

SENATE ETHICS, ELECTIONS, AND CAMPAIGN FINANCE COMMITTEE

June 29, 1993      Hearing Room B 3:00 p.m.      Tapes 88 and 89

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:      Work Session - HB 2276-A

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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 88, SIDE A

003            CHAIR KERANS:    Calls meeting to order at 3:15 p.m.

WORK SESSION ON HB 2276-A

010 ANNETTE TALBOTT, Committee Counsel: Presents HB 2276-A Proposed Amendments (EXHIBIT A) and letters from the Pacific Party (EXHIBIT B) and American Party (EXHIBIT C) in support of the amendments. Discusses section 1, major party status. Explains how the proposal works for transition into full major party status.

068            CHAIR KERANS:    Section 1 looks fine to him.

076 TALBOTT: Discusses section 2, minor political party status. Clarifies the issue of retention for a minor political party. There is no regional requirement and it changes basis for numerical determination.

094 CHAIR KERANS: The one percent is still the same and is more straightforward.

096 TALBOTT: Instead of a federal race it uses any state partisan office. Section 2a is a conflict amendment. Section 3, is the same as in the -A3 amendments, an opt out provision. Discusses section 4, major and minor political parties that choose to opt out. What is the Secretary of State's enforcement role and how do they monitor the party's structure?

126 COLLEEN SEALOCK, Director, Elections Division: Addresses the question of the complaint process.

136 CHAIR KERANS: Ms. Rosik, how do we get them to comply with their own internal rules?

138 LYNN ROSIK, Assistant Attorney General: Discusses tax

credit rule. Nothing in statute says how minor parties are organized.  
163 CHAIR KERANS: If the parties fail to meet the things they say they're going to do, do we have some enforcement mechanism to make them comply?

169 TALBOTT: Other than tax credit, no. You may decide as a policy matter you have no interest in doing so.

171 CHAIR KERANS: A person could take their party to court.

174 ROSIK: That's a private matter. The only reason you would care is that the minor parties and the transitional major parties will be directly funneling candidates to the ballot through their nominating process. How the major parties organize doesn't affect the candidate, they'll file directly.

185 CHAIR KERANS: The Green Party has filed their organizational document with the Secretary of State's Office and has failed to meet their own standards, but the Secretary of State has no method of enforcement. Does a person seeking office for that party have any process for injunctive relief?

197 ROSIK: There may be. It would be a private matter. She doesn't think the state would have a role.

199 CHAIR KERANS: We do have a role. If someone is cheated out of their place on the ballot, because a political party cheats them out of a place by failing to adhere to their own rules, we have an interest in that. There needs to be a way to provide relief to that person.

220 SEALOCK: We could add that relief for a violation of nomination from the official documents is a private proceeding. The filing of those documents makes them official documents, but doesn't require the Secretary of State to take action.

228 CHAIR KERANS: That would be fine, make it a private right of action.

230 SEN. BRYANT: Even if you don't want to be involved, you will be involved, because they'll ask you not to put that person on the ballot.

234 ROSIK: That's her concern. Whether or not we say there's some private right of action, the fact of it is, the August before the election people will be saying a party didn't follow their rules and certain people shouldn't be on the ballot. The Secretary of State will have to figure out what to do.

246 CHAIR KERANS: They could get a writ from the Marion County Circuit Court.

247 ROSIK: There will have to be some sort of fact finding to resolve the question. This has never been an issue before. There has never been any complaints and the Secretary of State has never had any organizational documents on file.

255 WARREN DERAS: Existing law already provides major parties to fill vacancies by party rule. You may want to consider by making the documents filed prima facie evidence to give the Secretary of State a basis to say they are accepted and it's up to a private party to

contest them.

272 SEN. BRYANT: That's a good idea, it would almost assure it would be a private right of action to pursue. 278 DERAS: It's a mistake to get focused on the assumption that everything that's filed is going to be challenged.

289 SEN. BRYANT: If we say it's prima facie, the Secretary of State would rely on the information and the person who believes they were robbed would be left with a private right.

295 DERAS: Suggests that be put off until a future session, it would delay us at this point.

298 TALBOTT: Is there a requirement that it be a sworn filing?

303 ROSIK: Refers to ORS 249.720. If it's made by a minor political party it has to be signed by the presiding officer and the secretary of the nominating convention. An affidavit is made and sworn that the statements related to the nomination are true.

315 CHAIR KERANS: Why don't we put the penalties for false swearing at the bottom of the form in big bold letters?

327 TALBOTT: The 275th day is a Sunday. It should be the 274th or 273 rd or no later than a specific date.

335 CHAIR KERANS: The 274th works fine.

341 TALBOTT: Discusses two alternatives to section 5. Alternative A is the entity type liability. Alternative B is the directorial member type protection.

353 CHAIR KERANS: Would go for Alternative B.

373 SEN. BRYANT: Only risk would be preserving the name.

384 ROSIK: Party name cannot be lost. Party name is going to stay with the officers and members.

414 MOTION: CHAIR KERANS: Moves to adopt Alternative B.

CHAIR KERANS: Hearing no objection the motion is adopted.

