

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Government

February 4, 1993 Hearing Room 357 8:30 a.m. Tapes 8 - 10

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Jim Edmunson Rep. Cedric Hayden, ex-officio Rep. Patti Milne Rep. Sharon Wylie

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

MEASURES CONSIDERED: HB 2612 HB 2274 HB 2273 HB 2409 HB 2453

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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.

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TAPE 8, SIDE A

CHAIR PARKS: Calls meeting to order. Members present: Rep. Parks, Wylie & Milne (8:35 a.m.)

PUBLIC HEARING ON HB 2273 Witnesses: Nina Johnson, Executive Assistant, Secretary of State's Office Al Davidson, Marion County Clerk, Association of County Clerks

012 NINA JOHNSON, EXECUTIVE ASSISTANT, SECRETARY OF STATE'S OFFICE: Describes HB 2273; testifies in support.

\_ We need to clarify that districts must indicate if candidates are qualified to hold the office or not.

033 AL DAVIDSON, MARION COUNTY CLERK, OREGON ASSOCIATION OF COUNTY CLERKS: Describes process to determine if candidates are qualified to hold

office.

\_ The other issue is C&E reports; the law doesn't say they have to have the certificate, so this is just a clarification.

REP. MILNE: Clarifies necessity for certificates.

PUBLIC HEARING ON HB 2612 Witnesses: Rep. Gene Derfler, House District 31 Al Davidson, Marion County Clerk, Oregon Association of County Clerks

062 REP. GENE DERFLER, HOUSE DISTRICT 31: I wanted to introduce Al Davidson and say that at his suggestion this bill to make it non-partisan is an

important one.

CHAIR PARKS: Why not the assessor?

REP. DERFLER: I don't have a problem with that; they ought to be non-partisan as they are working with both sides.

079 AL DAVIDSON, MARION COUNTY CLERK, OREGON ASSOCIATION OF COUNTY CLERKS: My opinion is that the person who counts the ballots shouldn't be

affiliated with either political party as it sometimes closes doors.

\_ There is a procedural amendment that needs to be made other than the definition and I would ask permission to be able to send that to drafting; it deals with how the nomination occurs for a non-partisan rather than a partisan candidate.

107 JANET ADKINS: How many of the thirty six county clerks are elected?

DAVIDSON: Thirty one.

REP. WYLIE: For those appointed rather than elected, does this limit their ability to affiliate with a party in their personal lives if they wish to?

DAVIDSON: This doesn't eliminate that for anyone, elected or appointed.

121 ADKINS: Adding to ORS 249.088, the County Clerk to the list of sheriff and other non-partisan offices; this is the procedure for the nominating election.

CHAIR PARKS: We will call that a conceptual amendment.

\_ Rep. Edmunson arrives. (8:45 a.m.)

WORK SESSION ON HB 2612

135 MOTION: REP. WYLIE MOVES THE CONCEPTUAL AMENDMENTS TO HB 2612.

138 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: REP. MILNE MOVES HB 2612, AS AMENDED, TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

145 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY. MEMBERS EXCUSED: REP. HAYDEN

WORK SESSION ON HB 2273

155 MOTION: REP. MILNE MOVES HB 2273 TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

157 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY. MEMBERS EXCUSED: REP. HAYDEN

PUBLIC HEARING ON HB 2274 Witnesses: Rep. Carolyn Oakley, House District 36 Al Davidson, Marion County Clerk, Oregon Association of County Clerks John Danielson, Oregon Education Association Marv Evans, Federation of Oregon School Administrators John Marshall, Oregon School Boards Association

168 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2274, submits fiscal impact statement, information from the Secretary of State's

Office on each counties savings, (EXHIBIT A).

REP. CAROLYN OAKLEY, HOUSE DISTRICT 36: Describes HB 2274 and testifies in support; introduces Al Davidson.

222 AL DAVIDSON, MARION COUNTY CLERK, OREGON ASSOCIATION OF COUNTY CLERKS:

Describes HB 2274, submits and summarizes written testimony in support, (EXHIBIT B).

CHAIR PARKS: Last session you voted against the bill?

REP. OAKLEY: No, I carried the bill on the floor.

336 CHAIR PARKS: Does the school board pick the person to fill a vacancy?

35 DAVIDSON: The school board can fill vacancies, but those appointed must stand in the next election whether the position was scheduled to be

elected or not.

\_ Rep. Hayden arrives.

349 DAVIDSON: The mechanics for the first couple of elections are contained in the bill; the major change is that instead of doing it every year we would do it every other year along with all the other fire districts,

water districts, etcetera.

383 JOHN DANIELSON, OREGON EDUCATION ASSOCIATION: I'll let the others at the table introduce themselves.

390 MARV EVANS, FEDERATION OF OREGON SCHOOL ADMINISTRATORS

DANIELSON: We've arrived to testify in opposition to this legislation; schools, in Oregon, are frequently referred to as the foundation of a community.

