

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Government

January 26, 1993 Hearing Room 357 8:30 a.m. Tapes 3 - 5

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Jim Edmunson Rep. Patti Milne Rep. Sharon Wylie

VISITING MEMBER: Rep. Ken Baker

MEMBER EXCUSED: Rep. Cedric Hayden

STAFF PRESENT: Janet Adkins, Committee Administrator Kimberly Burt, Committee Assistant

MEASURES CONSIDERED: HB 2270 HB 2279 HB 2280 HB 2275

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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. [--- Unable To Translate Graphic ---]

TAPE 3, SIDE A

CHAIR PARKS: Calls meeting to order. (8:35 a.m.)

PUBLIC HEARING ON HB 2279 Witnesses: Nina Johnson, Executive Assistant, Secretary of State's Office

008 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2279 and submits fiscal impact statement, (EXHIBIT A).

028 NINA JOHNSON, SECRETARY OF STATE'S OFFICE: Describes HB 2279 and testifies in support of HB 2279.

WORK SESSION ON HB 2279

048 MOTION: REP. EDMUNSON MOVES HB 2279 TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

052 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

WORK SESSION ON HB 2270

055 CHAIR PARKS: This was originally here at the request of the Secretary of State so that the proof of filing the bond with their office be

eliminated.

063 MOTION: REP. EDMUNSON MOVES THAT HB 2270 THE REMOVAL OF THE AMENDMENT PREVIOUSLY PASSED.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

069 MOTION: REP. EDMUNSON MOVES HB 2270 TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION

073 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

PUBLIC HEARING ON HB 2280 Witnesses: Nina Johnson, Executive Assistant, Secretary of State's Office

077 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2280, submits fiscal impact statement, (EXHIBIT B).

089 NINA JOHNSON, EXECUTIVE ASSISTANT, SECRETARY OF STATE'S OFFICE: Testifies in support of withdrawing the bill.

PUBLIC HEARING ON HB 2275 Witnesses: Nina Johnson, Executive Assistant, Secretary of State's Office Colleen Sealock, Secretary of State's Office Charles Stern, Yamhill County Clerk Ted Reutlinger, Legislative Counsel

109 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2275, submits fiscal impact statement, (EXHIBIT C).

120 NINA JOHNSON, EXECUTIVE ASSISTANT, SECRETARY OF STATE'S OFFICE: Describes HB 2275; submits written testimony and proposed amendments,

(EXHIBIT D).

CHAIR PARKS: There are quite a few changes; we will go through the changes and talk about them as we go.

230 JOHNSON: Section one is a housekeeping change, see Exhibit D.

JOHNSON: Section two is a modest policy change; see Exhibit D.

_ Section three is a policy change dealing with how a minor political party is formed, see Exhibit D.

SEALOCK: Our sampling technic allows us to enter into a computer a number of signatures and it will tell us which ones should be verified.
CHAIR PARKS: What do you do, determine that a percentage are valid?

SEALOCK: Yes; the current rule and statutes mandate that we do two samples in order to reject a petition.

330 JOHNSON: Section four is a policy change, see Exhibit D.

REP. EDMUNSON: My concern is that we still have an electoral college system and what you are doing is offering the ballot as fiction; recommending that we tell the voters we have a direct election and we don't; that isn't what the U.S. Constitution says.

360 CHARLES STERN, YAMHILL COUNTY CLERK: That could be solved by

how the question is phrased; the question is do we need to list the names of

each elector?

CHAIR PARKS: Can an elector vote for other than who they are elected for?

COLLEEN SEALOCK: Yes, there is no penalty for not keeping the oath they made before the election.

CHAIR PARKS: What was the problem?

JOHNSON: The way it lays out the names are listed in such a way that it is hard to see the actual presidential candidate.

CHAIR PARKS: We would like to see a sample.

430 JOHNSON: Section five, see Exhibit D.

_ Section six is conforming.

_ Section seven is a minor policy change; see Exhibit D.

460 JOHNSON: Section eight is at the request of the clerks, see Exhibit D.

JOHNSON: Section nine is the same as eight; eleven references back to sections four and seven.

_ Section thirteen and fourteen deal with the election of sheriffs.

