

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.

HOUSE COMMITTEE ON LEGISLATIVE RULES AND REAPPORTIONMENT

February 26, 1991Hearing Room E 5:00 p.m.Tapes 8 - 9

MEMBERS PRESENT:Rep. Greg Walden, Chair Rep. Peter Courtney,
Vice-Chair Rep. Margaret Carter Rep. Ron Cease Rep. Beverly Clarno Rep.
Bill Markham Rep. Tom Mason Rep. Randy Miller Rep. Fred Parkinson

MEMBER EXCUSED: Rep. Ray Baum Rep. Carl Hosticka

STAFF PRESENT: Greg Leo, Committee Administrator Carol Wilder,
Committee Assistant

MEASURES CONSIDERED: HB 2169 - PH/PWS HB 2170 - PH/PWS HB 2171 -
PH/PWS

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TAPE 8, SIDE A

015 CHAIR WALDEN: Calls the meeting to order at 5:00 p.m.

HB 2169 - PUBLIC HEARING

028 PATRICK HEARN, EXECUTIVE DIRECTOR, OREGON GOVERNMENT ETHICS COMMISSION: Introduces Margaret Wright, Chair of the Commission. Submits written testimony regarding HB s 2169, 2170, and 2171 (EXHIBIT A). - HB 2169 would amend ORS Chapter 244.050(3) and (4) specifically to provide an exception for candidates for city or county office from the requirement of filing a Statement of Economic Interest (SEI) with the OGEC.

052 REP. MARKHAM: Did you people bring the bill?

052 HEARN: Yes, all three of these today are Commission bills.

053 REP. MARKHAM: It's a gray area and you just want it written in all finality, is that what it amounts to? This would say to the city and county people that one doesn't need to fill out that form.

056 HEARN: Yes, it would clarify it for them.

056 CHAIR WALDEN: That's for candidates?

058 HEARN: Candidates only, not office holders.

059 REP. MARKHAM: If they win, then they have to?

059 HEARN: Yes. Continues discussion of bills. - HB 2170 would amend ORS Chapter 244.050(3) and (4) which require candidates for U.S. Congress to file Statements of Economic Interest (SEI) with the Commission.

073 REP. MARKHAM: Do they do it today?

075 HEARN: No, they file their federal statements with us which incidentally are far more extensive than our statements are, and we accept those.

080 REP. MARKHAM: They file with you what they're required to do in Congress? Why do they do that?

082 HEARN: Yes, historically I can't speak to that personally, but my understanding is that it keeps them from having to replicate what they need to do for federal requirements. The federal form is more comprehensive than the form that we have here in Oregon.

087 CHAIR WALDEN: Federal candidates also file copies of federal Election Commission reports like we do a C & E with the Secretary of State, so they are on file here. Thinks that is a parallel process for the ethics filing.

090 REP. MARKHAM: We don't necessarily require it to be put in your office?

092 HEARN: We do now and we want to eliminate that.

094 CHAIR WALDEN: Your form?

095 HEARN: The requirement for them to file our form, that's correct.

096 CHAIR WALDEN: They would still file the federal form?

097 REP. MARKHAM: Why do you want that in your office?

098 HEARN: I'm not sure that the Commission wants that statement. What we're trying to do here, Rep. Markham, is eliminate the requirement that they have to file with us because of the fact that they already do file with the federal office.

099 REP. MARKHAM: This would clean your office out of a candidate having anything in your office, is that correct?

100 HEARN: This deals only with candidates. Continues testimony on HB 2171 which would add paragraph 6 to ORS Chapter 244.050.

127 CHAIR WALDEN: Calls full committee into session.

132 MARGARET ANN WRIGHT, CHAIR, OREGON GOVERNMENTAL ETHICS COMMISSION: To my knowledge, not many people are tremendously concerned about SEIs, but the changes which the Ethics Commission is requesting would simplify our housekeeping and I think that's the principal purpose of its being suggested.

142 REP. CEASE: Give me some reason why this should be done, other than making your housekeeping easier. What is the substantive reason why these bills have merit?

150 HEARN: To make statute consistent with current practice. From the standpoint of 2169, the Commission has not required candidates to file the statements, and this is to make that clear that the requirement is not there to those candidates.

157 REP. CEASE: It's been some time since you've required this of candidates in terms of the statements?

162 HEARN: That's correct, if it's ever been required. 2170 which applies to candidates for U.S. Congress was introduced to make statute consistent with current practice in that candidates for those federal offices now have to file the equivalent of a statement of economic interest with the Federal Elections Commission. The statement is far more comprehensive than our statement and they have been filing that with us. 2171 is purely a housekeeping measure to make the remaining statute consistent with legislative action taken in 1987 which eliminated the requirement for a public official leaving office to file a statement of economic interest.