\_ Testifies in opposition.

\_ We think the most important thing to do for schools is to maintain

continuity; it is important to maintain a direction.

\_ This bill would allow a majority of the board to change during at least half the election cycle and we don't believe that is in the best interest of the school board.

DANIELSON: School boards are going to serve as the training grounds for those seeking other offices now with the six year limitation.

\_ We believe HB 2274 should be tabled.

TAPE 9, SIDE A

035 JOHN MARSHALL, OREGON SCHOOL BOARDS ASSOCIATION: Testifies in opposition to HB 2274; first is the issue of cost, however, if cost were the only

consideration we wouldn't have vote by mail or county voters pamphlets, both of which have increased school district elections costs.

\_ Second, HB 2274 would require an extension of school board members terms by statute; the result would be school board members with terms of office longer than any other elected official in Oregon except Judges and members of the U.S. Senate.

\_ Dollar savings are important, but the larger issue is continuity.

065 REP. HAYDEN: How often do people get appointed rather than standing for election?

MARSHALL: I don't have specific numbers, but a number of people move and leave vacancies and I think it is a common occurrence.

DANIELSON: (In response to Rep. Baker) Several school boards in Southern Oregon have been taken over by conservative organizations.

REP. BAKER: My experience is that school boards traditionally are consistent groups of people that meet for a long period of time.

DANIELSON: There are more pressures and issues now than there were twenty years ago; it isn't uncommon for people to organize on a school board or to elect new board members or to recall board members because they want to dismiss the superintendent.

135 REP. WYLIE: Are there any options to save money by having school board elections take place on another election date?

DANIELSON: You have to recognize the complexities of dealing with

budget laws and unknown funds; continuity is important.

\_ We should recognize that this state is one of the better in terms of economy and it can afford reasonable expenditures; we don't believe all public policy should be controlled by the opportunity for savings.

REP. MILNE: Do you have a solution to getting the system smoothed out and do you have other concerns?

MARSHALL: I share continuity concerns and concerns about statutory extensions of board member terms.

\_ HB 2274 eliminates an election date; describes extension.

226 REP. MILNE: There are folks that tend to be there a long time because the community appreciates their expertise; I tend to think that is the

communities decision.

DANIELSON: I think that the elected time and the pressure of school district boards is going to make people stay less time on boards; as we look at the implementation of the fiscal structure of schools, you will find people less willing to put in the time.

283 EVANS: Testifies in opposition to HB 2274.

\_ It is difficult to get people to run for school boards and they receive very little attention, therefore it is possible for almost anyone to be elected to a school board.

\_ If a majority of the board turns over at once, you have a high risk of someone controlling the board and would have a long time before you could take care of it.

REP. MILNE: Two years would allow a community, the school district and board time to make people feel more comfortable in running; perhaps two years would allow people a longer period of time to be ready to do so.

EVANS: If the bill passes we will look at it that way.

375 REP. EDMUNSON: My experience is that most school board candidates come from an interest group of some sort; a two year election cycle is a life time in a community because school boards have an immediate impact on

their neighborhoods.

\_ Do you believe that a two year cycle would make recall more attractive?

DANIELSON: I think you will see an increase in recall as we get started as people feel they aren't being treated fairly.

470 REP. MILNE: I think a two year election could have more emphasis than the election every year.

TAPE 8, SIDE B

EVANS: The concern is larger in other districts.

045 CHAIR PARKS: What about six year terms; I'm concerned about what Mr. Danielson is talking about and I'd like to see us look to innovative

ways to save money and not create problems.

DANIELSON: That may appeal to me, but I don't think it will to the public.

MARSHALL: If you look at the results of mandatory unification, in some areas there will be more interest and more contested cases.

087 EVANS: Yes, six year terms would make an impact on continuity, but we are having trouble getting people to run for four years now.

REP. MILNE: There is so much to learn that a member needs four years to be effective; I'm interested in saving money, but want the continuity;

is there a way to avoid recall type activities?

DANIELSON: I don't believe we can address that statutorily; as time goes by there will be a decrease.

REP. HAYDEN: The frequency of elections wouldn't effect recall as members don't come up every year.

148 REP. BAKER: I'm concerned about the term "extremist"; traditionally school boards are trustees of the system or people advocating a

position.

DANIELSON: When we use that term it is to mean "a group of people with a common interest looking for a change of direction"; we are arguing for more gradual turns.

\_ There is better public acceptance of the decisions of a board if the members are elected rather than appointed and you will have more appointed with this bill.

193 REP. BAKER: A lot of times elections disrupt the education system; if there were fewer maybe you could worry more about educating kids and not worrying about what is happening.