TAPE 4, SIDE A

JOHNSON: Section thirteen is new, see Exhibit D.

043 REP. BAKER: What about school board members?

JOHNSON: They aren't affected by this bill; this applies to sheriffs

and a vacancy for a non-partisan offices. 051 REP. BAKER: What is a non-partisan office?

COLLEEN SEALOCK, SECRETARY OF STATE'S OFFICE: Any office where you don't have to be a member of a party, Democrat or Republican, and that would include the Oregon Supreme Court, the Court of Appeals, all of the Circuit Court positions, I believe the Mayor in Portland is non-partisan and some County Commissioners may be non-partisan.

STERN: The school board election is covered in another statute; they don't appear in the primary election.

072 REP. EDMUNSON: Is this for a nomination for an unfilled non-partisan position?

SEALOCK: Gives example to clarify situation.

STERN: We have this limitation that we have to fill a vacancy or elect a sheriff in the general election.

_ If only one person files it doesn't appear on the ballot at all; if more than one does file, then they are on the primary ballot and whoever wins moves forward to the general.

SEALOCK: What this will change is that those names will only appear on the general election ballot.

REP. EDMUNSON: Clarifies current law; this is a substantive change and it does affect access to the ballot.

STERN: Yes it does.

160 REP. BAKER: If we only have one candidate in the primary and we don't have another general election, the decisions for that office are made in March then there is six or seven months until we get to the election.

JOHNSON: One idea is to just have those offices run in the general election; we would like to look at that, conceptually it is attractive.

STERN: That is how we do cities now; they are nominated and elected in one election; regarding the time lapse between when a candidate files and appears on the ballot, there is already a time lapse.

SEALOCK: We have some Attorney General, (AG), opinions on what happens in some of these situations; I will put a package of information together and get that to you.

JOHNSON: Section fifteen is a gap in the law discovered during redistricting last year, see Exhibit D.

_ Section sixteen suggests that we not repeat initiative numbers until

they reach 99. 292 JOHNSON: Section seventeen changes statutes dealing with fiscal impact statements for initiatives and measures, clarifying that the impact need not fall on all local governments to be considered and also, this allows that we print "no financial effect" if there is no financial effect on

state and local government, so we are suggesting that we add that to the boiler plate language for the voter's pamphlet.

_ Section eighteen also deals with financial impact statements, changing the due date and clarifying that changes to draft fiscal impact

statements may be based on information other than just public testimony.

315 REP. EDMUNSON: In an administrative hearing the record is developed at the hearing; what "other" information would you be considering here?

JOHNSON: Maybe information they have learned on their own, separate and apart from public testimony.

REP. EDMUNSON: Would that be made part of the record?

JOHNSON: Part of the deliberative record of the committee; the minutes.

CHAIR PARKS: Isn't there a process to challenge the explanation?

JOHNSON: Yes; I'm 99 percent sure that the burden of proof is on the person challenging the fiscal impact statement.

CHAIR PARKS: I'm concerned about this "other information".

JOHNSON: Possibly we could add "may consider other information submitted as part of the record at the hearing".

CHAIR PARKS: Yes, that would be nice.

383 JOHNSON: Page eight, line four after "may consider other information" add something like "as submitted as part of the record at the hearing".

JOHNSON: The other change is how many officials do or do not have to agree to approve to an impact statement; this is to clarify how many are needed.

_ On Line forty five the Secretary of State needs to include the date upon which it is based and it seems that should be part of the record, so that would be another amendment, to reinstate that language.

429 JOHNSON: Section twenty allows county clerks for county measures to go to 99 before repeating ballot or measure numbers; also we need to make

sure that it is okay to precede the county measure number with the county prefix and that is in our proposed amendments.

STERN: Describes county prefix numbers.

468 JOHNSON: Section twenty one; see Exhibit D.

SEALOCK: When you file an argument with a measure it becomes immediately public record under current statute; this enforces the

confidentiality for four days.

TAPE 3, SIDE B

039 REP. EDMUNSON: Do you have reason to believe that more arguments are submitted because people are filing early and there are rebuttal

arguments?

SEALOCK: Very few voter pamphlet arguments are submitted early, because they don't want their opponents to have access to them.

