

SENATE ETHICS, ELECTIONS, AND CAMPAIGN FINANCE COMMITTEE

June 1, 1993 Hearing Room B 3:00 p.m. Tapes 72 and 73

MEMBERS PRESENT: Senator Grattan Kerans, Chair Senator Neil Bryant
Senator Joan Dukes Senator Rod Johnson Senator Dick Springer

STAFF PRESENT: Annette Talbott, Committee Counsel Tamara
Brickman, Committee Assistant

MEASURES CONSIDERED: Public Hearing SJR45

Public Hearing and Work Session HB 2275A [--- Unable To Translate
Graphic ---]

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
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TAPE 72, SIDE A

004 CHAIR KERANS: Calls meeting to order at 3:16 p.m.

PUBLIC HEARING ON SJR45

WITNESSES: JOEL ARIO, Oregon State Public Interest Research Group
(OSPIRG)

008 JOEL ARIO, Oregon State Public Interest Research Group: Presents
testimony on SJR45. Comments on the support of legislative review of
initiative petitions. Discusses concern with a timing issue this would
raise with regard to when the Legislative Assembly meets and when a
measure could get on the ballot. Comments that it could conceivably be
three years before an initiative could get on the ballot. Discusses
suggestions to possibly remedy the timing issue.

052 CHAIR KERANS: Discusses Mr. Ario's testimony with regard to the
timing issues.

065 ARIO: "I would have the second half of the signatures
collected between January and July." Continues to discuss the timing
issue and suggestions to remedy the concerns with the timing of placing
initiatives on the ballot.

083 SEN. DUKES: Asks if the states that have legislative review
have annual legislative sessions.

085 ARIO: Comments that it is probably safe to assume that.

089 CHAIR KERANS: Continues the discussion on the timing of the
legislature as relating to legislative review of initiatives.

104 ARIO: Comments that they would be "strongly" opposed to SJR45
if it were tied to statutory initiatives.

124 CHAIR KERANS: Discusses putting legislative review "at the beginning of the even numbered year."

137 ARIO: Discusses Chair Kerans' comments. Explains legislative review in Massachusetts.

153 CHAIR KERANS: Comments that he is going to take SJR45 under advisement.

WORK SESSION ON HB 2275A

208 ANNETTE TALBOTT, Committee Counsel: Discusses the committee's question regarding the penalty on the verification of signatures in section 7 and 11. Explains that there is a "general civil penalty" in ORS chapter 260 for \$250. Explains that signing someone else's name would be a criminal offense and failing to watch someone sign their own name would be a civil penalty. (EXHIBIT C, from 5/25/93)

221 CHAIR KERANS: Verifies with staff from the Secretary of State's office that the maximum penalty is \$250.

224 COLLEEN SEALOCK, Director, Elections Division: Explains that \$250 is the maximum penalty. Comments on the occasions they have had to use the penalty.

228 CHAIR KERANS: Discusses a certain case in which a person had made up name on a petition.

233 SEN. DUKES: Discusses a case that occurred in the last election, with regard to initiative petitions being sent to people's homes.

244 SEALOCK: Continues discussing the case with Senator Dukes and Chair Kerans.

256 TALBOTT: Discusses the issue of electors on the ballot. (EXHIBIT E)

261 CHAIR KERANS: Asks how the ballot in regards to where a person would cast her/his vote.

263 VICKI ERVIN, Director, Multnomah County Elections: Explains that the person would cast her/his vote where the arrow is marked. (EXHIBIT E)

275 CHAIR KERANS: Discusses the proposal to eliminate the electors' names from the ballot.

278 NINA JOHNSON, Executive Assistant, Secretary of State: Comments that they would still need to make it clear on the ballot that the voters are voting for the electors for those candidates.

