

SENATE COMMITTEE ON RULES AND ELECTIONS

April 27, 1999 Hearing Room B

4:30 p.m. Tapes 45 - 46

MEMBERS PRESENT: Sen. Charles Starr, Chair

Sen. Randy Miller, Vice-Chair

Sen. Kate Brown

Sen. Neil Bryant

MEMBER EXCUSED: Sen. Lee Beyer

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: Executive Appointments

Land Use Board of Appeals

HJM 8A Public Hearing and Work Session

SJR 23 Public Hearing and Work Session

SB 1315 Public Hearing and Work Session

SJR 35 Public Hearing and Work Session

HB 2414 Public Hearing and Work Session

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 45, A		
000	Chair Starr	Opens meeting at 4:30 p.m. and opens work session on the Land Use Board of Appeals.

EXECUTIVE APPOINTMENT to LAND USE BOARD OF APPEALS

005		Staff presents (EXHIBIT A) .
006	Tod Bassham	Staff Attorney, Land Use Board of Appeals (LUBA). States why he would like this appointment and how he is qualified for this position. States, last year, he drafted approximately 60 percent of LUBA's opinions. States he has participated in most of the functions of a board member from conducting oral arguments to helping the board deliberate about decisions.
034	Sen. Brown	Asks what he learned from clerking for Judge Redding.
035	Bassham	States it was a great learning experience, and he was impressed with Judge Redding's integrity.
044	Vice-Chair Miller	Ask if he expects to serve all four years of the term.
045	Bassham	States he will.
048	Vice-Chair Miller	Asks, should his appointment be resubmitted in 2003, but the Senate rejects that reappointment, would he expect to continue serving.
056	Bassham	States it would not be appropriate for him to continue serving should the Senate reject his reappointment.
065	Chair Starr	Closes public hearing and opens work session on the Land Use Board of Appeals.
069	Vice-Chair Miller	MOTION: Moves the appointment of Tod Bassham to the Land Use Board of Appeals to the floor with the recommendation that the appointment be confirmed.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 to Beyer, Bryant
	Chair Starr	The motion CARRIES. SEN. BROWN will lead discussion on the floor.

070	Chair Starr	Closes work session and opens public hearing on HJM 8.
<u>HJM 8A PUBLIC HEARING</u>		
082	Rep. Jackie Winters	House District 31. Defers to Devon Lyon.
085	Devon Lyon	Speaker Snodgrass' office. States that HJM 8A urges the President, the Census Bureau, and Congress to ensure that a fair and legal federal decennial census is conducted in 2000. States that HJM 8A opposes the use of data for state legislative redistricting based on census numbers that have been determined in whole or in part by statistical inference. States that statistical sampling does not support the one person one vote legal protections.
135	Lyon	States that HJM 8A encourages the hiring of individuals for counting persons, especially in 11 problematic US urban areas. States the undercount has been attributed to the census counters inability to enter urban areas to gather information. Urges passage of HJM 8A with the 2 amendments.
151	Rep. Winters	States that HJM 8A is about fairness and accurate counting. States that minorities, in general, do not believe they are being accurately counted. States that the message of inclusion for minorities is imperative. States that in areas that are difficult for census counters, they can hire local residents to do the counting. Urges the committee to pass HJM 8A.
182	Sen. Brown	Asks where in HJM 8A are the 11 target cities listed.
186	Lyon	States the Census Bureau has determined, in a report to Congress, that the undercount occurred significantly in 11 cities they deemed problematic. States the Census Bureau would like to target those cities.
191	Sen. Brown	States the memorial is not targeted to those 11 cities but to the State of Oregon.
193	Brian E. Smith	Committee Administrator. States, on page 2, line 20, there is a proposed amendment that would change "Oregon" to the "United States."
198	Sen. Brown	States that in 1991 Congress initiated a study that showed the only way to reduce the undercount at a reasonable cost was through statistical sampling. Asks if Oregon should ignore the results of Congress' study.
207	Rep. Winters	Believes that Oregon should ignore it. States that census counting needs to include everyone.
217	Sen. Brown	Asks if the undercount disproportionately affects minorities and low income people.

