

SENATE COMMITTEE ON RULES AND ELECTIONS

May 26, 1999 Hearing Room B

8:00 a.m. Tapes 63 ñ 64

MEMBERS PRESENT: Sen. Charles Starr, Chair

Sen. Lee Beyer

Sen. Peter Courtney

Sen. Neil Bryant

MEMBER EXCUSED: Sen. Randy Miller, Vice-Chair

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: HB 2735A Public Hearing and Work Session

HB 2001A Public Hearing and Work Session

HB 2828A Public Hearing

HB 2576A Public Hearing and Work Session

HB 2766A 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 63, A		
000	Chair Starr	Opens meeting at 8:05 a.m. and opens public hearing on HB 2735A.
<u>HB 2735A PUBLIC HEARING</u>		

001	Darrell Fuller	Director, Oregon Automobile Dealers Association. Presents (EXHIBIT A) . States that HB 2735A revises the franchise laws between automobile dealerships and manufacturers. Supports HB 2735A. States HB 2735A prevents factories from engaging in price fixing and clarifies rules for selling a dealership franchise.
040	Chair Starr	Asks if there is any opposition to HB 2735A.
042	Fuller	States no.
051	Chair Starr	Asks how the House voted on HB 2735A.
052	Fuller	States the House voted 41-0 with the rest of the members excused.
054	Chair Starr	Closes public hearing and opens public hearing on HB 2001A.
<u>HB 2001A PUBLIC HEARING</u>		
065	Brian E. Smith	Committee Administrator. States HB 2001A directs the Secretary of State to establish a computer-based, centralized election registration system by January 1 st 2002. States HB 2001A limits voter pamphlet arguments, allows county clerks to open return identification in secrecy envelopes of mail ballots prior to the date of elections, requires county clerks to maintain a specified number of voting booths at certain mail elections, and prohibits the sale or purchase of ballots. States there is a subsequent referral to the Ways and Means Committee.
082	Rep. Lynn Snodgrass	House District 10. States HB 2001A will help ensure that Oregon's voting records are accurate. Explains her apprehension toward the vote-by-mail system and issues in Kentucky with the selling of ballots.
132	Rep. Snodgrass	States there will not be a ballot police patrol, but it is imperative to make it illegal to buy or sell ballots. Defers to Rep. Edwards.
140	Rep. Randall Edwards	House District 15. States HB 2001A will aid in the prevention of election fraud and improve citizen participation in the political process. States that with the vote-by-mail system it is imperative to maintain an accurate voter address database.
183	Sen. Courtney	Asks why the county clerks will be allowed to open the mail-in ballots five days before election day, but they will not be allowed to start counting those ballots until election day.
197	Rep. Snodgrass	Believes there should still be an election day. States that if the county clerks are allowed to count ballots prior to election day, there may be the possibility of having early results. Believes this would be a disservice to all Oregonians. States that opening ballots early allows the opportunity for more efficiency within the

		county clerks' time constraints.
215	Sen. Courtney	Asks if the county clerks can begin counting the day of the election or if they would need to wait until 8 p.m. when the polls close.
216	Rep. Snodgrass	States they start counting election day.
217	Sen. Courtney	Asks about separate ballots.
223	Rep. Snodgrass	Clarifies that she would receive three separate ballots if she registered in three separate counties. States the counties do not have a mechanism to communicate efficiently to ensure there are no duplicate registrants.
237	Sen. Courtney	Asks if he will receive more than one voters pamphlet or more than one ballot.
239	Rep. Snodgrass	States if he is only registered once he will get only one ballot.
241	Sen. Courtney	Asks who makes the decision in regards to the argument produced in the voters pamphlet.
251	Rep. Snodgrass	Defers to Colleen Sealock on that issue. States it is imperative to use the argument portion to discuss the measure, not to promote individual causes.
270	Colleen Sealock	Director, Elections Division. Presents (EXHIBIT B) . Introduces Glen Newkirk. Explains that ballots will not be issued at voting booths, the voters will be expected to bring their ballots from home. States the only polling places that will operate in the future are at the county clerks' offices. Opposes counting ballots earlier than the day of election, but states that processing ballots five days early expedites the process.
320	Sealock	Discusses Section 15, subsection 3, line 34, where the mail-out window has been shortened.
340	Sen. Beyer	Asks why this timeline, and why not faster.
343	Sealock	Discusses the difficulties of time issues with the vote-by-mail system, especially concerning the Postal Service for delivery of ballots to voters homes and then delivering the completed ballots back to the county clerks' offices.
383	Sen. Beyer	Asks that if the voter registration process is centralized, why would there be a need to deal with the county clerks.
387	Sealock	States the county clerks' offices mail ballots, not the Secretary of State's office.