286 TALBOTT: Discusses section 40 and the amendment to section 40, page 16, lines 29-36. (EXHIBIT D)

296 CHAIR KERANS: Discusses the amendment. Comments on the clarity of the amendment. (EXHIBIT D)

307 ERVIN: Discusses the amendment to section 40. (EXHIBIT D)

322 MOTION: CHAIR KERANS: MOVES to substitute the amendment (EXHIBIT D) for the June 1, 1993 rewrite of section 40.

VOTE: Hearing no objection THE MOTION IS ADOPTED. All members are present.

330 TALBOTT: Refers to the federal post card registration and the absentee voting information memo. These materials are presented in regard to the issue of long term absent voters. (EXHIBITS F,G)

342 ERVIN: Discusses the requirement by federal law to accept the application whether or not the person is registered. "I have not been able to find a federal law that requires that. I have found references in the voting assistance guide...a state allow a person to use this as a registration form and it says about half of the states do as we do." (EXHIBITS F,G)

364 CHAIR KERANS: Discusses item number four under the Long Term Absent Voters on the memo. Comments that he does not see the category number four on the memo on the federal form for registration of long term absent voters. (EXHIBIT G)

378 ERVIN: "The memorandum is just a guide for the staff in my office, it was not to have been a legally comprehensive document." (EXHIBIT G)

CHAIR KERANS: Comments that the memo is broader than the federal form.

390 SEN. DUKES: "I don't see anything about the kind of folks who don't have a residence in Oregon anymore, but are not in the military and are not living outside the territorial limits of the United States. Somebody whose living in their motor home in Arizona but still wants to be a voter in Oregon. If I remember the discussion before correctly we allow them to remain a registered voter in Oregon."

410 JOHNSON: Discusses that they have developed recommendations dealing with that issue, along with multiple residences. Comments that those have not been drafted.

SEN. DUKES: Asks if this will include the homeless people.

JOHNSON: Explains that the homeless issue will be included "as a separate subset." Comments that SB 843 is a proposed amendment to HB 2275A.

439 SEN. DUKES: Asks whether the proposals they have made that haven't been drafted are going to be an amendment to a bill.

440 JOHNSON: Discusses the possibilities with regard to where they will place those proposals.

458 SEN. DUKES: Discusses the possible repercussions of those proposals, with regard to establishing registration.

469 CHAIR KERANS: Discusses the "snowbird" issue. Asks where those people register.

478 SEALOCK: Discusses that if a person has the intent to return to Oregon and make it her/his home then that person has the right to

vote in this state. Discusses the issue regarding where the people will register.

488 CHAIR KERANS: "I'm now in Arizona - my home is down there. I've got a motor home and I go down there and I stay there for 4 or 5 months a year. I may come back and be in here for 60 days on my way to Canada in the summertime. I declare myself to be a resident here? Do I vote through the clerk's office?"

TAPE 73, SIDE A

038 SEALOCK: Explains that the person would get an absentee ballot and that the address would be the last home address of the person. Explains that the law is "gray" and that they believe it needs to be spelled out for better interpretation.

049 CHAIR KERANS: Discusses which address the ballot comes to. The ballot would go to the mailing address. Comments that they will take up that issue in another vehicle.

073 JOHNSON: Explains that section 51 is the same as section 50. Explains section 52. Lines 15-17 and lines 19-25 deal with the definition of "candidate." Lines 36-37 deal with the definition of "contribution." (EXHIBIT C, from 5/25/93)

111 TALBOTT: Asks why the House deleted the term "or an election on a measure." "Isn't it a contribution if it's for purposes of influencing an election on a measure?"

123 JOHNSON: Explains that the original version of the bill had a section that "dealt with required reporting for the solicitation and expenditure of funds related to the circulation of initiative/referendum a recall petitions. That language that was deleted out of contribution was to conform to a deletion of that whole section which created numerous technical problems which we did not have the resources to deal with this session." Explains that they will be looking at chapter 260 over the interim.

140 TALBOTT: "So but a contribution on behalf of a measure is still a contribution because of the language on line 38?"

JOHNSON: "Correct."

145 JOHNSON: Discusses lines 5 and 6 on page 23. Comments that they conform to definitions of contribution and expenditure. Explains that the rest of page 23 defines "initiative petition," "recall petition," and "referendum petition."

