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SENATE COMMITTEE ON RULES AND ELECTIONS

February 25, 1997 Hearing Room 343

3:00 P.M. Tapes 12 - 13

MEMBERS PRESENT:

Sen. Sen. Randy Miller, Chair

Sen. Sen. Gene Derfler, Vice-Chair

Sen. Neil Bryant

Sen. Randy Leonard

Sen. Cliff Trow

MEMBER EXCUSED:

STAFF PRESENT:

Jan Nordlund, Administrator

Jennifer Peck, Administrative Support

Ed Rose, Administrative Support

MEASURE/ISSUES HEARD:

SB 231 Public Hearing

SB 284 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 12, A		
002	Chair Miller	Opens meeting at 3:06 p.m. Opens public hearing on SB 231.
<u>SB 231</u> <u>PUBLIC</u> <u>HEARING</u>		
012	Dave Moss	Associated Oregon Industries. Presents (EXHIBIT A) in explanation of SB 231.
046	Moss	Explains the initiative process.
055	Chair Miller	Asks how many measures a year are filed.
057	Moss	Estimates about 85 measures were filed in the past two years.
069	Chair Miller	Discussion of the measures which are filed. Asks why the Attorney General's (AG's) office should do the review and give opinions.
091	Moss	Responds that the AG carries authority and respect.
104	Chair Miller	Suggests we should weigh different people's views on measures' constitutionality.
119	Moss	States the effort is to increase the level of debate and knowledge before the voters get emotionally attached to a measure.
133	Sen. Trow	Asks if the timing of the process could be altered to lower the workload of the AG.
145	Moss	Responds people become attached to an issue when they sign petitions for it, and that AG's opinion might not be well received that late in the process.
155	Sen. Trow	Expresses concerns about providing the voters with adequate information.
160	Moss	Gives petitioners option to pull back before they gather hundreds of signatures.
164	Sen. Leonard	Asks if the writers of bills will become more thoughtful about what they write.
168	Moss	Responds that most people set out to write constitutional laws.
179	Sen. Leonard	Discussion of the initiative process being practical.

195	Sen. Derfler	Comments on people starting the initiative process.
206	Sen. Trow	Refers to section 2.
209	Moss	Emphasizes that AG gives a public advisory opinion.
227	Kappy Eaton	Government Chair for League of Women Voters. Presents (EXHIBIT B) in support of SB 231. Strongly supports the idea of having a review.
275	Chair Miller	Asks about her "not reviewed" phrase.
280		Discussion of the amount of opinions weighed or reviewed before a measure is considered.
340	Chair Miller	Asks Eaton's opinion of citizens' views of government if they had more say under the terms of SB 231.
343	Eaton	Discusses the broad opinions which should be considered and the constitutionality of a ballot measure.
384	Chair Miller	Comments there may be fewer measures which get to the ballot.
402	Randy Tucker	Oregon State Public Interest Research Group (OSPIRG). Presents (EXHIBIT C) in opposition to SB 231 in its current form. States SB 231 could put the AG in a difficult conflict of interest situation.
TAPE 13, A		
001	Tucker	Explains the problem that a single person's view of constitutionality is distinct to that person. States the opinion that the AG could be or appear to be biased.
021	Sen. Leonard	Asks for clarification of Tucker's statements.
055	Tucker	Responds that the AG should have an impact on the ballots considered, but within reason and explains his other opinions concerning SB 231.
090	Sen. Leonard	Discusses his opinions of what lies within constitutionality.
120	Tucker	Comments on the AG giving opinions on constitutionality.
135	Sen. Derfler	Comments on eliminating costs.
150	Tucker	Discusses costs.
164	Sen. Trow	Asks if Tucker would be more inclined to accept the bill if the AG segment were replaced by a commission.
167	Tucker	States that or other possibilities would be considered.
180	Chair Miller	Asks if OSPIRG reviewed the constitutionality of Measure 9 before it was put up as a ballot measure.
185	Tucker	Discusses he was not with OSPIRG at the time of Measure 9, therefore he is unable to answer the question. Notes OSPIRG was aware Measure 9 was controversial for its constitutionality.