394	Sen. Beyer	Asks that if the file is centralized, why not do the mailing from a centralized location.
395	Sealock	States many elections include local matters and the county clerks' offices would print the ballots based on the entire elections conducted in Oregon. Believes the mail-out window is not affected by the centralized data system, but gives more accurate data to do the mailing.
415	Sen. Beyer	States there is not much gained by centralization.
421	Sealock	States there will be effective production of accurate voter history. States there is no impact of centralization on the mail-out window.
447	Sen. Beyer	Asks how to get the voter information, if the counting is done at the county clerk's office to tie the records together.
448	Sealock	States the clerks enter the information in the voter registration file that the voter has voted. States under a centralized system the clerks will upgrade and make uniform the system throughout the state.
TAPE 64, A		
001	Sen. Beyer	Asks if the centralization will, in essence, drive what the counties need.
003	Sealock	States yes. States that every county will continue to enter the voter information into the system, but if there is a duplicate, a red flag will go up.
024	Sen. Beyer	Asks if this will be a common database.
025	Sealock	States yes.
028	Sen. Beyer	Clarifies the voter information entered would go into the state database.
033	Sealock	States yes.
035	Sen. Beyer	Asks if the clerks would need to enter the information twice, or if there will be a link from each office to the database.
036	Sealock	States the vote tally system does not need to feed into the voter registration system. States the five day window is used to check the ballots and enter into the voter registration system that the voter has voted. States the voter registration system and the voter tally system do not need to be linked but the registration and voter activity systems need to be one in the same.

050	Glenn Newkirk	President, Info-Sentry Services. States his company consulted on HB 2001A. States his company surveyed Oregon county clerks for the information needed in drafting HB 2001A.
100	Newkirk	States the database will save money when distributing ballots. States the cost for the statewide network database will be \$5.9 million.
150	Newkirk	States the system needs to go in early, and this will help maintain the system at a lower cost.
165	Sen. Courtney	Asks if all elections will be conducted by mail.
170	Sealock	States the clerk has the choice in local elections to either use the vote-by-mail system or to set up voting from polling booths. States the primary and general elections must be conducted by mail.
174	Sen. Courtney	Asks why there is more than one venue accessible to file a complaint.
180	Sealock	Clarifies that Rep. Snodgrass was concerned that on occasion there is the need to file complaints with the Attorney General, "given, maybe, policy or political positions of the Secretary of State." Believes this is why there is more than one venue to file a complaint.
198	Chair Starr	Asks if Sen. Courtney is looking at the A-Engrossed bill.
208	Sen. Beyer	States there are problems in determining duplicate voter registration among counties. Asks how that issue has been dealt with, and if using social security numbers (SSN) is prohibited.
214	Newkirk	States that is one of the most difficult technical tasks to determine. States there needs to be additional information added to the information already collected. States there are "legal prohibitions against just using the social security number." States there is the potential of using the date of birth as a determiner, but that would require a statute change. Explains that other states have used the last four digits of the voter's SSN.
227	Sen. Beyer	Asks if that is an identifier.
229	Newkirk	States there is a technical way of designing databases using, for example, the first four letters of the last name, the date of birth, and the last four digits of the SSN. States this may not pinpoint a person, but it will show up in a duplicate search, if there is enough information. States that Oregon collects digitized signatures which is currently used as an identifier. States the counties support requiring additional information from voters.
250	Sen. Beyer	Asks if the full SSN can be used.

252	Newkirk	States only a portion can be used.
254	Sealock	States there is another Legislative Session that will occur before implementing the new system. States the federal government is looking into using the entire SSN for election related matters.
265	Sen. Beyer	Asks if the legislature is willing to pay \$10-20 million for this system. States that most counties will not have the technology to implement the system.
282	Chair Starr	States HB 2001A will go to Ways and Means before moving to the session floor.
295	Kappy Eaton	League of Women Voters. Presents (EXHIBIT C) . Supports HB 2001A.
308	Chair Starr	Closes public hearing and opens work session on HB 2001A.
<u>HB 2001A WORK SESSION</u>		
316	Sen. Courtney	MOTION: Moves to ADOPT HB 2001A-7 amendments dated 5/25/99.
		VOTE: 3-0 EXCUSED: 2 - Miller, Bryant
	Chair Starr	Hearing no objection, declares the motion CARRIED.
318	Sen. Courtney	MOTION: Moves HB 2001A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Miller, Bryant
	Chair Starr	The motion CARRIES.
340	Chair Starr	Closes work session and opens work session on HB 2735A.
<u>HB 2735A WORK SESSION</u>		