150 CHAIR KERANS: "Section 53 and 54 are conformity?"

151 TALBOTT: Discusses the definition of "political committee" in subsection 13 of section 52. Discusses the language "primary or incidental purpose of" as being overly broad according to a dissent on an opinion from Justice Gillette. Comments that the language was stricken in SB 416 and comments that the committee could consider the change in this section.

165 JOHNSON: Explains that it was an oversight and that they would support that change.

168 CHAIR KERANS: "Let's go ahead and do that as an editorial amendment. Alright 53 and 54 are technical amendments."

170 JOHNSON: Explains section 55. "In lines 4-7 this is just the original requirement for the candidate to file a statement of organization and it just specifies that either the candidate who serves as a candidate's own treasurer or the treasurer of the principal campaign committee (PCC) shall file that statement of organization." Explains that it is just for clarity purposes of who is responsible to file. Explains "subsection 5, it makes it clear that a candidate for state office who serves in that role or the treasurer of the PCC shall file a new or amended statement of organization." Explains that this is for the purposes of keeping the records up to date. (EXHIBIT C, from 5/25/93)

194 SEN. DUKES: Asks how often these would need to be filed.

JOHNSON: Explains that it is for each election cycle. "It's not later than the date that the candidate either files a nominating petition, declaration of candidacy, or certification of nomination."

199 SEN. DUKES: Asks if the amended statement of organization could say "exactly the same thing as the last one did?"

203 CHAIR KERANS: "It's just your way of updating the information."

204 JOHNSON: Explains that they would then know that the statement is current.

208 JOHNSON: Explains section 56. (EXHIBIT C, from 5/25/93)

225 TALBOTT: Asks if the intent of subsection 3 on page 25 is to prohibit bundling.

JOHNSON: Explains the intent of section 56, subsection 3.

248 CHAIR KERANS: Asks if section 57 is the same as section 56.

JOHNSON: Comments that it is.

261 CHAIR KERANS: Explains section 59. Explains that currently there is no time limit for the Secretary of State's office to file an election law complaint. (EXHIBIT C, from 5/25/93)

267 CHAIR KERANS: Discusses the issue of the time limit for the Secretary of State to file an election law complaint. Discusses a specific case involving possible criminal actions.

288 JOHNSON: Explains that there is a time limit on filing a complaint by anyone else, but not on the Secretary of State. Continues the discussion of the specific case Chair Kerans mentioned.

313 SEALOCK: Explains that they have been advised that "the Secretary of State could initiate any sort of review of campaign finance reporting, but this bill as you will see we later offer you a date that we think..."

317 CHAIR KERANS: Suggests making the time limit coterminous with the record keeping.

323 JOHNSON: "I think we have in there 4 years."

326 CHAIR KERANS: "No, I think the record keeping and your right to examine ought to be coterminous. Don't you?"

SEALOCK: "That's the reason that we had recommended four years."

329 CHAIR KERANS: "I want to make yours come down to match whatever it was that we decide to do here."

SEALOCK: Discusses the concern with going to a four year limit for state offices.

339 CHAIR KERANS: Comments that he wants to flag that provision for further consideration. Comments that the Secretary of State's ability to review should not go any further back than the candidate's record retention.

357 SEALOCK: Discusses Chair Kerans' remarks.

368 JOHNSON: Explains sections 60 through 66. (EXHIBIT C, from 5/25/93)

383 JOHNSON: Explains section 68. (EXHIBIT C, from 5/25/93)

402 CHAIR KERANS: Asks if sections 68 and 69 are the same.

JOHNSON: Explains that section 69 is the same as section 68.

407 JOHNSON: Explains that section 70 clarifies what chief petitioners need to file. (EXHIBIT C, from 5/25/93)

CHAIR KERANS: "That's very simple." Asks about sections 71 through 76 which do not appear on the section by section analysis. (EXHIBIT C, from 5/25/93)

431 JOHNSON: Explains that those sections are technical statutory reference amendments.

439 JOHNSON: Explains section 77. Discusses the changes on page 41, lines 27 and 28. Explains that it is for the purposes of cost savings. (EXHIBIT C, from 5/25/93)

CHAIR KERANS: "OK, so noted...What's five days? In receipt, postmarked? Five business days?"

