

SENATE ETHICS, ELECTIONS, AND CAMPAIGN FINANCE COMMITTEE

July 23, 1993 Hearing Room D 3:00 p.m. Tape 92

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

MEMBERS EXCUSED: Senator Joan Dukes Senator Rod Johnson

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

MEASURES CONSIDERED: Work Session - HB 3496

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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 92, SIDE A

005 CHAIR KERANS: Calls meeting to order at 3:08

014 REP. SHARON WYLIE, Representative District 22: Supports HB
3496-2 Proposed Amendments (EXHIBIT A).

022 ANNETTE TALBOTT, Committee Counsel: There's no substantive
difference between the -1 and -2 amendments. -The notice is on pages 4 &
5.

027 CHAIR KERANS: On page 2, subsection (9), will we get in
trouble over the definition of "mass mailing"?

TALBOTT: This term is in the definition of slate mailer. -That
definition is used in California.

032 CHAIR KERANS: Would this definition cover any other mass
mailing by accident? -If a candidate or organization made a mass
mailing on behalf of a candidate for which a candidate did not
pay--would that qualify as a mass mailing under this definition?

040 TALBOTT: It would qualify as a mass mailing but not as a
"slate mailer."

CHAIR KERANS: Mass mailing is a generic definition for what happens
in a slate mailer?

TALBOTT: Describes "slate mailer", page 3, lines 21 and 22.

CHAIR KERANS: Is there some magic about "four or more" as "opposed to
two or more"? TALBOTT: That's the number used in California.

044 REP. WYLIE: The number is okay. -The implication is a whole

slate of candidates and purchasing a contrived endorsement. -We want a disclaimer so it's open and above board.

050 CHAIR KERANS: He refers to "slate mailer", page 3, lines 21 through 31 and page 4, lines 1 through 4. -Wouldn't it be better to say, "for one or more candidates and measures" or "for a candidate or candidates or measures"?

070 REP. WYLIE: Would be comfortable with that. -Is there a reason California didn't use that wording?

072 TALBOTT: A slate mailer organization is regulated and has to register. -The slate mailer organization is a person who receives payment for producing or endorsing or refraining from endorsing or opposing a candidate or measure. -The issue of how many you pick could change. -California found significant slates of people are being used.

082 CHAIR KERANS: Fifteen candidates could be put on a mailing. Each candidate could pay \$1000 and the mailer would make a bundle.

TALBOTT: The committee needs to be clear on what the state's interest is in regulating these slate mailers. -The compelling interest in California has been articulated as: The integrity of the elections process. Avoiding intentional deception of voters--the publications have often masqueraded as some sort of official party document or publication.

091 CHAIR KERANS: Wouldn't it be safer to say we want to protect the integrity of the elections process from deception from slate mailer organizations who would produce slate mailers for three candidates or three measures or less?

094 TODD JONES, Assistant to the Secretary of State: Your suggestion could be detrimental for a candidate paying for a publication. -This is intended to get at a group of candidates in a mailer. -Slate mailer organizations have to have enough people on a publication in order to justify mailing them to a large number of people.

108 CHAIR KERANS: Sympathizes with what he's saying. -He wants to make sure that we don't allow for pernicious outcomes. -Could we say two or more or three or more?

TALBOTT: It doesn't matter as long as the harm you're looking at is the fraudulent and deceptive nature of the publication and the fact that people are paying to get their endorsement....

117 CHAIR KERANS: What's wrong with saying any slate mailer that carries more than one candidate?

123 SEN. SPRINGER: Agrees.

CHAIR KERANS: Rep. Wylie will this do injury to your bill?

REP. WYLIE: Not at all.

130 TALBOTT: The committee needs to clarify, regardless of what number you pick, the number refers to the combination of candidates or measures.

141 TALBOTT: Three or more might be helpful. A candidate could produce something that supported themselves and a particular measure. -California has a specific exclusion for a candidate. -This doesn't have that exclusion, because there was a concern a candidate could start a slate mail organization that masquerades as a candidate.

154 CHAIR KERANS: It's tight enough as written.

TALBOTT: In California they sometimes received payment for not endorsing a candidate or measure.

CHAIR KERANS: That's blackmail.

163 SEN. BRYANT: Could you do that in Oregon today?

CHAIR KERANS: Thinks that would be a crime of extortion.

TALBOTT: This in no way obviates any criminal liability for any type of activity that would otherwise fit under that definition.

171 CHAIR KERANS: Discusses sections 2 through 4.

TALBOTT: California currently specifies 8 point type for the disclaimer. -That's been criticized as too small. -The proposal suggests the Secretary of State be able to define size and type based on the size of the mailing.

189 CHAIR KERANS: Mr. Jones, do you have a problem with that?

JONES: No.

TALBOTT: Explains why the disclaimer is necessary. -A conflict amendment may be necessary, because several other bills amend ORS 260.005.

207 CHAIR KERANS: Would it be helpful if we said, "three or more candidates and measures?"

JONES: That's what he'd suggest.

CHAIR KERANS: We understand three or more candidates and measures to mean: Two candidates and a measure, two measures and a candidate, three candidates or three measures. -It can't be a combination where there are more than three candidates or measures.

218 TALBOTT: That's her understanding.

CHAIR KERANS: The only thing that could go out would be a mailer for two candidates, two measures or one of each. -Sen. Springer, we made it three or more candidates or measures.

SEN. SPRINGER: Has no objections.

224 TALBOTT: The addition of these section to ORS Chapter 260 would make this a violation subject to a civil penalty of \$250 for each violation.

SEN. BRYANT: Could you also ask for an injunction?

235 TALBOTT: Doesn't believe that specific provision is in ORS Chapter 260. -That's only in regards to failure to file C & E's. -There's also some problem with the prior restraint factor in political speech.

242 REP. WYLIE: This is targeted at for profit organizations. -The \$250 could apply to each piece of the mailing.

253 MOTION: SEN. SPRINGER: Moves on page 3, line 22, delete "four" and insert "three".

CHAIR KERANS: Hearing no objection so ordered.

MOTION: SEN. SPRINGER: Moves to adopt HB 3496-2 as amended.

CHAIR KERANS: Hearing no objection so ordered.

MOTION: SEN. SPRINGER: Moves HB 3469 as amended to the floor with a do pass recommendation.

All members present voting aye the motion is adopted 3 to 0.

EXCUSED: Sen. Johnson and Sen. Dukes.

263 CHAIR KERANS: adjourns at 3:28 p.m.

Transcribed by:

Reviewed by:

Edward C. Klein
Counsel

Annette Talbott Assistant

EXHIBIT LOG

A - HB 3496-2 Amendments dated 7/23/93 - Committee Staff - 5 pages B - Preliminary Staff Measure Summary of HB 3496-2 - Committee Staff - 1 page