222	Rep. Winters	States they are more likely to be undercounted.
224	Sen. Brown	Explains that on page 2, lines 7 and 8, the language states that the use of adjusted census data would raise serious questions of vote dilution and violate one vote legal protections. States concern that the resolution does not accurately comply with Supreme Court findings.
231	Lyon	States full enumeration is used to apportion Congressional seats. States that because of the Supreme Court findings both enumerated data and statistical sampling data will be available.
250	Sen. Brown	Asks if this issue has anything to do with drawing legislative districts.
258	Lyon	Explains that the Supreme Court decision has nothing to do with the state, but Oregon should be able to use the same data.
260	Sen. Brown	Asks if, under the Supreme Court ruling, does Oregon have a choice.
261	Lyon	States the ruling only speaks to the use of full enumeration for the Congressional seats. States HJM 8A urges Congress, the President, and the Census Bureau to allow states to utilize the same data.
269	Sen. Brown	Asks that if Oregon continues to use statistical sampling that shows an undercount of two percent, would that reduce the amount of income sent to Oregon.
278	Lyon	Understands that the data collected by the census determines federal funding. States the point of HJM 8A is to solve the problem by addressing the issue head on.
290	Sen. Brown	Asks if the purpose of HJM 8A is to avoid litigation when redistricting occurs in 2001.
294	Rep. Winter	States there needs to be an actual count and people should be hired to physically count those people who have been previously in the undercount category.
300	Lyon	States that HJM 8A should not only avoid litigation at the state level but should also increase fairness by having people actually counted instead of using a formula for statistical sampling.
309	Sen. Brown	Explains she is basing her opinion on Congressí 1991 study that states it is more accurate to use statistical sampling, and there are better results at a lower cost.
322	Lyon	States that Oregon would like to use the same data that is used to apportion Congressional seats. Asks why Oregon cannot use full enumeration for

		redistricting Oregon's legislative seats.
328	Sen. Brown	States her concern is with time-frame issues, and there are many logistical questions that need to be answered.
338	Lyon	States that HJM 8A is written to urge the President and Congress to take a certain direction. Believes the decision will not be made state by state, but to the country as a whole.
340	Sen. Brown	States HJM 8A does not accurately reflect the Supreme Court case.
349	Vice-Chair Miller	States he is not aware of the Congressional study to which Sen. Brown is referring. States that the majority of the members of Congress, presently, do not want the statistical method used and prefer using the enumeration process.
359	Lyon	States he cannot speak for the House, but the Supreme Court has decided to require the use of full enumeration.
369	Sen. Brown	States there is no choice in terms of apportionment for Congressional districts. States that Oregon may not want to use the same data.
380	Chair Starr	Closes the public hearing and opens work session on HJM 8A.
<u>HJM 8A WORK SESSION</u>		
397	Vice-Chair Miller	MOTION: Moves TO ADOPT the 2 amendments dated 4/27/99 to HJM 8A.
		VOTE: 4-0 EXCUSED: 1 - Beyer
	Chair Starr	Hearing no objection, declares the motion CARRIED.
400	Vice-Chair Miller	MOTION: Moves HJM 8A be sent to the floor with a BE ADOPTED AS AMENDED recommendation.
413	Sen. Brown	States she will vote no on the motion to adopt HJM 8A because it does not accurately reflect the Supreme Court case.
415	Vice-Chair Miller	Withdraws the motion.

418	Chair Starr	Withdraws the motion and closes the work session. Opens public hearing on SJR 23.
<u>SJR 23 PUBLIC HEARING</u>		
434	Vice-Chair Miller	States that SJR 23 proposes to drop the limitations of three terms in the House or two terms in the Senate, and simply state that a total of 12 years can be served in the legislature.
TAPE 46, A		
001	Vice-Chair Miller	States he is unsure of the impact on members currently serving in the legislature. Believes SJR 23 is not a violation of what the voters previously adopted in respect to limiting terms.
030	Kappy Eaton	League of Women Voters. Support SJR 23. Presents (EXHIBIT B) . States that SJR 23 is in the interest of consistency and effectiveness, continuity and institutional memory. Urges passage of SJR 23.
046	David Buchanan	Executive Director, Oregon Common Cause. Supports SJR 23. States that SJR 23 is an improvement on the current term limit practice.
087	Vice-Chair Miller	States that the voters may not realize that a 12 term limit only spans about 20 months in session time.
096	Buchanan	States that the concept of showing how much time is really spent in office was not part of the original term limit campaign.
107	Chair Starr	Closes public hearing and opens a work session on SJR 23.
<u>SJR 23 WORK SESSION</u>		
110	Vice-Chair Miller	States the total of 12 years of service for any member will be documented as beginning in 1992 when term limits were instituted.
126	Sen. Brown	States she is not opposed to SJR 23 but she has not seen any polling to ensure that the voters are willing to accept this.
135	Vice-Chair Miller	MOTION: Moves SJR 23 be sent to the floor with a BE ADOPTED recommendation.
		VOTE: 3-1 AYE: 3 n Starr, Bryant, Miller