465 JOHNSON: Explains that the section says that it must be received by the Secretary of State not later than five business days before the day of the hearing.

469 CHAIR KERANS: Discusses what this would allow the Secretary of State to do.

475 SEALOCK: Explains that this material would be looked as they look at any written testimony.

CHAIR KERANS: Comments that he is thinking about that section.

481 SEN. DUKES: Asks if they think they will save anything.

TAPE 72, SIDE B

037 SEALOCK: Explains what the Secretary of State hopes to realize by this section. Explains what currently happens.

045 CHAIR KERANS: Asks what the minimum time is when the Secretary of State's office notifies somebody that a hearing has been set.

SEALOCK: Explains that it is two weeks.

CHAIR KERANS: "So I've got two weeks notice. On the 14th I know on the 28th I've got a hearing. So on the 23rd or before I've got to have in your hand...my statement which says here is my testimony and I won't be at the hearing?"

052 JOHNSON: Comments that they can make it less than five.

053 CHAIR KERANS: "I'll underline five."

061 SEN. DUKES: Comments that she would like the notice that the Secretary of State sends out, with regard to a violation dealing with the campaign committee, to be sent to the candidate.

070 CHAIR KERANS: Discusses Sen. Dukes comments.

074 SEALOCK: Explains that they should be sending it to both parties if the parties are different.

SEN. DUKES: Asks if there is anything that requires that they do that.

SEALOCK: Comments that they have an "office wide policy."

SEN. DUKES: Asks if they would have any opposition to making it law.

099 JOHNSON: "We would be more than happy to include that it in this bill."

100 CHAIR KERANS: Discusses the procedure.

111 SEALOCK: Discusses Chair Kerans' remarks and issues that the Secretary of State's office hopes will be the focus of the interim.

118 CHAIR KERANS: "Would you have any complaint if we were to limit the amount that you could levy on a penalty to that which is going to be the new misdemeanor penalties as adopted in SB 139 and cap you at the same time?"

122 JOHNSON: Comments that they were capped in the 1991 session for a total maximum amount of \$10,000.

CHAIR KERANS: Discusses the issue of penalties.

130 JOHNSON: Discusses the issue regarding the Secretary of State reviewing chapter 260.

147 JOHNSON: Explains section 78. (EXHIBIT C, from 5/25/93)

161 CHAIR KERANS: "So if I don't file my post election post primary C & E then I don't go on the general election ballot?"

JOHNSON: "Unless you file it within 61 days before the election."

165 CHAIR KERANS: Discusses the issue of having that notice being sent by registered mail to the candidate so that a candidate has the chance to file a C & E.

JOHNSON: Comments that they would be "happy to do that."

179 JOHNSON: Explains section 81. (EXHIBIT C, from 5/25/93)

190 SEALOCK: Discusses the instances in which there more than 25 complaints received in a 24-hour period, which related to complaints about duplicate signatures on petitions.

199 SEN. DUKES: Asks if the county clerks don't count the second signature.

201 SEALOCK: Discusses with Sen. Dukes that it is a felony to sign the same petition twice, but that it has to be with intent in order to prosecute it.

219 CHAIR KERANS: "I've got a check mark next to that provision, but I've got a question mark next to this business about our rule. Are you doing that now. Are you codifying something which you're doing by law now?"

222 SEALOCK: Comments that they believe every agency has a provision such as this. Explains why Legislative Counsel included the provision. (EXHIBIT C, from 5/25/93)

227 CHAIR KERANS: "We'll treat you the same as the others then." Discusses the provision relating to the statute of limitations. (EXHIBIT C, from 5/25/93)

234 JOHNSON: Explains that the statute of limitations is 10 years only if there is fraud involved in hiding the alleged violation.

