

SENATE ETHICS, ELECTIONS, AND CAMPAIGN FINANCE COMMITTEE

July 15, 1993      Hearing Room 343 3:00 p.m.      Tapes 90 and 91

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

MEMBER EXCUSED:    Senator Rod Johnson

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

MEASURES CONSIDERED:      HB 2280-A; Public Hearing and Work Session

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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 90, SIDE A

PUBLIC HEARING ON HB 2280A

WITNESSES:    NINA JOHNSON, Executive Assistant, Secretary of State ED LEEK, Sen. Springer's Office VICKI ERVIN, Director, Multnomah County Elections ERIK KVARSTEN, League of Oregon Cities

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

024    NINA JOHNSON, Executive Assistant, Secretary of State: Will you be using the committee-engrossed bill (Exhibit B)?

028      CHAIR KERANS: Yes.

030    ANNETTE TALBOTT, Committee Counsel: The only difference between the -A4 amendments and the -A5 amendments (Exhibit A) are that the -A5 amendments contain conflict amendments.

031    JOHNSON: As you may recall during our overview of the National Voter Registration Act, the Secretary of State suggested that we not have a dual registration system in order to comply, and to set it up so that compliance could be done at the least cost to counties, the least disruption to the existing system, and to ensure the most access to voters. Refers to matrix/chart (exhibit from 6/29). We will primarily be working with the Dept. of Human Resources to promulgate rules and train staff to implement agency-based registration, effective January 1, 1995. Under file maintenance and purging, we have two voter registration statuses - either active or cancelled. In order to comply with the Act we are adding another status, "inactive voter" who is a voter whom the clerks have some evidence that there has been a change in that voter's registration information. We have had to change our purge provisions because of the national act; the national act only allows us to purge a voter registration if we have written notice from the voter that they have moved and are no longer eligible to be an Oregon voter, if we have written notice from another

county that the person has registered there, if the person has died, or if the voter has been inactive for two general elections. Those mandates have been incorporated into this bill. A clerk, having received an updated address from the post office may update their files on the voter. A suggestion from Mr. Leek is that this update be done automatically. In some instances, the federal law requires the clerk to mail the voter a notice to verify that the address needs to be changed. We are eliminating the concept of re-registration. Any change to an existing registration is considered an update; it's an important distinction.

103 SEN. DUKES: Is that the first time a person is registered in the state?

105 JOHNSON: No, the first time the person is registered in the county.

113 SEN. DUKES: So if I were to move from Clackamas to Washington County I would have to re-register.

115 JOHNSON: You could go in and update the information, but there are procedures and safeguards built into the bill.

Currently, a voter must have their registration into the county clerk's office by the 21st day before the election. In response to the federal legislation, the bill allows the registration to just be postmarked on that day. Most voters believe this is the case now. As long as the person has not been cancelled, that person may vote either a full ballot or a limited ballot, depending on whether the person updates their registration within the same county. The person voting the limited ballot has the option of going to their old or new polling place or the county clerk's office. The person voting the full ballot would have to go to their new polling place. We make sure that a voter updating their registration completes a voter registration so there isn't two steps.

156 CHAIR KERANS: Would you say the amendments carry out the conformity requirements of the federal act and are within the scope of what was presented by yourself earlier and today?

171 JOHNSON: Yes.

172 CHAIR KERANS: What is the consequence of not acting?

173 JOHNSON: The Attorney General has the power to take action against the state for failure to comply and a third party has the ability to file to ensure compliance with provisions for attorney fees. We feel obligated to comply and that it is good policy to do so.

193 ED LEEK, SEN. SPRINGER'S OFFICE: Discusses the -A5 amendments. In some areas, clerks have more duties, and in others, less responsibility and less cost. The June election date is removed and the ballot rotation requirement for the primary election is removed. Both result in substantial savings and efficiencies. The additional responsibilities are in keeping with the federal mandates. Basically, they enable participation in the process, recognizing changes taking effect in our information society and allowing clerks to do some things automatically. With the increase in vote-by-mail, the clerks are receiving information about changes of address. At this point the clerk will notify the voter that their registration has been cancelled and offer them a card to re-register. Under the bill,

the clerk will automatically update the precinct registration card, mail it to the voter, and ask to be notified if it is incorrect.

