

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

SENATE COMMITTEE ON
RULES AND ELECTIONS

Hearing Room
Tapes - 60

MEMBERS PRESENT: Sen. Randy Miller, Chair
Sen. Paul Phillips, Vice-Chair
Sen. Brady Adams
Sen. Shirley Gold
Sen. Dick Springer

STAFF PRESENT: Kristina McNitt, Committee Administrator
Gretchen Haber, Committee Assistant

MEASURES HEARD: SB 926: Public Hearing
SB 567: Public Hearing
SJR37: Public Hearing
SB 692: Public Hearing
SB 1102: Public Hearing

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TAPE , A

002 CHAIR MILLER: Calls the meeting to order at 9:10 a.m. Reviews agenda.

007 SB 926 - Public Hearing

Witnesses:

David Fidanque, Executive Director, American Civil Liberties Union
Bill Sizemore, Executive Director, Oregon Taxpayers United
Ted Reutlinger, Legislative Counsel
Colleen Sealock, Director, Elections Division, Office of the Secretary of State

010 COLLEEN SEALOCK: SB 926 changes the ballot title. The -2 amendments (EXHIBIT A) retains the caption of ten words then a pro argument of 40 words, and a con argument of 40 words. The -3 amendments (EXHIBIT B) includes that as well as a question of twenty words.

- Section 2 (9) of the -3 amendments refers to circulating the petition, prior to the final order being received from the Supreme Court. In instances where a ballot title is challenged, the Supreme Court will issue

an initial order; people have a few days to file a motion for reconsideration, and if the court allows it, the court will reconsider it, and issue their final order. We do not allow the circulation of signature sheets until we have that final order, so the signature sheets all have the

same ballot title. This subsection will allow for the circulation of signature sheets after the preliminary order from the Supreme Court, prior to reconsideration. Section 3 (3) adds for a summary to be added in the Voters' Pamphlet requiring the title and the pro and con statements be printed together in the front. This is similar to how California does it.

This is really repetitive of what will be in the Pamphlet, but it won't be in the first two pages; this would add a fiscal cost.

065 CHAIR MILLER: For clarification, you asked for the addition of a summary, knowing it may have a fiscal impact.

070 SEALOCK: We suggested it when the pro and con arguments were only going to be available on those two pages, and the ballot itself would remain the same (caption, question, and summary). This bill is removing the question and summary, so on the ballot you have the pro and con argument. I'm not sure what the purpose is of including the summary page, other than to put it all on two pages, rather than spread it out in the Pamphlet. We knew this would result in a cost, but we were also proposing reducing the pro and con arguments to one each, resulting in savings. The other changes in the two drafts return the pro and con arguments to just initiatives and referrals.

095 CHAIR MILLER: Does the pro and con argument and the statement of the question require an additional page?

100 SEALOCK: No; currently the neutral summary is 85 words long. By keeping in the 20 word question, and substituting the pro and con argument, each 40 words, and that should be about the same.

105 SEN. SPRINGER: On page 9, subsection (b) the language is new. Asks about the origin of the language.

115 TED REUTLINGER: The amendments are drafted such that the pro - con arguments pertain only to state measures; local measures would remain under the old system.

143 CHAIR MILLER: Recesses the public hearing on SB 926.

SB 567 - Public Hearing

142 KRISTINA MCNITT, COMMITTEE ADMINISTRATOR: Describes SB 567-1 amendments dated 4-25-95 (EXHIBIT C).

167 CHAIR MILLER: I don't know if they satisfy Rep. Springer's concern that an entire board or commission could be disqualified by subpoena in order to get a new one, one more favorable to their view. We can return to this when everyone is present and when we've had a chance to study the amendment.

SJR37 - Public Hearing

Witnesses:

Katy Coba, Assistant to the Governor for Executive Appointments
Mary Eng-Samuel

179 KATY COBA: Testifies in opposition to SJR37 (EXHIBIT D).

222 CHAIR MILLER: Is there any time period following a term expiration that you would deem reasonable?

236 COBA: I have visited with Bill Perry of the Farm Bureau who is backing this legislation, and there is another piece of legislation in the House, HB 2002, which had a time period in it, and we have been discussing that. I think there is a time period we could agree on. Ninety days might be a possibility. The Port of Portland had three terms that expired Jan. 9th, and two of those terms are not eligible for re-appointment, yet the Port is involved in complicated issues where those members are deeply involved in. We agreed to postpone filling those positions until September to allow them to conclude some of their situations, with the agreement of all.

247 SEN. SPRINGER: Can you foresee the possibility that decisions may be delayed by a board or commission until a member's term expires?

255 COBA: That would be theoretically possible. But, in my limited time working with executive appointments, I have not witnessed such a situation.

267 MARY ENG-SAMUEL: Testifies in opposition of SJR37. Has done volunteer work for three commissions: Commission on Black Affairs, Commission on Hispanic Affairs, and the Commission on Women's Affairs. It is difficult to get people to fill slots on these commissions. Any restrictions could be a problem.

320 CHAIR MILLER: Is there any time frame that would be reasonable?

322 ENG-SAMUEL: I can't say; am not familiar enough with all the boards and commissions. Decisions vary depending on whether the legislature is in session.