238 CHAIR KERANS: Discusses the issue of a 10 year statute of limitations.

251 SEALOCK: Explains that they had no time lines at all before this bill and that it is just an attempt with regard to the amount of time.

259 JOHNSON: Explains section 82. (EXHIBIT C, from 5/25/93)

261 CHAIR KERANS: "83 is the same as 77 and 81."

264 JOHNSON: Comments on what section 77 and 81 are.

266 CHAIR KERANS: Discusses section 84. (EXHIBIT C, from 5/25/93)

269 JOHNSON: Explains that section 85 is a technical change. Explains section 86. (EXHIBIT C, from 5/25/93)

275 JOHNSON: Explains section 87. (EXHIBIT C, from 5/25/93)

278 CHAIR KERANS: Asks if there has ever been an instance in which a person elected to sheriff failed to qualify.

282 SEN. SPRINGER: Referring back to section 86. "My soil and water conservation district people have been trying to amend a statute. Are you aware of their progress if any that they've been able to make on that topic?"

286 JOHNSON: "Do you mean on what qualifies them to run? We originally were hoping to use one of our bills as a vehicle for that and when that bill wasn't going to be heard I was told that they had identified another vehicle."

293 TALBOTT: "It's the Senate Water Committee? Is that the bill that you're referring to?"

JOHNSON: "I thought it was a House bill that they were going to use."

TALBOTT: "It's a House bill in the Senate Water Committee."

296 CHAIR KERANS: "They want a fee holder requirement to be a director of a soil and water district?"

JOHNSON: "They already have one."

299 TALBOTT: "They want to change the thresholds."

300 SEN. SPRINGER: "I'm not sure of their exact language. I would prefer to see it gone."

302 CHAIR KERANS: Discusses a situation in his district, in which a director is not a "fee holder of anything."

308 TALBOTT: Comments that she is not sure whether it "is actually ownership."

319 JOHNSON: Explains that it is being taken care of in that vehicle and that it distinguishes between at large positions, "where you only must reside in the district and zone positions, where you must own property."

330 SEN. SPRINGER: "So you're telling me that you don't want me to amend this into this bill?"

331 JOHNSON: Discusses that she would be happy to follow up with and make sure that the people involved are happy with the progress.

337 SEN. DUKES: Discusses section 87. "What about the assessor?"

342 CHAIR KERANS: Comments that assessors need to be pre qualified.

SEN. DUKES: "Is it at the time of election? It's not at the time of filing."

CHAIR KERANS: "That's right. You've got to be certified by the time of election." Discusses a situation that occurred in Lane county.

349 SEN. BRYANT: Comments that there have been people who have run for District Attorney that have not passed the Bar, but are "anticipating passing it." 352 CHAIR KERANS: Discusses a situation which occurred in Wallowa county involving a candidate for District Attorney.

358 JOHNSON: Explains that many of the provisions require that a person must be qualified at the time that person takes office.

360 CHAIR KERANS: "This one is a year. Are we saying that this simply gives you some notice?"

363 JOHNSON: Explains that this was for the purposes of clarifying the process of declaring a vacancy and "it further specifies that BPST must file with the County Clerk the certification of eligibility for sheriff candidates."

368 CHAIR KERANS: Asks what happens if it is not filed.

374 ERVIN: Explains that the qualification used to be a pre qualification, but it was changed to reflect that an individual had to qualify within one year. "At that point they didn't make any changes to say what if they don't qualify, so we added that. They still have to apply to the BPST to see if there is anything in their background that they know would not allow them to qualify. You actually have two thresholds."

390 SEN. DUKES: Asks what they end up with and if the person has a year.

392 ERVIN: Explains that the BPST first determines whether the person will "meet the other sorts of qualifications" in order to place the person's name on the ballot. If BPST give approval the person is placed on the ballot and has one year after the election to qualify. If the person does not qualify then a vacancy is declared.

401 SEN. DUKES: Discusses the issue with regard to assessor.

411 SEALOCK: Explains that she would need to look at the chapter dealing with assessors because it is different.

413 SEN. DUKES: Comments that she is curious whether a vacancy is declared or if the old office holder remains in office until replaced.