JOHNSON: Section twenty two is housekeeping oriented, see Exhibit D.

_ Section twenty three, same amendment for section 18.

_ Section twenty four is a policy change; see Exhibit D.

088 REP. EDMUNSON: What is the legislative history on this provision; how did we come to have this language in the first place?

JOHNSON: I will look into that and try to get a better sense of the history.

122 JOHNSON: Section twenty five is a policy change; there is disagreement over the statute, see Exhibit D.

_ Section twenty six and twenty seven are housekeeping amendments, see Exhibit D.

141 JOHNSON: Section twenty eight is mainly housekeeping; see Exhibit D.

158 JOHNSON: Section twenty nine is also housekeeping, see Exhibit D.

_ Section thirty is a policy change, dealing with military and making sure that they are able to vote.

_ Section thirty one specifies that the absentee ballot registration for an unregistered long term absent voter constitutes that persons registration.

STERN: Under current law when you send in an application for a registration it has all the information, but isn't considered the registration; we are saying that this card can be used.

184 JOHNSON: Throughout the bill we are also removing "Justice of the Peace".

_ The first part of section thirty two deletes the certification requirement for statements to be placed on the ballot; it is clarifying language.

_ The second part is that we aren't the filing officer for the Justice of the Peace, so we have to call the clerks and ask who filed as Justice of the Peace in order to be able to certify the ballot and the clerks should be doing that.

_ We need to make clear that the incumbent designation stays with Justice of the Peace candidates; that comes up in sections thirty nine and forty.

REP. EDMUNSON: What is section thirty eight?

227 TED REUTLINGER, LEGISLATIVE COUNSEL: Section thirty eight is merely technical; in several places sections are numbered twice because some

sections are temporary.

JOHNSON: Section thirty nine prescribes the order of the ballot for the primary and the general election.

_ Section forty makes the regional primary statute conforming amendment that exists in thirty nine.

_ Section forty two deals with the presidential electors and deletes reference to the Justice Court candidates.

_ Section forty three is another "if any" deletion.

_ Section forty four is housekeeping dealing with statutory provisions for poll watchers.

STERN: Any person can challenge any one else at the polls, but there is no loitering at polling places, intended to keep people from hanging around; poll watchers can be there all day.

ADKINS: What happens to the ballot if someone is challenged by a poll watcher?

STERN: There is an envelop with a statement swearing that they are qualified to vote and the person challenging them signs also and the ballot is returned in that envelop to the clerk until the period up to when they need to certify the election to review the challenge and see if there is any administrative way to solve the challenge.

_ The envelop has a place to fill in how we resolved the challenge and then it is opened and the ballot is counted in time for certification;

if we can't resolve the challenge, the ballot is not counted.

325 JOHNSON: Section forty five clarifies that the Secretary of State may determine if a state wide election is held by mail or at the polls.

REP. EDMUNSON: This says authorized "under this section", and it doesn't appear in this section that there is any authorization for state wide election by mail; where does that authority exist?

STERN: The authority exists now, the question is who calls it; the clerk can conduct any election in the county, city or district; even a statewide election is conducted in the county.

_ The Attorney General, (AG), viewed that since it was state wide the Secretary of State has that authority and that is what is being addressed in this legislation.

399 SEALOCK: I think the AG looked to Section 246.110 which addresses the powers and responsibilities of the Secretary of State and talks about

maintaining uniformity in the application and operation and interpretation of election law; we can provide you information.

REP. EDMUNSON: I wish you would.

JOHNSON: This language doesn't cover the primary or general election; our concern is that with a special election that covered the entire state you would have different counties doing different things.

437 CHAIR PARKS: We need to make sure that whether or not the Secretary of State has authority is in the bill; it is weak reasoning to say that

since it isn't dealt with we are assuming he has it.

JOHNSON: We will provide you the AG's opinion; there may be some drafting work we could do to make it clear that this isn't extending to the primary and general.

486 JOHNSON: Section forty five removes the requirement that the county clerk give notice fifty days before each election as to if the election will be done by mail.

TAPE 4, SIDE B

035 JOHNSON: This would also allow emergency elections to be conducted by mail, which can be done quicker and at less cost.