335 CHAIR MILLER: Closes public hearing on SJR37.

SB 692 - Public Hearing.

Witnesses:

David Buchanan, Executive Director, Common Cause
Pat Hearn, Director, Government Standards and Practices Commission
Mary Eng-Samuel

330 PAT HEARN: The threshold for lobbyist registration until 1993 was 16 hours in a calendar quarter or \$50 of expenditure in a calendar quarter. In 1993, those thresholds were raised to 24 hours and \$100 in a calendar quarter. It is important to note what constitutes lobbying: it is one-on-one advocacy. Lobbying is not attending hearings or simply being in the building. 24 hours is a lot of lobbying. \$100 is a lot of money. The Commission does not have a position on the bill.

399 CHAIR MILLER: Asks about the benefits of requiring registration of lobbyists who spend only \$200 in a calendar quarter.

410 HEARN: The reporting requirements that go along with it; the availability to the public. It's part of a sunshine statute. The public feels better knowing this information is available to them.

440 CHAIR MILLER: I am looking for a reasonable balance; present system might be a trap for the unwary. A lunch does not buy a legislator; \$100 doesn't go far.

Tape 60, Side A

009 SEN. SPRINGER: Has the number of registered lobbyists has increased or decreased this session?

011 HEARN: It has decreased significantly. Notes that at this time last year, about 1250 lobbyists were registered. Presently, about 850 lobbyists are registered. This is probably due to the increased threshold and the \$50 registration fee, however, we haven't collected the registration fee since September.

023 CHAIR MILLER: Have you discovered over the last year or so people who should have registered who have not?

024 HEARN: No, there are many who are registered who don't need to. Many want to register because they think it gives them more clout with legislators.

033 DAVID BUCHANAN: Testifies in opposition of SB 692 because it defeats the purpose of lobbyist registration: allowing citizens and legislators to know something of the political participants. The threshold for unpaid lobbyists is fairly high; I believe there should be more education as to what it takes to meet this threshold. In terms of picking up a dinner check, only that portion that pays for the legislator's meal is reportable,

so it would be more difficult to reach the \$100 threshold than had earlier been alluded. The exemption was put in to facilitate citizen lobbying. It

is a vague distinction between a citizen lobbyist and a more professional one. Raising the threshold would offer less information to the public.

- Regarding the other bill, SB 1102, our organization does not have a position on the fee, but we support adequate funding for the Commission, however that legislature decides.

080 CHAIR MILLER: With regards to contributions and expenditures, the media and other elected officials tend to be the ones most interested, not members of the public. Does the public make many inquiries into the information listed on lobbyists?

097 BUCHANAN: Lobbyists are not the subject of many inquiries. Most of the public aren't aware the information is available. There is a need to have the information available in case "high profile" situations arise.

112 CHAIR MILLER: What information is obtained by viewing registration records?

118 BUCHANAN: The lobbyists' employer is listed.

143 CHAIR MILLER: Does knowing the employer really provide the lobbyists motivation?

145 BUCHANAN: Instead of ascribing motives, it indicates a financial connection.

158 CHAIR MILLER: Why have a threshold at all?

162 BUCHANAN: It is a common sense threshold, because the state does encourage citizen lobbying. It is an ongoing presence that needs to be reported. Having the threshold fairly low is advantageous to the public. It might be useful to raise the dollar amount but leave the hourly amount.

194 MARY ENG-SAMUEL: Testifies in favor of SB 692. Volunteer citizens should not have be registered as a lobbyist; is unaware of rules that regulate lobbyists. Volunteers are important; the registration fee would deter many from registration.

260 CHAIR MILLER: Have you spent more than 24 hours acting as a lobbyist?

262 ENG-SAMUEL: Not actually actively lobbying.

297 CHAIR MILLER: Would registration would add to your prestige?

300 ENG-SAMUEL: No; wants to be viewed as volunteer, and be able to be on the Senate Floor. In response to Chair Miller, replies that the \$50 registration would inhibit some.

326 PAT HEARN: Ms. Eng-Samuel's testimony is an example of the misperceptions of what the law requires. She does not need to register; for unpaid lobbyists there is no fee to register. We make it convenient to

register. The registration statement asks what the lobbying person's interest area is as well as their employer. We don't critically scrutinize

the interest statement. The media interest is high in C&E statements, who in turn provide it for the public.

402 CHAIR MILLER: Are travel expenses to lobby included in the expenditures tally?

417 HEARN: No.

Tape 59, Side B

008 CHAIR MILLER: Closes the public hearing on SB 692.

SB 1102 - Public Hearing

Witnesses:

David Fidanque, Executive Director American Civil Liberties Union:

Pat Hearn, Director Government Standards and Practices Commission:

015 PAT HEARN: The lobby registration fee bill was enacted in 1993 and the amounts to be charged, and who was to be charged was discussed. It was set

at \$50 a biennium, which we are not collecting since September since it was

challenged in circuit court who ruled it unconstitutional. The matter is pending before the Court of Appeals. Presents article on lobbying reporting (EXHIBITS E, F).). This shows 16 states whose registration fees are equal to, or exceed, Oregon's. Altogether, 29 states have registration

fees. There was only one court case challenging the lobbying registration

fee: 1970 in Connecticut. The court ruled that the fee exceeded the cost to the agency in administering the program. We did a cost analysis, and we

found the cost to be \$102 per lobbyist, substantially lower than the registration fee. The fee doesn't impinge on free speech or prevent citizens from lobbying. This issue should be left to the courts. The budget that has been passed and signed included the registration fee.