SEALOCK: Comments that they will get back to the committee on that issue.

424 JOHNSON: Explains section 88. (EXHIBIT C, from 5/25/93)

429 CHAIR KERANS: "So I can live in Eugene and run for HarriSB urg JP if I have an office in HarriSB urg?"

JOHNSON: "It focuses on principle office."

435 CHAIR KERANS: Discusses sections 89 through 95. (EXHIBIT C, from 5/25/93)

438 JOHNSON: "We are now referencing any elected office of Metropolitan Service Districts so that we don't have to keep amending this each time a new elected position is created for Metro."

449 CHAIR KERANS: Discusses sections 95 through 100, which are technical amendments and "repealers."

454 JOHNSON: Refers to the HB 2275-A6, HB 2275-A7, and HB 2275-A8

amendments. (EXHIBITS J,H,I)

465 JOHNSON: Explains that the HB 2275-A6 amendment is a combination of 3 bills, HB 2273 page 1, with regard to certificates of election. (EXHIBITS J) and (EXHIBIT C, from 5/25/93)

TAPE 73, SIDE B

040 CHAIR KERANS: "Looks OK, I don't see any problem with that." Agrees to sections 96 through 98.

043 JOHNSON: Explains that section 100 is the language relating to homeless people from SB 843. (EXHIBIT J) and (EXHIBIT C, from 5/25/93)

049 JOHNSON: Explains that section 101 is HB 2276, which adds to the "Little Hatch Act." Explains subsection 1. (EXHIBIT J) and (EXHIBIT C, from 5/25/93)

062 CHAIR KERANS: "How is it we've gotten along this far assuming that that was included? We've never had any case law have we?"

063 JOHNSON: Discusses, with Chair Kerans, the problems with the issue of "undue influence" in which employees are coerced.

073 CHAIR KERANS: "I don't see any problems with the dash 6. Let's just put a check mark next to those."

076 JOHNSON: Explains the HB 2275-A7 amendment, with regard to the change of "who the respondent is in a petition to challenge a ballot title." (EXHIBIT H)

085 CHAIR KERANS: "So I file with the AG and then notify the Secretary, file with the DA notify the clerk. Excellent."

089 JOHNSON: Explains that this is mainly for the counties "because they end up being the main party, they have to defend it and they haven't even been involved at all in the ballot title drafting."

093 CHAIR KERANS: "A7 looks OK."

095 JOHNSON: Explains the HB 2275-A8 amendments, which deal with the issue of an out of state PAC. (EXHIBIT I)

CHAIR KERANS: Asks what is included in the affidavit.

JOHNSON: Explains that it is left as it currently is, but that it does not have to be automatically filed. Discusses the reason for the amendment.

123 CHAIR KERANS: Discusses the filing of the affidavits.

134 TALBOTT: Discusses the work plan for HB 2275 with Chair Kerans.

150 CHAIR KERANS: Adjourns the meeting at 4:42 p.m.

Submitted by:

Reviewed by:

Tamara Brickman
Counsel

Annette Talbott Assistant

EXHIBIT LOG

A - SJR45-1 Amendments dated 5/28/93 - Committee Staff - 1 page B - Hand Engrosses SJR45-1 dated 6/1/93 - Committee Staff - 3 pages C - Statewide Initiative and Referendum Material - Nina Johnson - 4 pages D - Amendment to section 40 of HB 2275A - Nina Johnson - 1 page E - Multnomah County Ballot Example - Nina Johnson - 3 pages F - Federal Form for Absent Long Term Voters - Vicki Ervin - 2 pages G - Absentee Voting Information - Vicki Ervin - 3 pages H - HB 2275-A7 amendments dated 6/1/93 - Committee Staff - 4 pages I - HB 2275-A8 amendments dated 6/1/93 - Committee Staff - 2 pages J - HB 2275-A6 amendments dated 5/21/93 - Committee Staff - 3 pages