177 REP. CEASE: But if you're actually in office, you'd still be required to make the statement.

180 REP. PARKINSON: Why do we have three bills instead of one bill?

182 HEARN: I cannot answer that. They were drafted before I assumed my position.

187 CHAIR WALDEN: At this point, it would probably be more expensive for us to merge into one big bill then to move forward with three. The one question I have goes back to HB 2170 and that is, are we creating under this bill a system where the incumbent has filed the statement but the candidate for that office will not be required to until becoming an incumbent?

200 HEARN: Yes.

200 REP. CARTER: That's what this bill says, that if I as the person who has never been in office decides to run for an office and as a candidate I don't have to disclose. But if I'm running against you, you have to disclose.

207 REP. MASON: Do federal candidates have to file?

208 HEARN: They now do.

209 REP. MASON: Then your answer is "no".

210 HEARN: You do now if this bill were enacted into law.

213 CHAIR WALDEN: Federally, they still have to file as a candidate?

214 HEARN: Yes.

215 CHAIR WALDEN: So that would be available in Washington where they file their report?

217 HEARN: That's right.

218 REP. CLARNO: You mean we might possibly make something simpler?

219 REP. MARKHAM: The federal candidates and federally elected officials don't have to mail them anything?

222 CHAIR WALDEN: As candidates.

223 REP. MARKHAM: Or as elected officials.

224 HEARN: No, it applies only to candidates.

225 REP. MARKHAM: Does Senator Hatfield have to file in your office?

226 HEARN: Yes.

227 REP. MARKHAM: Why? Why does federal matter?

230 CHAIR WALDEN: My understanding is because it's required by statute.

232 REP. MARKHAM: My question then is shall we change the statute so if the feds take care of it in Washington, D.C. we don't have duplicity here.

234 REP. CEASE: It isn't the people in Washington, D.C., that elects them; it's the people of this state. It seems perfectly appropriate to have that information here. I think that Rep. Carter raised an issue that's intriguing, that is to require incumbents to make a statement but would not require a candidate to submit a statement.

240 CHAIR WALDEN: The issue at heart was which form they had to file. Having been involved in that process to a certain extent, the federal form is far more definitive. There was always a question as to whether or not the federal candidates and officeholders had to also use the state form. Basically, the procedure was that they didn't need to. So that was part of what we were getting at in this bill. But it goes beyond that.

250 REP. MARKHAM: Why do we require duplication?

253 WRIGHT: I believe that the people of the state of Oregon might for some purpose like to see the SEI of their Congressman or of their Senator and that's available in our office.

260 REP. MARKHAM: I would agree with you that it is public information if somebody has an interest, but certainly it's public information in Washington, D.C. If we're trying to simplify it we ought to consider elimination of the duplicity here.

260 REP. CEASE: If a senator files in Washington, D.C., that information is then available to the press, to anybody that wants it, and is generally available. That would as a practical matter not be available to anyone in this state. Could they request it through the mail? Would they have to be in Washington, D.C., to get the information?

270 HEARN: I believe they can request it through the mail.

273 REP. CEASE: Who normally makes the request for this type of information?

277 HEARN: It's cyclical. The most common requests come from members of the media. In recent weeks we've had reporters spending full days at our office going over SEIs of members of the Oregon Legislature. Private citizens call frequently.

286 REP. CARTER: As an Oregon citizen, I'm going to want to go someplace in Oregon and put my hand on information about my elected official. While we duplicate, I would like to be able to not have to write Washington, D.C., and wait to go through that bureaucracy to find out something about a person that we elect from this state. I would rather deal with duplication than to have to write Washington, D.C.

301 REP. MARKHAM: Maybe we could ask the Director to get copies and keep it in the office, but why make it a mandatory thing?

307 REP. PARKINSON: Is anyone else signed up to testify on the bill?

309 CHAIR WALDEN: The congressional offices were all notified in advance that we were holding this hearing. They were personally contacted.

322 REP. CEASE: What's the logic for requiring the information of incumbents and not of candidates?

325 HEARN: When the person is a candidate he is not yet in a position to take official action which could involve or relate to a potential conflict of interest for economic reasons. The need for the statement of economic interest isn't there.

332 REP. CEASE: Doesn't the public particularly have an interest in the question of what's the economic interest of a particular candidate? What is the information available for to the individual--is it simply to say what a potential conflict may be in working on legislation or do they want to know where that person may be going if that person is elected to that office? Recently the Senate went through some bills of the Ethics Commission and practically had a meltdown, largely over the question of public access and the question of the public's view of whether you're closing them off from information of this kind. If it's cluttering up your files and people are really not using it, then really it seems unfair. If there's any suggestion to the public that we're closing them off from information, then I think I want to back away from it.

352 REP. PARKINSON: A candidate for state representative, even though he's not in a position to make a decision, has to file a statement, right?