STERN: We want to review filing times; there are some other issues that might want to be linked in this section.

055 JOHNSON: This allows elections by mail for precincts of less than 100 voters if that size is due to geography or requirements of law; this was partly a result of redistricting.

_ Section forty eight clarifies that the Secretary of State may establish the date the ballots will be mailed for an election by mail; this needs to be amended to clarify the state wide election by mail and obviously hinges on the decision of the issue of the Secretary of State ordering state wide elections by mail for special elections.

_ Section forty nine clarifies when county clerks have to tally.

075 SEALOCK: The current law requires clerks to tally write in votes when the total write in vote is greater than the person that comes in second if it is an election.

_ This doesn't make sense, so this language says that clerks will only tally write in votes if the number is greater than the winner of the election; this also covers the primary or nominating elections.

CHAIR PARKS: How do you deal with a race of three where all get a third.

SEALOCK: If there are two candidates on the ballot we would count the write in votes if the total write in was greater than the second nominee.

STERN: Any person may request to have their write in's tallied.

137 JOHNSON: Section fifty is housekeeping, see Exhibit D.

_ Section fifty one deals with map displays; this needs to be amended to conform with vote by mail.

STERN: It doesn't remove the requirement for map displays, it is "OR".

REP. EDMUNSON: We don't require that pamphlet to be at the polls.

173 STERN: The law provides that sample ballots are at the polls, so in effect we have brought the pamphlet to the polls.

_ If you feel it isn't clear, we can add that language, that if it is in the voters pamphlet, they will have voters pamphlets at the polls.

CHAIR PARKS: We will take a five minute recess. (10:15 a.m.)

_ Calls the hearing back to order. (10:28 a.m.)

206 JOHNSON: We have a proposed amendment on section fifty one to clarify that only if the county doesn't do a voters pamphlet do they

need to

send the map with the ballot; then understand that generally we would have the map at every poll.

_ Section fifty two is a policy change giving the county clerk standing to be able to contest an election; see Exhibit D.

STERN: We have had circumstances where errors were discovered after the certification was completed; there are only two remedies, recount or contested election in court and if there is no resident willing to do that, the election stands.

244 JOHNSON: Section fifty three is housekeeping; it removes a statutory redundancy regarding compensation of a recount board. _ Section fifty four is reducing paper work; this allows the county clerk to order the automatic recount of votes for local candidate elections instead of requiring the Secretary of State to do so.

_ Section fifty five is the same.

_ Section fifty six primarily looks at loop holes and gaps for contributions and expenditures, (C&E).

280 REP. WYLIE: This says "received or accepted", receipt doesn't constitute acceptance.

JOHNSON: It is intended to read that way, page twenty two line seven; the language deals with that point.

_ Goes over definition changes, see Exhibit D.

_ Section fifty nine is a clarification which we believe reinstates the original intent of this statute, see Exhibit D.

343 JOHNSON: Section sixty fixes a glitch in statute, see Exhibit D.

_ We do have an amendment to clarify who we are trying to get at.

_ Section sixty one is a repeat of sixty, see Exhibit D.

_ Section sixty three requires that candidates keep accounts for four years after the date of the election.

415 REP. BAKER: Four years is a long time; as a practical matter has anyone challenged after two years?

JOHNSON: We are willing to be flexible; we may want to look at the number of complaints in the past six months.

CHAIR PARKS: Please do.

469 JOHNSON: Sections sixty four through seventy are housekeeping, clarifying the due date for the supplemental C&E reports.

_ Section seventy two deletes the requirement that copies of invoices, checks and receipts be submitted with all expenditures of more than fifty dollars and rather that the C&E report must list the payee and the amount of the expenditures.

_ We need a clarifying amendment on this.

TAPE 5, SIDE A

035 JOHNSON: Section seventy four is a continuation of trying to fill in a gap on people who should be reporting, but because of some loop holes

aren't required to report right now.

053 REP. EDMUNSON: There are no additional obligations?

JOHNSON: Correct.

_ Section eighty one is for cost savings.

SEALOCK: Examples; Election violations, C&E violations; civil penalties.

REP. WYLIE: If someone doesn't abide by this what happens and is there a provision for emergency or crisis?