417 TALBOTT: Discusses section 6 as revised. Section 7 is new and a conforming section. Discusses section 9.

TAPE 89, SIDE A

030 CHAIR KERANS: What are we choosing?

031 TALBOTT: Explains.

037 DERAS: Discusses a potential problem with language on page 11, line 26.

045 CHAIR KERANS: The Democratic Party could not offer a fusion ticket in Oregon. What is the alternative? 052 TALBOTT: Alternative is in the -A3 draft. The broader exemption says any major political party can nominate a candidate for president who's not a member of

the party. Do the Democratic and Republic party rules require they nominate members of their own party?

057 CHAIR KERANS: Why would we care? I'd go back to the -A3.

070 TALBOTT: Discusses next substantive change on page 17, lines 9-13. Discusses section 15. Discusses section 17 page 19, lines 20-26.

093 CHAIR KERANS: If we have to do it we should.

102 TALBOTT: There have been several supreme court cases and an Oregon case on this issue. The same change is in section 19. Section 22 has clarifying amendments. Has a question on section 23, page 24, lines 16 and 17.

119 CHAIR KERANS: Leave that up to LC.

121 TALBOTT: Sections 24a and 26a are conflict amendments. Discusses section 27. Discusses section 28, a new clarifying amendment. Discusses page 32, lines 23-28, committee director amendments. Discusses section 31, savings clause for minor political party petitions.

156 CHAIR KERANS: We'll get a couple of parties qualified.

165 TALBOTT: Is there a time line for individual electors to get signatures to nominate a candidate?

071 CHAIR KERANS: How long can an unaffiliated elector keep their nominating petition out there? This is the alternative to a convention?

175 TALBOTT: One alternative to an assembly of electors.

177 CHAIR KERANS: Do know what the time line is?

181 ROSIK: There is a filing deadline before the General Election.

195 SEALOCK: Page 30, lines 9 and 10 refers to the delegate selection for the national election. Make sure the record is clear that the delegate selection not take place on the primary ballot.

206 DERAS: Suggests "election" be changed to "selection".

207 TALBOTT: On line 9.

20 CHAIR KERANS: Let's do that.

218 DERAS: Addresses the revision of section 3 (EXHIBIT D).

274 TALBOTT: Mr. Deras suggests you opt in or opt out of Chapter 248. If you opt out you can adopt some of the provisions of Chapter 248, but have to elect your own political party officers. In talking to the Secretary of State's Office and clerks, it seems burdensome and impossible in some counties to elect political party officers in a different fashion than a primary ballot. Opting in or out of Chapter 248 seems to be a problem.

304 DERAS: Discusses his subsection 3 (b).

309 TALBOTT: Each individual one could work, but they would have to do three different ones at the same time. Most counties would be unable to do that at this time.

312 DERAS: If they couldn't do it, none of the parties could change without opting out of the electoral system.

320 CHAIR KERANS: Would rather take it the way we got it.

328 MOTION: CHAIR KERANS: Moves HB 2276-A4 as amended.

333 SEN. JOHNSON: Has a problem with how it makes it easier for minor parties to place candidates on the ballot. He has no problem with it if there's a requirement that if no candidate in the general election receives more than 50% of the vote, there'd be a runoff between the top two. He fears we'll unleash a broad number of minor parties, which would cause a mess and we'd have to govern by coalition. Unless you're agreeable to change it so we have somewhere closer to the same number of people required to sign a petition to get a minor party on the ballot, or to put in a 50% runoff. Otherwise, he'll vote no.

364 CHAIR KERANS: Is interested in the access. You raised that question before and he asked Legislative Counsel for some information. The last case was in Georgia, where they have the runoff election. He describes what happened in Georgia. Usually in runoff elections less people are voting.

410 SEN. JOHNSON: The key is unless you can prove there's a statistical difference in the kind of voter that turns out for a runoff election as opposed to a general election, it doesn't matter if only a quarter of them show up. If they're statistically the same, you still get the same percentage vote.

431 CHAIR KERANS: Does not disagree. How do we determine when the people have spoken? If in an Oregon general election 1.3 million people vote and 550,000 participate in the runoff, the winner gets 260,000. Is that a mandate or a minority?

447 SEN. JOHNSON: Is concerned about a three way race where two candidates are close in ideology and the third candidate is completely different. The similar two could split the ideological vote and we end up with a winner where that person doesn't represent the majority's ideology. In a runoff between those two there would be a clear winner who most directly represents the electorate's ideology.

TAPE 88, SIDE B

031 CHAIR KERANS: That may be, but it's trying to prove the negative.

044 SEN. JOHNSON: Experts say that 600 people polled represent an almost guaranteed accurate representative sample of the population.

048 CHAIR KERANS: A poll is only a poll, a runoff election counts.

051 CHAIR KERANS: Moves to adopt HB 2276-A4 Amendments as further amended with the objection of Sen. Johnson.

CHAIR KERANS: Hearing no further objection the motion is adopted.

055 MOTION: CHAIR KERANS: Moves HB 2276 as amended to the floor with a do pass recommendation.

CHAIR KERANS: Sen. Johnson is recorded as nay the other members recorded as aye.

067 CHAIR KERANS: Adjourns at 4:16 p.m.

Transcribed by:

Reviewed by:

Edward C. Klein  
Counsel

Annette Talbott Assistant

#### EXHIBIT LOG

A - HB 2276-A4 amendments dated 6/29/93 - Committee Staff - 35 pages B - Letter to the committee from Blair Bobier - Blair Bobier - 1 page C - Letter to the committee from Scott Rainey - Scott Rainey - 1 page D - Revision of Section 3 - HB 2276-A4 amendments - Warren Deras - 2 pages