273 SEN. DUKES: To which address do they send the new precinct registration card?

274 LEEK: To the new address, non-forwardable, unless the new address is within the county.

278 SEN. DUKES: What if the new address is an error?

281 LEEK: There is specific language allowing the person to vote if a mistake has been made.

299 JOHNSON: We specifically state that a voter will not be penalized due to a mistake.

303 LEEK: Within the tri-county area, there is provision for an update across county lines. Also, the bill allows voting on a full ballot up until the 8th day prior to the election. Under current law there is a 40-day requirement. Those are the major changes.

330 VICKI ERVIN, Director, Multnomah County Elections: The first significant change is found in section 8, page 6, lines 10-13. There is added language to provide an exception, to say that a person doesn't have to update their registration if it has already been done automatically. On lines 19-20 the originally language would have required the voter to update their registration, and now we are saying that the registration shall be updated, recognizing the automatic updating that will be done. There are changes found in section 15 which are almost all housekeeping, replacing "person" with "elector." In section 17, starting on page 13, there are a series of sections, all dealing with the automatic registration update. Section 17a is new, and takes what is permissive under section 17 and makes it mandatory. Section 17b contains a schedule as to when various counties are to phase-in the procedures. Counties of 500,000 or more must immediately do this; as of July 1, 1994, counties of 100,000 or more are required to do this; then all other counties would be required to do this.

393 LEEK: There is a change; in section 17b, subsection c, all other counties are required to do this July 1, not January 1, 1995. The repeal date should be July 2, 1995. This gives the counties an additional six months.

400 KERANS: Why the repeal?

408 JOHNSON: This section is repealed because it is the phase-in section and will no longer be needed.

438 ERVIN: Section 17c would require the tri-county area to share the updating of information across county lines. If they are unable to do this, the counties must report back to the legislature the problems.

455 JOHNSON: To just flat out mandate this to the tri-county area is unfair. We are asking the counties to look at this, without state funding. If they can't do it, then they would have that escape valve, so they do not oppose this language.

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023 ERVIN: Section 17d requires, during the time frame between the 70th and 30th day before a general election, that every county will verify the accuracy of their addresses on their registration file against the addresses found in the U.S. Postal Service. The purpose is to update addresses as they move, to have as current a file as possible, going into the general election. There is a specific provision, stating that an individual shall not be canceled or moved to an inactive file prior to the general election based on information obtained under this section.

032 JOHNSON: The reason that the language is in there is that the federal act prohibits us from purging anybody within 90 days of a general election.

034 ERVIN: On page 14, lines 26-28, there is a "safety valve" stating that if there are less than 22 days between the date of an election and the registration deadline for the next succeeding election, the county clerk may delay that automatic update, recognizing that there will be times when it can't be done.

040 LEEK: The requirements of 17d would be met by September in a vote-by-mail election.

044 JOHNSON: Counties are looking at doing this through the Executive Department which would significantly lower the cost.

050 TALBOTT: Could counties use the lower postal rates available under the National Voter Act?

052 JOHNSON: We believe they would be able to do this, but we have a fairly broad interpretation of our ability to use the lower postal rates.

063 ERVIN: Section 18 implements the references to certificates of registration. An individual who was registered, but did not update the registration until after the 21st day deadline, may continue to update the registration through the 8th day before a primary or general and the clerk has the option of either printing the name in the poll book or of furnishing the person a certificate of registration which will allow the person to vote at the polls.

075 CHAIR KERANS: Currently, everybody lies.

082 ERVIN: Current law often encourages voters to stretch the truth, if they want to vote.

085 CHAIR KERANS: From the 7th day before the election to the election, what does the person do then?

086 ERVIN: If a person does not update their registration, the person may still vote, but they vote the limited ballot and may vote at either their old or new polling place.

093 ERVIN: Section 18, subsection 2, does the same thing with mail-in ballots and makes a cross reference to the current process in statute. Section 19 has been deleted entirely. Section 20, line 22, conforms the deadline date change. The change on line 24 and 25 deletes the reference to ballot rotation. Section 21 refers to persons who change residence from one county to another within a 40-day window may vote. The county clerk must check with the other county clerk to verify the

person was registered. We are asking to restore the language on page 16, lines 13-16, which will require the elector to show proof of identity when receiving a certificate of registration. Section 22, page 17, line 9, clarifies that an application for a certificate of registration is done by virtue of a new registration card. Section 25, page 18, lines 24-27, we are clarifying that the notice provisions are not required for an automatic update. Section 44, page 26, the House changed the date from July 1, 1994 to January 1, 1995, and we are asking that you change it back. In section 47, to the end, is the language that eliminates the ballot name rotation and the elimination of the June election date.