SEALOCK: We will provide information to you on that.

088 REP. EDMUNSON: If the person appears, can they present documents at that time without limit?

JOHNSON: Yes.

111 JOHNSON: Section eighty two changes the date by which delinquent C&E reports must be filed before the candidates name will be taken off the

ballot from twenty to sixty one days before the election to correspond to the ballot certification deadline.

STERN: Describes process.

126 JOHNSON: Section eighty five allows the Secretary of State or AG additional time to respond to a complaint or complaints if more than

twenty five are received in any one twenty four hour period.

SEALOCK: On occasion we will receive large numbers of election

violation complaints and by law we have a time frame to turn those around, so we are asking for an extension.

150 REP. EDMUNSON: What is administratively possible; specific time frames do have a certain economy of justice to them; I'm concerned about words like "as soon as possible"?

JOHNSON: We will come back with an outside time line.

REP. BAKER: What is the reason for the short time frame?

SEALOCK: This would apply if your opposition or opponent has filed a complaint against you; it is a requisite on us to let you know within twenty four hours that this complaint has been filed.

JOHNSON: For the time limitation, we are suggesting a four year limitation with up to ten years if there is fraud or some reason that there is absolute deceit in hiding the violation; we will take another look at that.

190 JOHNSON: Section eighty six provides an effective date for section eighty five.

_ Section ninety requires the Department of Agriculture to file with the county clerk their official list of candidates by the same deadline as other jurisdictions must file that.

203 JOHNSON: We are suggesting that the fine amount be reinstated, not leaving that blank.

REP. EDMUNSON: On section eighty seven; by providing for rule adoption, are we delegating punitive sanctions to the agency without providing for the standard of conduct in the statute itself.

RUTLINGER: This would give the Elections Division the authority to impose a civil penalty for rule violations; this is policy choice.

CHAIR PARKS: I wouldn't vote for the bill if the fine isn't set or if there isn't legislative guidance.

JOHNSON: That clearly isn't our intent; this is to deal with the five business days before the hearing situation.

278 REP. EDMUNSON: Your authority may result in fines which exceed fines assessed for felonies; this is very strong language here.

SEALOCK: Our penalty matrix is adopted by administrative rule; on that entire C&E package, it is our intention to review as we have internal

concerns about how the penalty matrix works, what should be considered mitigating circumstances and clearly now the previous rules do not.

JOHNSON: We hope to fold into the review the whole issue of what should be subject to criminal penalties and what should not, we need to take another look at that.

332 JOHNSON: Section ninety one clarifies the process for declaring a vacancy in the office of sheriff if the person elected fails to qualify and the second part specifies that the BPSST certificate must be filed

with the county clerk.

355 CHAIR PARKS: Do assessors have something?

STERN: Yes, they have a questionnaire that we provide to them and the Department of Revenue returns the document to us.

371 JOHNSON: It has been brought to our attention that the Metropolitan Service District has a new charter that includes provisions for a new

election for an auditor and we need to make some housekeeping changing in our election code statutes to contemplate the election for an office for which there is now no provision in election law.

_ Second, there have been problems with the definition for the Justice of the Peace; our staff is working on that.

_ Would you consider amending 266.05 to prohibit the so called "slate cards" that started migrating into Oregon from California this election, where you basically buy endorsements.

_ Currently you can't buy an editorial endorsement, but we don't think the language covers these slate cards.

415 CHAIR PARKS: This is a card a company sends out?

REP. EDMUNSON: In California they sell advertisements, basically; it is a sham as you buy your way into press; it is a money making scheme.

CHAIR PARKS: Would the committee like an amendment drafted to outlaw that type of endorsement?

_ We'll do that then.

458 CHAIR PARKS: I'd like you to come back soon and hopefully we'll have a work session.

_ We are adjourned. 11:10.

Submitted by, Reviewed by,

Kimberly Burt Janet Adkins Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - HB 2279: Fiscal impact statement submitted by staff, pp 1 B - HB 2280: Fiscal impact statement submitted by staff, pp 1 C - HB 2275: Fiscal impact statement submitted by staff, pp 1 D - HB 2275: Written testimony including proposed amendments submitted by Johnson, pp 7