345	Sen. Courtney	MOTION: Moves HB 2735A to the floor with a DO PASS recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Miller, Bryant
	Chair Starr	The motion CARRIES. SEN. COURTNEY will lead discussion on the floor.
356	Chair Starr	Closes work session and opens public hearing on HB 2828A.
<u>HB 2828A PUBLIC HEARING</u>		
363	Rep. Jeff Kropf	House District 37. States HB 2828A will codify in statute that school districts need to provide a written disciplinary policy to parents and legal guardians, and school districts are granted civil immunity from lawsuits if they enforce the terms of that written disciplinary policy. Believes teachers, administrators, and school bus drivers need the legal authority to enforce a school district's disciplinary policy.
413	Rep. Kropf	Discusses bullying in school yards and school buses. States there is not always appropriate action taken for inappropriate behaviors. Discusses problems with scheduling detention for students around the students' schedules.
463	Rep. Kropf	Discusses how many teachers do not feel they can control their classrooms because they are afraid of being sued.
TAPE 63, B		
001	Rep. Kropf	States corporal punishment was originally in HB 2828A, but that has been amended. Continues discussion of teachers' concerns. Discusses civil immunities in HB 2828A. Discusses the Thurston Shooting.
030	Sen. Beyer	States that both students were expelled from Thurston.
033	Rep. Kropf	States that every school district may adopt a parent accountability plan. States that the school can work with the parents to develop a plan to help children with disciplinary problems.

059	Sen. Beyer	States HB 2828A intends to protect school employees. Asks if it is the intent that the school district or school board can be sued by a parent.
068	Rep. Kropf	States no. States the intent is to hold harmless the teacher, administrator, school district, school board, and any other school employee.
071	Sen. Beyer	States HB 2828A does not show that intent.
072	Rep. Kropf	States he would be willing to work with Sen. Beyer to make the intent visible. Clarifies the school board itself would not be considered school employees.
080	Sen. Beyer	Asks if there is a cause of action for the children or parents if the school district does not follow the law.
091	Rep. Kropf	States yes. States the intent is to protect the children by requiring that schools follow through with a disciplinary policy, and enforce the policy.
104	Sen. Beyer	States that teachers "feel that the administration of the various school buildings are not being enforced fairly."
107	Rep. Kropf	States that is a complaint often heard. States language was inserted at the request of some individual teachers who were worried about legal implications of enforcing disciplinary policy.
127	Chair Starr	States investigation should take place before moving HB 2828A.
132	Rep. Kropf	States HB 2828A may need to be amended.
141	Chair Starr	Closes public hearing and opens public hearing on HB 2576A.
<u>HB 2576A PUBLIC HEARING</u>		
149	Pete Shepherd	Attorney, Financial Fraud Consumer Protection Section, Oregon Department of Justice. States HB 2576A deals with the issue of slamming (switching a customer from one long distance provider to another without the consumer's consent). States that slamming not only victimizes the consumer, but also victimizes the original long distance provider. States HB 2576A is designed to take the profit out of slamming.
199	Shepherd	States companies must obtain a separate, affirmative, unambiguous, and verified order for each change in the identity of the long distance or local telephone provider. States that if a consumer is slammed, HB 2576A will allow the consumer to receive 30 days of free service from the provider who committed the slam. States there is a cause of action provision to recover damages for those slammed.

249	Shepherd	States that "willful" describes the person as knowing the act of slamming is a violation of law.
261	Sen. Beyer	States the Public Utility Commission defines standards of documentation. Asks if federal law precludes the state from requiring that change of service be made in writing.
271	Shepherd	States the federal law would not prohibit the state from adopting a more rigorous standard.
307	Sen. Beyer	States he was slammed in his home and business. States he would feel more confident if the confirmation of a switch in providers were made, at least in part, in writing.
316	Bruce Shaull	Sprint. States the confirmation process is still not settled with the Federal Communications Commission (FCC). States that several companies have banded together as a coalition to suggest there may be a third party for verification action.
329	Sen. Beyer	Asks if there would be an issue to require written consent from the consumer before the consumer can be changed to another long distance provider.
339	Shaull	States many companies will send a confirmation.
345	Sen. Beyer	States that was not the way it happened with him. States he found out because his original carrier called and asked him if he really wanted to switch.
350	Shaull	States that Sprint is willing to follow the federal standards. Reiterates that some carriers have suggested a third party.
373	Shepherd	States the FCC proposed changing how they deal with complaints, specifically in the procedures for verifying the switching of long distance providers. States the federal standards would call for a third party verification that would need to contact the consumer in order to verify the change of long distance provider. States the proposal has not been adopted by the FCC.
430	Sen. Beyer	Asks if it would be like a trade group established call center.
433	Shepherd	States it would be an industry verification process still to be determined.
435	Shaull	States the National Association of Attorneys General opposes the FCC proposal as it presently exists. States that federal rules and Oregonis rules would permit third party verification, but would not adopt the idea of a third party entity that would perform these administrative functions.