		NAY: 1 ñ Brown EXCUSED: 1 ñ Beyer
	Chair Starr	The motion PASSES.
143	Chair Starr	Closes work session and opens public hearing on SB 1315.
<u>SB 1315 PUBLIC HEARING</u>		
151	Smith	States SB 1315 would repeal HB 2274 (if passed into law). States that HB 2274 does not apply to bills passed during this legislative session. States that SB 1315 applies the January 1 start date to laws passed in this session and subsequent sessions.
161	Chair Starr	Closes public hearing and opens work session on SB 1315.
<u>SB 1315 WORK SESSION</u>		
164	Vice-Chair Miller	MOTION: Moves SB 1315 to the floor with a DO PASS recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 ñ Beyer
	Chair Starr	The motion CARRIES. SEN. MILLER will lead discussion on the floor.
169	Chair Starr	Closes work session and opens public hearing on SJR 35.
<u>SJR 35 PUBLIC HEARING</u>		
183		Staff presents (EXHIBIT C) .
184	Phil Keisling	Secretary of State. States that over-amending the Oregon Constitution occurs

		because the legislature can change statutes too easily, as well as place an emergency clause on a statute and prohibit the referendum power from taking effect. States that SJR 35 would prohibit an emergency clause if the legislature changes or repeals a statute.
226	Chair Starr	States that the Rules and Elections Committee passed out a bill that would establish that measures passed during this session would become effective January 1, instead of 90 days following the end of session. Asks how that would effect SJR 35.
233	Keisling	States the 90 days is something to look at, but the purpose of SJR 35 is to connect it to the emergency clause issue in the Constitution.
241	Sen. Brown	States the bill making January 1 the effective date was introduced by a lawyer to help lawyers access the new Oregon Revised Statute Volumes at the time that laws go into effect. States her primary goal this session is to restore voter confidence in their government and SJR 35 will help in this area. Reads a letter into the record from Ruth Bendl, representing the Coalition for Initiative Rights, opposing SJR 35.
291	Chair Starr	States that there is a misunderstanding of legislative intent shown by Bendl's letter. States the intent of SJR 35 is to give certitude for the opportunity of the people to be more involved in the process.
303	Keisling	States that in 1996 a measure was proposed to provide that no statute passed by initiative can be changed at all without going in front of the voters during the first five years, or after five years can only be changed by a super majority (4/5 th of either house). States that SJR 35 is a better solution.
330	Vice-Chair Miller	Asks if there are any impacts with Measure 50 and Measure 47 and if SJR 35 would interfere with the legislature's ability to make changes advocated by the sponsor.
335	Keisling	States that Measures 47 and 50 were constitutional amendments and the legislature can do nothing to change a constitutional amendment. States that SJR 35 deals with statutes that are passed by initiative.
350	Vice-Chair Miller	Ask if SJR 35 would prohibit changes advocated by sponsors.
361	Sen. Brown	States the sponsors could still make the changes but cannot place an emergency clause on those changes to prohibit the referendum.
370	Vice-Chair Miller	Asks why SJR 35 is necessary.
374	Sen. Brown	States to ensure the legislature cannot place an emergency clause on changes to prohibit the referendum.

383	Chair Starr	Asks to clarify the referendum process for the record.
384	Keisling	Explains the referendum process.
436	Sen. Bryant	States the only time there was a problem with the emergency clause was during the light rail issue when petitioners complained that 90 days did not offer them enough time to gather signatures.
474	David Fidanque	Executive Director, American Civil Liberties Union of Oregon (ACLU).
TAPE 45, B		
007	Fidanque	States there needs to be language added to SJR 35, subsection 2, providing an exception for the chief petitioners who support changes proposed by the legislature.
057	Chair Starr	Closes public hearing and opens work session on SJR 35.
<u>SJR 35 WORK SESSION</u>		
061	Sen. Bryant	States the exception is a good safety valve and SJR 35 should be amended.
065	Vice-Chair Miller	States he is nervous with putting that much authority in the hands of a chief petitioner.
084	Chair Starr	States the committee will take all comments under advisement. Closes work session and opens public hearing on HB 2414.
<u>HB 2414 PUBLIC HEARING</u>		
095	Fred VanNatta	Oregon Building Industry Association (OBIA). Supports HB 2414. Explains the law is presently written to state that if a contribution is made to a candidate, the contributor must continue to file with the local jurisdiction. States that even though the OBIA may not have a candidate in a race, they are still required to file the paperwork with the local jurisdiction or be subject to a fine.
129	Vice-Chair Miller	Asks how HB 2414 did in the House.
130	VanNatta	States there were no negative votes.
134	Smith	States that HB 2414 had passed out of committee with a unanimous vote. States that Colleen Sealock from the Elections Division supports HB 2414.

137	Chair Starr	Closes public hearing and opens work session on HB 2414.
<u>HB 2414 WORK SESSION</u>		
139	Sen. Bryant	MOTION: Moves HB 2414 to the floor with a DO PASS recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 ñ Beyer
	Chair Starr	The motion CARRIES. SEN. BRYANT will lead discussion on the floor.
145	Chair Starr	Closes work session and adjourns meeting at 5:45 p.m.

Submitted By, Reviewed By,

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

EXHIBIT SUMMARY

A ñ Executive Appointments, interest form, staff, 4 pp

B ñ SJR 23, written testimony, Kappy Eaton, 1 p

C ñ SJR 35, written testimony, staff, 1 p