EVANS: That is true of levy elections, not school board elections.

222 REP. WYLIE: Is there an absolute reason why school district board elections are separate from other elections?

DANIELSON: Generally it is to allow as much attention as possible on the school board candidates.

237 CHAIR PARKS: Isn't the reason because we are talking about getting budgets passed and there would be more no votes that wouldn't make the

effort to come out in March?

DANIELSON: We did some studies on turn outs some years ago and it showed that turn out isn't a significant determinant in school budget elections.

283 CHAIR PARKS: How are you going to save money if it's vote by mail?

REP. BAKER: In my district the cost of elections are about \$20,000 with printing and postage and all the special costs.

300 CHAIR PARKS: We will adjourn this hearing temporarily.

PUBLIC HEARING ON HB 2409 Witnesses: Rep. Kevin Mannix, House District 32 Cindy Becker, Assistant Director, Executive Department & Administrator, Printing Division

313 REP. KEVIN MANNIX, HOUSE DISTRICT 32: Invites Cindy Becker of General Services to testify with him.

\_ Often reports are sent to individuals who don't want them and this allows a post card to be sent instead of the report and people can send in the post card to request the report.

\_ We aren't talking about a report directed to someone, but the copies that must be sent out.

356 REP. MANNIX: I have made some changes to the bill as I was told I'd been too specific and will leave this with you, see (EXHIBIT C).

390 REP. HAYDEN: Doesn't the federal government do this now?

REP. MANNIX: Yes.

\_ The post card notice will give you the opportunity to receive the full report; this is a discretionary allowance to the agency.

CHAIR PARKS: Why not make it mandatory?

455 CINDY BECKER, ASSISTANT DIRECTOR, EXECUTIVE DEPARTMENT & ADMINISTRATOR, PRINTING DIVISION: The issue is effective and efficient communications; we are looking at the amount of paper and unsolicited amounts of paper.

TAPE 9, SIDE B 035 BECKER: By making this mandatory it could cost money; a reprint of a report costs as much as the original print.

REP. HAYDEN: What would you think about having this system more discretionary rather than mandatory, perhaps polling?

CHAIR PARKS: I'm getting some cards asking if I want reports or not; is the state doing that?

BECKER: Agencies do that on a discretionary basis; not all reports are done more than once; the agencies that have news letters and annual reports are doing this more.

076 REP. MANNIX: The idea is that the person might just send in the card and then they will get the reports; the citizen will get what they want.

095 REP. HAYDEN: Do we need an amendment to create a box for continual receipt of reports?

REP. MANNIX: I will submit the amendments; we would prefer not to have too much procedure in statute, but to be able to feel it out.

CHAIR PARKS: We will recess for five minutes. (10:08 a.m.)

WORK SESSION ON HB 2409

135 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes amendments submitted by Rep. Mannix.

MOTION: CHAIR PARKS MOVES THE PROPOSED AMENDMENTS TO HB 2409.

150 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

158 MOTION: REP. HAYDEN MOVES THAT THERE BE A BOX ON THE POST CARD TO CHECK SO PEOPLE WILL CONTINUE GETTING FULL REPORTS.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: CHAIR PARKS MOVES THAT HB 2409 AS AMENDED BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

183 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES.

PUBLIC HEARING ON HB 2453 Witnesses: Pat Hern, Executive Director, Oregon Government Ethics Commission Rep. Mike Burton, House District 17 Kerry Barnett, Legal Counsel, Governor Roberts

198 PAT HERN, EXECUTIVE DIRECTOR, OREGON GOVERNMENT ETHICS COMMISSION: Describes HB 2453, submits proposed amendments, (EXHIBIT D).



246 CHAIR PARKS: Would this include legislators?

HERN: It would in the terms of leaving office and going to work as a lobbyist.

CHAIR PARKS: If they completed their term, they would then have an additional one year in which they couldn't be a lobbyist?

HERN: That would be correct.

255 REP. EDMUNSON: Subsection (d); in our private practice as lawyers we try to influence the actions of court and administrative agencies we

appear in front of on behalf of our clients.

HERN: It wasn't our intent to prohibit attorneys from practicing; the commission wouldn't object to language that clarified that.

305 CHAIR PARKS: Would there be objection to the Lottery Director going to work for a company that supplies medical items to, among other people,

the state?

HERN: No; this came from model statutes; the effort is to raise the standards to the point where it raises the credibility of public officials.

REP. WYLIE: I'd be more comfortable if C, D and E referred to compensated influencing; as a citizen, if I wasn't a legislator, I might find myself lobbying for education dollars and it seems that there is a distinction between taking a job and exercising your rights as a citizen.

HERN: It wouldn't be the commission's intention to prohibit that.

\_ This is basic foundation language and it isn't meant to be all encompassing and we hope it will be given consideration.