445	Sen. Beyer	Asks if he could create a third party company to comply with the rules.
459	Shepherd	States the rules as adopted by the FCC attempt to ensure that true third party verification occurs.
TAPE 64, B		
001	Shepherd	Believes the FCC would not go so far as to require written verification of a switch in providers.
006	Shaul	States that Sprint supports HB 2576A.
014	Chair Starr	Closes public hearing and opens public hearing on HB 2766A.
<u>HB 2766A PUBLIC HEARING</u>		
022	John McCulley	Oregon Fairs Association. Supports HB 2766A. States HB 2766A clarifies that county commissioners may remove a fair board member for cause, sets up a procedure for donating property for fairgrounds, and addresses risk management for activities that occur on the fairgrounds.
045	Dennis Mulvihill	Washington County. Presents (EXHIBIT D) . States the amendments provide for a process to abolish a fair board and reconstitute that fair board into a fair association or a fair district.
080	Margaret Garza	Discusses the ways HB 2766A will help Washington County.
101	Sen. Beyer	Asks if HB 2766A applies only to Washington County.
103	McCulley	States no. States only the portion pertaining to privatization.
104	Sen. Beyer	Asks "does this conflict with home rule charters of the counties that have them."
105	McCulley	States that Washington County is a home rule county, and the attorneys believe this works.
106	Sen. Beyer	Asks if the counties under home rule charters have the authority to remove members from their fair board.
112	McCulley	States it is not clear that the authority exists. States Legislative Counsel believes counties do not have that authority.

119	Sen. Beyer	Asks who would appoint the board for the new special districts.
122	Garza	States that currently the county commission appoints the fair board. States there will be a committee of six people to review the process. States three members would be appointed by the fair and three would be citizens at large.
127	Sen. Beyer	Clarifies he is asking about Section 5. Asks if the Oregon Revised Statutes citation is for special districts.
128	Mulvihill	States yes.
133	Sen. Beyer	Asks if most special district board members are elected.
135	Mulvihill	States yes.
136	Sen. Beyer	States that special districts would have taxing powers. Asks if those special districts would be created with a tax base under Measure 50.
141	Mulvihill	Assumes yes.
142	Sen. Beyer	Asks if an election is required for the establishment of a special district.
143	Mulvihill	States yes.
144	Sen. Beyer	Asks if the board of directors would be elected.
145	Mulvihill	States yes.
150	McCulley	Supports allowing Washington County to implement HB 2766A with the ñA5 amendments.
157	Chair Starr	Closes public hearing and opens work session on HB 2766A.
<u>HB 2766A WORK SESSION</u>		
167	Chair Starr	States the ñA5 amendments only apply to Washington County.
171	Sen. Beyer	MOTION: Moves to ADOPT HB 2766A-5 amendments dated 5/19/99.
		VOTE: 4-0

		EXCUSED: 1 - Miller
	Chair Starr	Hearing no objection, declares the motion CARRIED.
175	Sen. Beyer	MOTION: Moves HB 2766A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Miller
		Chair Starr The motion CARRIES. SEN. STARR will lead discussion on the floor.
221	Chair Starr	Closes work session and opens work session for HB 2576A.
<u>HB 2576A WORK SESSION</u>		
223	Sen. Courtney	MOTION: Moves HB 2576A to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means by prior reference.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Miller
		Chair Starr The motion CARRIES.
246	Chair Starr	Closes work session and adjourns the meeting at 9:55 a.m.

Submitted By, Reviewed By,

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

EXHIBIT SUMMARY

A ñ HB 2735A, written testimony, Darrell Fuller, 2 pp

B ñ HB 2001A, written testimony, Colleen Sealock, 81 pp

C ñ HB 2001A, written testimony, Kappy Eaton, 1 p

D ñ HB 2766A, written testimony, Dennis Mulvihill, 1 p