

WORK SESSION ON SB 1215 TAPES 214-215 A/B

SENATE REVENUE COMMITTEE

JUNE 20, 1997 - 1:00 P.M. - HEARING ROOM B - STATE CAPITOL BUILDING

Members Present: Sen. Ken Baker, Chair

Sen. Joan Dukes

Sen. Verne Duncan

Sen. Randy Leonard (arrived at 1:35 p.m.)

Members Excused: Sen. Neil Bryant, Vice Chair

Sen. Tom Hartung

Invited Testimony: Sharon Timko, Multnomah County

Brad Higbee, METRO

Ron Naso, Superintendent, North Clackamas School District

Nancy Tallmon, Attorney,

Barry Rotruck, Superintendent, Oregon City School District

John Nelson, City Attorney, City of Troutdale

Colleen Sealock, State Elections Director

Vickey Irvin, Director of Elections, Multnomah County

Hal Davidson, Marion County Clerk

Paul Tollifer, Mayor, City of Troutdale

Rod Boutine, Attorney, North Clackamas School District

Jerry Hanson, Washington County Assessor

Staff: Jim Scherzinger, Legislative Revenue Officer

Carol Phillips, Committee Assistant

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005 Chair Baker Opened meeting at 1:20 p.m.

OPENED INFORMATIONAL MEETING AND WORK SESSION ON SB 1215

020 Sharon Timko Exhibit B - Written testimony regarding SB 1215. Read written testimony. Questions and discussion interspersed.

064 Brad Higbee Said Metro is another taxing jurisdiction that would be affected by the Gresham bailout Amendment. Stated that the only property tax exposure that Metro has under Measure 47 and Measure 50 is the operating levy for the zoo. Still in process of determining what impact from Gresham Amendment would be, but estimated it would range from \$47,000 to \$387,000, but probably around \$200,000. Metro is more than willing to take hits coming to them now that citizens have spoken their preferences with regard to tax savings they wanted to see. Metro is prepared to provide layoffs and shorter exhibit hours at the zoo if necessary. Questions and discussion.

143 Ron Naso Stated his purpose in testifying is to obtain legislative direction and relief regarding the impact of the double majority since passage of Measure 47 and Measure 50. Seeking legislation allowing them to revisit the voter eligibility lists that were in place for those elections. Current statute provides for such re-visitation in elections contesting the legality of voters. What they have not been able to put together legislatively is what happens in an election where what is being contested is the legality of the people who did not vote. The double majority requirement puts the focus on the non-voters, not on people who did vote.

162 Naso Specifically in North Clackamas School District they held an election and won by 58% margin, but fell 4,300 votes short of the 50% required. Through community involvement have determined 4,100 names on the voter lists that they believe were not eligible voters on February 21 and are in the process of obtaining legislation which would help them reverse what the County Clerk is saying is the result of that election.

Gave an example in Troutdale, which is trying to move its sewage treatment plant out of

173 John Nelson the downtown area. Troutdale put a General Obligation Bond before the voters in the May election. It passed by 62%, but the turnout was 46%. Under existing law there is no process for anyone to challenge who actually voted, either eligible or ineligible. There are processes that can be followed for other types of election contests but not this requirement because it is new. The legislature has not had a chance to draft implementing legislation for the double majority requirement. Questions and discussion interspersed.

235 Colleen Sealock Prepared to offer testimony regarding verifying eligible voters. Even if using the election contest as a way to look at the calculation of the eligibility number, want to make clear that the determination about the eligibility number does not necessarily inactivate or "cancel" a voter registration. It may move them to an inactive status. Are under certain federal guidelines regarding people and their ability to participate in federal elections. Have to be careful when talking about numbers of eligible versus ineligible voters. Many county election offices are down to only one or two people, so asking them to verify eligible voters before 8:00 p.m. on any election night would be virtually impossible. Questions and discussion interspersed.