116 CHAIR KERANS: Let us now look at the proposed amendments (Exhibit C).

117 ERVIN: Section X must be dealt with - what is the effective date of a voter registration update that is done automatically - that it be the day it was entered. Section Y was originally requested of Legislative Council, but was left out. It is important that (b) be included. This would enable counties who must purchase new computers to borrow the money for them. The other are minor technical amendments.

186 JOHNSON: For the record, we've had generally very positive response from the county clerks. Some people are concerned with cost. We believe this will actually save counties money.

204 CHAIR KERANS: The fiscal analysis indicates a savings of \$2 million. Do most clerks feel negative, neutral, or positive?

212 ERVIN: It is safe to say county clerks believe that they will make it work, for the most part. They are apprehensive because the amendments are last minute.

219 CHAIR KERANS: I appreciate the work of the parties in taking up these issues. The clerks need to look at this as a package.

245 ERIK KVARSTEN, League of Oregon Cities: Opposes section which repeals June election. Cities have a July 1 fiscal year. Typically we begin the budget development process some time in the winter and spring and we are only allowed to go out for a tax base increase in May. If the increase is not passed in May, the city will often put an operating levy on the ballot in June. If there is no June election, the next available date is September, and will have to hire back personnel laid off earlier. Cities depend on the May-June election dates.

278 CHAIR KERANS: Cities may determine an emergency exists and have an election on another date.

293 KVARSTEN: We work hard to maintain accountability with constituents, and that may strain our credibility.

302 SEN. DUKES: Are Special Districts allowed to call an emergency election?

339 ERVIN: ORS 255.355 allows a school district to have a special election on other than a designated date. ORS 255.345 contains conditions under which any other special district may call an emergency

election.

350 CHAIR KERANS: So special districts will be limited to designated election dates, the same as current law, except for a few exceptions.

376 SEN. DUKES: How would allowing special districts to declare an emergency and use another date affect the clerks?

381 JOHNSON: This was discussed at great length in the House committee, and everyone agreed the authority was already there. It emphasizes the cities and counties existing authority. The decision to not include special districts was due to their narrower authority in existing law. The legislature could broaden that, and maybe schools should be included too.

398 SEN. DUKES: Have you talked to schools?

400 JOHNSON: Yes; this is the last election date they are willing to give up.

408 TALBOTT: Did you have a technical question?

411 JOHNSON: Yes; one subsection in the amendments was misplaced by Legislative Counsel.

419 CHAIR KERANS: That won't be a problem to change.

423 MOTION: CHAIR KERANS moves to adopt computer engrossed amendments with amendments discussed.

VOTE: Hearing no objections, Chair Kerans so moved. Sen. Bryant and Sen. Johnson excused.

430 MOTION: CHAIR KERANS moves to adopt the recommendations suggested by the Secretary of State.

VOTE: Hearing no objections, Chair Kerans so moved. Sen. Bryant and Sen. Johnson excused.

443 CHAIR KERANS: I would like to move the bill out, pending a review of the final draft by the interested parties.

466 SEN. DUKES: I oppose eliminating the June election, but will not hold up the process.

TAPE 90, SIDE B

043 CHAIR KERANS: I think we have a package that implements the federal act and represents something for the clerks.

056 MOTION: CHAIR KERANS moves HB 2280 as amended to the floor with a "do pass" recommendation.

VOTE: Hearing no objections, Chair Kerans so moved. Sen. Bryant and Sen. Johnson excused.

060 CHAIR KERANS: Adjourns the meeting at 4:12 P.M.

Submitted by:

Reviewed by:

Tamara Brickman  
Counsel

Annette Talbott Assistant

EXHIBIT LOG

A - HB 2280-A5 amendments dated 7/15/93 - Committee Staff - 24 pages B -  
HB 2280-A5 computer engrossed version - Committee Staff - 37 pages C -  
Proposed Amendments to HB 2280 and to the -4 amendments - Nina Johnson -  
1 page D - Fiscal Analysis of HB 2280 - Committee Staff - 5 pages E -  
Preliminary Staff Measure Summary of HB 2280 with portions of the A5  
amendments - Committee Staff - 2 pages