080 CHAIR MILLER: Do you recall the sponsor for the 1983 legislation?

084 HEARN: It was sponsored by a committee which was chaired by former Sen. Grattan Kerans.

090 CHAIR MILLER: Who brought the case to court?

093 HEARN: The ACLU brought the action.

097 CHAIR MILLER: In states that require registration, are the requirements similar?

100 HEARN: Yes; generally a combination of hours and money spent.

130 CHAIR MILLER: Why does it cost \$102 to administer the registration of one lobbyist?

135 HEARN: It is labor intensive; most costs are personnel costs. There are files on the lobbyists and their employer; three times during a legislative year we send out expenditure reports to individual lobbyists, twice during a non-session year.

160 DAVID FIDANQUE: The ACLU is the chief plaintiff in a suit pending before the Oregon Court of Appeals to eliminate registration fees for lobbyists, a fee that was opposed by the Capitol Club. The suit is based on the Oregon Constitution, Article 1, Section 8, pertaining to freedom of expression and Article 1, Section 26, the right to apply to the legislature for the redress of grievances. In imposing a fee as a prerequisite for a person who is compensated for petitioning the legislature for a redress of grievance, the legislature imposed a prior restraint on that activity. The Oregon Bill of Rights is narrow: no law may be passed restraining the petitioning of the legislature for redress of grievances. We would assist the Commission in lobbying the legislature to adequately fund the Commission without the fee.

205 CHAIR MILLER: Closes the public hearing on SB 1102

SB 926 - Public Hearing

Witnesses:

BILL SIZEMORE, OREGON TAXPAYERS UNITED

DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION

215 BILL SIZEMORE: Both the -2 and -3 amendments are a step in the right direction; I have a problem with the -3 including the question again. We are trying to overcome the confusion in the question - the question is worded awkwardly in order to meet the twenty words limit. I believe it is already required that a "yes" to the question equal a "yes" on the ballot.

The goal is to make it easily understandable, and I don't believe that is accomplished with this language. Twenty words may be too few words to pose the question.

263 CHAIR MILLER: Refers to page 3, subsection (9) of the SB 926-3 amendments - the gathering of signatures.

265 SIZEMORE: I don't know of cases where the Supreme Court has allowed a petition for reconsideration and actually changed the ballot title - it is usually used as a stall tactic to get another 9 days off the calendar. The

initiative is the same, only the title is different. I'm not sure that should be used as a basis for invalidating signatures or stalling the initiative. There is a technical problem on page 2, subsection (d), if "a no vote means current law will not be changed" then the opposite, "a yes vote means current law will be changed" should be included within the 40 word limit. Would like to see "direct" added before "effect;" does not want to get into possible consequences.

328 DAVID FIDANQUE:. There is an increase in "shopping for ballot titles."

The Oregon Citizens Alliance filed 7 different versions of their initiative on the same day. We would suggest deleting the language on page 2 which requires a ballot title not to resemble prior ballot titles to be submitted

at the same election. There are many examples of slightly different version of the same initiative filed by the same people in order to get a better title. It does nothing but take the time of the AG, the Secretary of State, and the courts. There have been more abuses in shopping for ballot titles than there have been from confusion by similar measures put forward by different petitioners.

375 SIZEMORE: If the Attorney General provides a bad ballot title, then the initiative might as well not proceed. There is no recourse. Politics are involved. Titles are very subjective.

420 CHAIR MILLER: What is the process?

425 SIZEMORE: A ballot title may be submitted with the initiative. The Secretary of State's office will have the Attorney General review the title, and the petitioners will get the proposed ballot title a few weeks later. After that, there is a comment period. The AG will then rewrite the title if they think it necessary. This may be appealed to the Supreme Court.

445 CHAIR MILLER: Is there a presumption that the title supplied will be used, unless it is misleading?

446 SIZEMORE: No. None I have submitted have ever been used. There are lots of politics involved, who writes letters and comments. It is pretty laughable what opponents suggest.

Tape 60, Side B

005 CHAIR MILLER: Closes public hearing on SB 926. It will be scheduled for a work session. Adjourns meeting at 10:40 a.m.

Submitted by,

Reviewed by,

Gretchen Haber
Committee Assistant

Kristina McNitt
Committee Administrator

EXHIBIT SUMMARY:

- A - -2 proposed amendments, SB 926, staff, 22 pages
- B - -3 proposed amendments, SB 567, staff, 1 page
- C - -1 proposed amendments, SB 567, staff, 1 pg.
- D - testimony, SJR37, K. Coba, 1 page
- E - testimony, SB 1102, . P. Hearn, 4 pages
- F - testimony, SB 1102, P. Hearn, 3 pages