316 Nancy Tallmon Added that North Clackamas undertook the burden of trying to find voters who were not eligible. Oregon City School District is undertaking search to find people who have moved from apartments or houses, students voting in another state, people who have died between time of mailing of ballots and elections, etc. Believes there will be no challenge unless belief that they are close enough in votes to make a difference. Envisions that counties involved will take the time to find voters.

337 Barry Rotruck Oregon City passed an election by 55% but were short 697 votes. Had all of those people voted no they would still have passed their election. Questions and discussion.

357 Sealock Adopted an administrative rule as a guideline to help County Clerks. Comments about eligible or ineligible voting. Must be careful not to disenfranchise legitimate voters. Some people live and work in a metropolitan area but register to vote at their vacation home area. PGE could be used to verify where utility bills go which would be a determining factor. Ballots are not forwardable mail. When they send confirmation card, it is forwardable and can be used to try to track voters down. Questions and discussion interspersed.

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013 Vickey Irvin Said all they have to do is send out ballots; they do not have to verify if the addressee actually lives at the address or not. If no evidence to question verification or not and have limited funds and staff, there is no reason to pursue. They follow up on any information they do have, but they don't go looking for information to follow up on. Questions and discussion interspersed.

063 Al Davidson Said that no one is more interested in hearing about people who receive multiple ballots than they are. They are concerned about the quality of the information coming in on lists provided by schools districts and others and the amount of effort put into verifying existence of eligible voters.

- 084 Irvin Commented on what is the real problem, which comes from Measure 47 language which says "50% of registered voters eligible to vote in the election". They have no way to know the eligibility of people they cannot contact. Only real tool they have is US Postal Service. Question of eligibility now impacts entire elections with 50% eligibility requirement.
- 117 Irvin Stated there are a number of ways to establish a solid, firm number. Comments regarding how long it takes to verify voter eligibility. There is a statute which says voters have 20 days to respond to confirmation of eligibility. Overall time frame is 25 to 30 days for full verification. The deadline for a jurisdiction to get information to them if they know of someone who should come off eligibility list is 8:00 p.m. on election night. Does not mean determination of eligibility has to be made by 8:00 p.m., just getting information to them. Questions and discussion interspersed.
- 205 Sen. Dukes Asked who determines whether the double majority requirement has been met?
- 210 Sealock Responded that County Clerks certify results for county issues. Believes the Clerk is responsible for making calculation of eligibility. Would not be surprised if they are in litigation about who actually has the authority and responsibility to make that calculation. Statutes are clear that only the County Clerk gets to determine who is properly registered to vote. Questions and discussion interspersed.
- 279 Sealock Named items in list of verifications to evidence address of eligibility: Where the person receives personal mail, where the person is licensed to drive, where the person registers motor vehicles for personal use, where any immediate family members of the person reside, the address from which the person pays for utility services, and the address from which the person files any federal or state income taxes. But if a person has two homes and considers themselves a resident of the vacation home area and are registered to vote in that area, then that would be considered their eligibility address. Questions and discussion.
- 348 Chair Baker Asked if the state was coming to the point where a statewide voter tally is necessary?
- 352 Sealock Centralized voter registration has been a subject under discussion for a number of years. The Secretary of State's Office along with the County Clerks support that concept but it comes down the economic feasibility. But centralized voter registration would not necessarily solve the problem of determining who was or was not an eligible voter in any given election. Questions and discussion interspersed.
- 409 Naso Said that the main group of people needing to be accurately tracked down are apartment dwellers who left one address, moved to another, registered to vote at the new one and never canceled the old one. There is a very large mobile segment of the population changing addresses often. Added that County Clerks do not have the capability of determining accuracy of the voter rolls. And that is the trap that Measure 47 and

Measure 50 and the double majority requirement has created.

442 Chair Baker Added that may be the basis for a court to overturn the double majority requirement because it is a goal that cannot be reached. Further comments and discussion.

445 Naso Continued discussion on voter eligibility determination. What is equally important as who voted is who did not vote. Questions and discussion.