233	Chair Miller	Asks what would have happened if OSPIRG had been given opinions that Measure 9 were possibly unconstitutional.
253	Tucker	Responds that the issue was controversial.
269	Chair Miller	Comments that many measures could be considered unconstitutional by people who oppose it.
279	Hardy Myers	Attorney General. Shares concerns about SB 231. Explains different concerns about constitutionality. One regards scope of judgment. Requests committee strike out wording of "constitutionality" and focus on "unconstitutionality" reviews.
320	Myers	The second concern is whether the AG's office should give an opinion on every measure because doing so alters the impartiality of their position. The third concern is conflict of interest.
403	Myers	Details the large impact on the AG's workload. Details the numbers of measures which call for opinions.
TAPE 12, B		
002	Myers	Suggests referral to Ways and Means to discuss costs.
026	Chair Miller	Asks if other bodies could prepare opinions.
031	Myers	Suggests returning with a specific proposal later. Restates his primary concerns with SB 231.
056	Chair Miller	Discusses the partisan or non-partisan views the public would have of the AG's office.
063	Myers	Agrees the perceived role of AG by the public could change.
074	Chair Miller	Asks if a legislator may ask the AG for an opinion of the constitutionality of a bill.
079	Myers	Responds that his position could give opinions to legislators, except the workload would be enormous and the legislature would need to pay.
099	Sen. Bryant	Requests specific fee costs.
103	Myers	States that information could be obtained.
116	Sen. Derfler	Asks for suggestions from Myers.
126	Sen. Trow	Asks if a bill exists that would have a commission review the measures.
130	Myers	Explains there is not.
143	Sen. Leonard	Asks if the petitioners would be liable for court costs if they brought about an unconstitutional measure.
147	Myers	Will provide the information.
160	Sen. Leonard	Asks what requires the AG's office to defend the constitutionality of laws which do not appear to be constitutional.
181	Myers	Discussion of AG responsibility to defend a measure if it is found unconstitutional.

233	Sen. Leonard	Comments on the statute that directs the AG to defend and uphold constitutionality.
240	Chair Miller	Discussion of the AG's duties.
267	Gordon Miller	Coalition of Initiative Rights. Opposes SB 231. States the AG's duty is to represent and defend the will of the people of the state as a whole.
341	Gordon Miller	Discusses the problems of the appeal process and conflict of interest.
361	Sen. Leonard	Comments on the will of the people.
387		Discussion of the current process.
TAPE 13, B		
001	Sen. Leonard	Continues discussion of problems with the initiative process.
009	Gordon Miller	Explains that the voters are also responsible if they pass a law which is found to be unconstitutional.
018	Sen. Trow	Asks if the coalition reviews the initiatives for constitutionality before the process begins.
035	Gordon Miller	States the coalition does and explains the current process.
060	Sen. Trow	Discussion of an intermediary group which would look at the measures for constitutional or statutory problems.
068	Gordon Miller	Agrees advisory opinions would be useful.
069	Dave Buchanan	Executive Director of Oregon Common Cause. Supports SB 231. Comments on a possible advisory commission which could identify those measures needing a review. Does not think conflict of interest would exist for AG when only an advisory opinion is issued.
115	Buchanan	Continues with other suggestions for measures at the petition signing step. Explains history of Measure 9.
157	Sen. Bryant	Comments on Measure 9.
168	Buchanan	Finishes comments.
178	David Fidanque	Executive Director of the American Civil Liberties Union of Oregon. Notes that courts are not the only branch that can determine constitutionality. Supports raising quality of the initiatives by having a screening board.
209	Sen. Bryant	Asks for an example of the AG's office refusing to defend a statute.
211	Fidanque	Discussion of defending statutes.
232	Sen. Leonard	Asks if there is any distinction between statutes passed by the legislators or those passed by the voters.

233	Fidanque	Considers the critical interpretation of a measure early on could avoid problems down the road. States it is far too easy to amend the Oregon constitution.
253	Chair Miller	Closes public hearing and opens public hearing on SB 284.
<u>SB 284 PUBLIC HEARING</u>		
255	Sen. Bryant	Summarizes SB 284 and comments that amendments are needed.
285	Bradd Swank	State Court Administrator's Office. Explains the office will work with Sen. Bryant to provide for an expedited process to deal with initiative measures.
295	Sen. Trow	Asks who would start the process.
298	Sen. Bryant	Explains any person or group could start the process.
322	Sarah Hackett	League of Oregon Cities. Presents (EXHIBIT D).
333	Chair Miller	Closes public hearing and adjourns the meeting at 4:59 p.m.

Submitted By, Reviewed By,

Jennifer Peck, Jan Nordlund,

Administrative Support Administrator

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EXHIBIT SUMMARY

A - SB 231, written testimony, Dave Moss, 4 pp

B - SB 231, written testimony, Kappy Eaton, 1 p

C - SB 231, written testimony, Randy Tucker, 1 p

D - SB 284, written testimony, Sarah Hackett, 1 p