397 REP. EDMUNSON: It would be better to draft legislation closer to your intent.

REP. WYLIE: Do you have a summary of feedback on what people are saying and what kinds of issues are brought to you?

HERN: I can give you the subject nature of the complaints, the jurisdiction involved and the status, but we aren't staffed to the point to provide you with substantive information regarding informal telephone inquiries and that sort of thing.

458 REP. MILNE: I would feel more comfortable if the word "authority" was defined better.

488 REP. MIKE BURTON, HOUSE DISTRICT 17: This isn't my bill, but I have a bill that will be similar to this. TAPE 10, SIDE A

030 REP. BURTON: I have a similar bill being drafted with a change in sub(a) in line 19, the authority would be limited to contract authority; in current language there is a list of those affected by the revolving

door statute; the Director of the Lottery should be included.

\_ My intent was that "authority" be those issues that the Lottery Director had in conjunction to the ability to sign contracts with someone, so that narrows that definition down.

072 REP. EDMUNSON: This should be broadened to include acting under contract as well as being an officer in a corporation or the owner of a business?

REP. BURTON: I think that being under contract with a company that should be covered, but I don't know how comfortable I am with prohibiting someone from starting their own business that way.

103 CHAIR PARKS: What is the penalty?

HERN: Most violations sustained are punishable by a maximum penalty of \$1000.00; this is punishable by a maximum civil penalty of \$5,000.

CHAIR PARKS: That doesn't seem like much of a penalty; if we are going to pursue this in this way I think we need to disqualify the company for a specified period of time.

130 KERRY BARNETT, LEGAL COUNSEL, GOVERNOR ROBERTS: I want to reiterate some of what Rep. Burton has said; I want to make a distinction to

revolving door statutes that should apply to regulators and those that should apply to other types of public officials such as the Lottery Director.

\_ The Lottery Director isn't a regulator and for that reason doesn't fit the revolving door statue; it should instead refer to contracts that the Lottery Director has authority over.

\_ Gives examples of possible conflicts, showing that the language may be too broad.

188 REP. EDMUNSON: Could the State of Oregon limit or restrain employment in another state?

BARNETT: If a company was contracting with the State of Oregon, but is located outside, yes; the short answer is that I don't know without looking into it further.

\_ My purpose isn't to oppose the bill in concept, but to highlight the difference between revolving door statutes that apply to regulators of entire industries and revolving door statutes that should apply to public officials who are entering in a contract or have a direct relationship with individual businesses.

240 CHAIR PARKS: There is no enforcement mechanism out of the state.

BARNETT: I'd have to think through the reach to other states; one option would be to go to the DA or ethics commission where they were.

CHAIR PARKS: There are good ideas the committee is interested in pursuing in a more cohesive thought out expansive manner and I think that will happen.

\_ If it is important enough to have a law there ought to be some real penalties.

278 REP. HAYDEN: Do we have examples of anyone who has gone through this revolving door having the company just pay their fine and say "so what"?

CHAIR PARKS: I'm thinking of the Insurance Commissioner who was relieved and immediately went and got a job with the Oregon State Bar, and frankly he did a wonderful job for the Bar.

\_ That is a little different situation as the state asked him to leave, he didn't go solicit a job, he had to go out and get a job; the other side of the coin is that it did look very poor to the average citizen when we went through the big fiasco with the Lottery and the Lottery Director is now employed by the company involved.

303 REP. WYLIE: My feeling is that we need strong legislation and we need to be specific enough to not cover what isn't intended to be covered; I like the idea about companies contracting with the state suddenly being invalid if they assist someone in breaking the law.

REP. HAYDEN: I like the idea of narrowing the focus; we haven't had a wide series of abuses, so why cast such a large net?

REP. MILNE: I'd be more comfortable in other areas than the lottery; we are talking about specific undue influence; there needs to be a concrete reason to tell someone where they can go for employment.

350 CHAIR PARKS: The maximum civil penalty is \$5,000 and this bill wouldn't change that.

373 REP. EDMUNSON: These should be acts for which the director was involved in a contract; it would be unfair to have such a broad reach.

CHAIR PARKS: I want to explore the possibility of other penalties.

ADKINS: Do you want to include disqualifying the company?

CHAIR PARKS: Yes.

398 CHAIR PARKS: That is all the business the committee scheduled for today; we are adjourned. (11:05 a.m.)

Submitted by, Reviewed by,

Kimberly Burt Janet Adkins Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - HB 2274: Fiscal impact statement and informative material submitted by staff, pp 3 B - HB 2274: Written testimony in support submitted by Davidson, pp 9 C - HB 2409: Proposed amendments submitted by Rep. Mannix, pp 1 D - HB 2453: Proposed amendments submitted by Hern, pp 2