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032 Naso Said that the legislature has the ability to tell the County Clerk and the Secretary of State that in certain situations they have the opportunity to challenge an election after the fact until such time as a court determines exact guidelines for determining double majority. Questions and discussion.

097 Sealock Reiterated why they chose 8:00 p.m. on election night to be cutoff for receiving voter eligibility information. When county elected officials take the Oath of Office they take an oath to uphold the Constitution. But they are not necessarily supportive of the constitutional amendment that inserted the 50% double majority language. Administrative rules to enforce it have to be enforced the way it was written. Asked at what point should challenges to people who did not participate be enforced? Homeless people have the right to vote, but how do you determine their address? Questions and discussion.

208 Davidson Believes these Amendments provides the ability to make a determination on eligibility based on information they have and allows them a process to challenge that should other information be discovered after an election day.

225 Paul Tollifer Said they have gone through two elections, and what should be discussed is the disenfranchisement of voters by ineligible non-voters. That is exactly what happened in Troutdale. First election was regarding relocating sewer treatment plant from downtown Troutdale to a different location. The first election was approved by 58% of the people who voted with a turnout of 33%. The second election in May did not bring out 50% either. They were still denied the opportunity to move the sewer plant, even though 62% of the people who voted approved it. The people who stay home and don't vote do more damage than voters who vote "no" on any issue. Since non-voters have more impact on an election in many cases than "no" voters, it is mandatory to make sure that the non-voters are eligible registered non-voters. But that cannot be determined until after an election...so what is the answer?

328 Rod Boutine Said that the Secretary of State's Office and County Clerks are required by statute to make a diligent effort to seek out any evidence of violation of any election law. Amendments they are asking for today make it clear that the North Clackamas when it mobilizes its army of volunteers will have the opportunity to come into court and make its case and establish within rules of evidence what they believe and what the facts will show to be the number of truly eligible voters as of election day. Legislature may wish to add language for purposes of challenging people who did not participate

in an election but are listed on registration rolls.

371 Nelson Added that what they are asking for through these Amendments is to get to the truth of who actually is an eligible voter. This is not for frivolous use but asking for the right to contest an election if it is suspected of being inaccurate.

405 Scherzinger Exhibit C - (-11) Amendments to SB 1215. New subsection 7 indicates you can challenge the determination of the number of electors who were eligible to participate in an election on a measure conducted under section 11 (8) (double majority requirement). Subsection 4 adds a remedy so if the court, bypasses the Court of Appeals, and takes it directly to the Supreme Court. It says that appeal takes precedence over all other business at the Supreme Court. These changes apply to Measure 47 elections as well as elections which have already taken place under Measure 50.

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031 Sen. Leonard Asked how long ballots need to be sent to someone who does not vote? Discussion and questions.

042 Sealock Responded there is no law that suggests a person can register to vote, never vote, but continue to be properly registered.

047 Sen. Leonard Stated that he has a son who has lived in Utah for two years but continues to receive ballots at his previous Oregon address.

050 Sealock Asked if Sen. Leonard's son has not intent of returning to Oregon or continue to be registered at that address. Added that if they do not get an undeliverable ballot back because it was delivered but not used, the National Voter Registration Act requires that they cannot be removed from rolls for two federal election cycles, which is four years. The federal government is very diligent about enforcing that period.

067 Irvin Said that the federal law that was passed was done because there were jurisdictions canceling people off voter registration files for failure to vote. It provided some protection by giving people a block of time to be a non-voter.

099 Jerry Hanson Said a number of assessors are concerned about this issue and wonder how to proceed. By July 15 will receive certifications from all the districts on their levies and must decide, based on certifications received from the districts, what to do with them. Until they get an abstract from the Secretary of State that determined what happened in an election they will not collect money.

140 Chair Baker Adjourned meeting at 2:55 p.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

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Exhibit Summary:

A. SB 1215, Carlson, Written testimony dated 6/19/97, 1 page

B. SB 1215, Timko, Written testimony, 1 page

C. SB 1215, Scherzinger, (-11) Amendments, (TR/ps) 6/20/97, 3 pages