizen. States petition signatures are difficult to verify and the Secretary of State wants to modify the process to make the job easier. States that changing the initiative process can be done, but not by taking away petitioners time to gather signatures. Explains, during the last election cycle, the Secretary of the State's office did "Ö one of the most cavalier, sloppy jobs of validating their own petition." States if the process is to be made more efficient, there need to be more people involved in establishing the rules, outside of the government.
079	Chair Starr	States, on March 8, 1999, there will be a work group meeting where there will be broad citizen representation.
083	McIntire	States "Öthe Legislative Branch ought to bear witness to some of the things that we have discovered."
089	Ruth Bendl	Citizen, Portland, Oregon. Presents <b>(EXHIBIT D)</b> . States the date change, taking away a good circulator month, is unconscionable. Prefers to revert to the "Ö old way of getting an initiative on the ballot, seeing whether the people approve of that measure, and then let the courts decide whether it is one amendment or a hundred amendmentsÖ." Asks, if only the signature is required, how does one know where the voter resides. Asks why petitioners should follow instructions from a manual that is printed at the taxpayers' expense. Asks if the rules are rules or only recommendations. States the statute is not clear in the manual to qualify or disqualify a signature.
141	Bendl	Asks not to have the counties separate. Asks what is meant by a paid circulator. Asks, if she mails out petitions statewide, then hires a telemarketing firm to place calls to only those voters who received a petition, if that can be seen as a volunteer effort. States she needs to be informed by the manual, what is the proper protocol.

178	Mike Balanesi	Citizen, Hillsboro, Oregon. Presents <b>(EXHIBIT E)</b> . Opposes SJR 3 in the current form due to the month of June being the best month to gather signatures. States an investigation into signature verification showed problems including out-of-county signatures, as well as invalidated signatures, because the sheets are not dated.
250	Balanesi	Asks, if a circulator pre-signs the petition as being present while the signatures were gathered, but was not present, would that be acceptable. States there is a precedence in Oregon that enforces indiscretions of this nature. Asks if enforcement will continue, or is it safe to presume the rules have been relaxed by recent liberties. States he is discouraged because there is no uniform compliance in the signature verification process.
317	Phil Dreyer	Common Cause, Portland. States the right of a person is infringed upon by improper process. States the initiative rules should not be based on the needs of the county clerk's office, but on the needs of the petitioners. Explains that SJR 3 gives an extra month for the verification process. Explains that the Secretary of the State would be taking away the most productive month, June, for collecting signatures, just for administrative conveniences. Believes that the passage of HB 2210 would put a central administrative list of registered voters at one source, eliminating the time convenience, without losing June as a month for circulators.
400	Neale Hyatt	Citizen, Eugene, Oregon. States the system would not survive without an open and free electoral system. States, at this meeting, there are no suggestions being made to improve the process. States the legislature has given the Secretary of the State a broad authority to set rules with the force of law.
<b>TAPE 23, A</b>		
010	Hyatt	States an extra month is worthless for alleviating possible fraud because there is no address verification. States if the circulator is not required to be a registered voter, how can one verify if the circulator is a human being. States signatures are usually collected by honest people, but according to the rules, there is no risk of penalty if the circulator signs under an assumed name. States there are strong political agendas that may lead circulators to attempt fraud. Asks the committee to consider the electoral process as a whole. States the current system is fraudulent, where people from out-of-state have voted in Oregon's elections. States he has filed complaints with the Secretary of State's office on the propriety of this issue, but the office refuses to examine the complaints or check to see if the names submitted are entitled to vote or not. States the atmosphere of the Secretary of State's office shows no auditing.
060	Hyatt	States election laws are violated when the Secretary of State's office does not audit suspected violations of election laws. Believes the Senate needs to look at the initiative process and needs to audit any violations or suspected violations.
075	Dan Meek	Attorney, Portland. Presents <b>(EXHIBIT F)</b> . States in the lawsuit for Ballot Measure 60 that none of the sheets displayed the necessary paid-for circulating advertisement and there were no logos on the sheets, even though a telemarketing company was paid. States everyone should follow the rules. Explains that signature sheets are separated by county. States, for Ballot Measure 60, when several sheets were submitted with signatures from multiple counties,



		the Secretary of State did not disqualify those sheets, but included those sheets in the verification process. States there is the need for consistent application and clarification of rules.
125	Meek	States many signatures for Ballot Measure 60 did not have dates. States some of the signatures did not have addresses and asks if that is required or not. States each sheet can come only from one county, but in validating Ballot Measure 60, some of the counties validated signatures from voters who were not residing in that county. States if this is the process, the circulators need to know. States ditto marks cannot be used on a signature sheet, yet signatures with ditto marks were validated for Ballot Measure 60. Asks what is the law and what is the rule. States sheet renumbering can influence the sampling process. States there needs to be clarifications of who can renumber a sheet and when the sheet can be renumbered.
175	Meek	States the most serious threat to the initiative process is the "cavalier application" by the Secretary of State, at the advice of the Oregon attorney general, applying the Armada decision of the Oregon Supreme Court, July 1998. States the Secretary of State is preventing signature gathering by withholding ballot titles.
203	Lloyd Marbet	Chair, Coalition for Initiative Rights. Opposes SJR 3. States there is confusion on what is required to get an initiative on the ballot. States the true requirements for initiatives are different from what the circulator is lead to believe.
249	Marbet	States that after gathering petitions over a period of time, there is an internal process undertaken by the chief petitioner: record the number of sheets and the signatures per sheet, mark out voters who are illegible, mark out signatures with no address and signatures from other counties.
320	Chair Starr	Closes the informational meeting and adjourns the meeting at 6:45 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,  
Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ Initiative Petition Verification, written testimony and state manual, Colleen Sealock, 88 pp**

**B ñ Initiative Petition Verification, written testimony, Al Davidson, 2 pp**

**C ñ Initiative Petition Verification, written testimony, Ray Phelps, 57 pp**

**D ñ Initiative Petition Verification, written testimony, Ruth Bendl, 34 pp**

**E ñ Initiative Petition Verification, written testimony, Michael Balanesi, 8 pp**

**F ñ Initiative Petition Verification, written testimony, Dan Meek, 12 pp**