358 WRIGHT: That's what the law says.

358 REP. PARKINSON: A candidate for county commissioner, like in Multnomah County, could represent more than we do. But they would not have to.

361 HEARN: They currently do, but they wouldn't have to under the proposal.

362 WRIGHT: Looking at the narrow job of the Ethics Commission of administering our ethics laws, we have the responsibility to see if there's a conflict of interest. We have the responsibility to see if an elected official is using his office for public gain and there's an economic conflict but we don't have a responsibility to keep records for the state for other purposes. We have no authority to do that.

375 REP. MILLER: The information that is currently required in the voter's pamphlet under occupation, that is, even though currently required the factual part of the voter's pamphlet statement. What is discoverable is what is reported to the voters is often at odds with what is reported to the Ethics Commission, so this is valuable information for the voters to have if they care what really is the income-producing occupation of a candidate for officeholder to really determine the extent or nature of potential conflicts. Without really having this requirement, the public will lose a good deal of information.

396 CHAIR WALDEN: Rep. Miller, I know that in some cases the statements of economic interest become campaign issues or have in the past. I wonder what kind of advantage or disadvantage we're creating for challengers or incumbents if we don't require this information. We're require it for the incumbent but not for the challenger. That's really what this would do, isn't it?

400 REP. CARTER: Mr. Chair, it's an unequal plane.

401 REP. CEASE: Mr. Chair, it's an unequal plane because the incumbent always has an advantage. They are bringing something forward to us that is reasonable and makes sense, but we're dealing with something that is explosive and political where the public doesn't trust us now anyway. With Measure 5 it is even more complicated. Unless there is a real merit to do it, any suggestion that we're trying to close them off from the process or give ourselves an advantage is not productive.

415 REP. COURTNEY: I served on the City Council and there's no pay involved whatsoever. The County offices are different. They're full-time paid positions. I don't think there's any other City Council in the state that has that. I would like to hear some discussion as to whether you think that makes any difference or not, or you just don't like the idea.

TAPE 9, SIDE A

004 REP. MASON: These bills talk in terms of city-county talk in terms of candidates. Even though you're on the school board then you've got to file. The way the issue has been framed here is relatively simple. On one side is the Commission wanting to clean it up and on the other side Rep. Cease says it's probably best left alone because it's going to look like we're limiting information. Rep. Cease, you've probably convinced me. With all due deference to the Commission, he's got a point. We are going to limit it.

017 REP. CEASE: I wasn't particularly trying to convince you. I was trying to raise an issue. Maybe the best thing to do would be to not try to work on it today, but see if there's any other information out there that would suggest to us how these things work. You talk about campaign reform, etc., and limiting campaign contributions which we can't do constitutionally; we always fall back on the argument that knowledge that we have to try to provide that is available to the public such as the C & E reports, that's what this is. Whether it's useful information is another question. It's information that we're required to put on the record. Do we want to remove that? If we do, what replaces that?

037 CHAIR WALDEN: Under this, you would be elected in November and you wouldn't have to file until April 15, would you? When do you first file after you're elected?

040 HEARN: The first April 15 you're holding office.

042 CHAIR WALDEN: They would serve if they took office in January for a period of time before they have to file. We file when we run as candidates.

044 REP. MASON: That's right. I think that's an argument against the bill.

045 REP. CARTER: The issue for the Commission is having to keep reports of people who are losers. If someone files where they are paid, and there is a conflict of interest, because of the pay itself that's a campaign issue. If they're in a district where they're unpaid they still have an interest in terms of a leadership role, that creates an issue for me in terms of why should we elect this person who has a conflict of interest. That should be known. It's not in the wisdom of the electoral process for a bill like this to pass.

067 CHAIR WALDEN: I might suggest to the committee, I don't believe any of these three are priority bills for the Commission.

070 WRIGHT: When the Commission came up with these things that would work in the office conveniently, we had no political thoughts in mind. We never even thought of those concerns.

078 REP. CARTER: I see this as being a paper trail issue for you. That you have all of this paper and why have it if these people are not going to be in office. Maybe we should have a big barn fire or something of that nature. I think there is another side to it as well.

085 REP. PARKINSON: I've learned over the years that in this process any time you come in and have one hearing the only people at the hearing are the proponents and you pass it out, it's a quick way to get in trouble. There might be merit in deleting the requirement that candidates for the city and county would not have to file if it's an unpaid position, candidates only. Maybe that would get rid of a lot of their paper. I really have trouble finding how that would hurt the process. If it's a unpaid position, only those candidates would be excused.

100 REP. MASON: Even though it's unpaid, you'll be making substantial decisions having to do with money. You won't be on record until the

next April 15.

110 REP. PARKINSON: There would have to be very quick maneuvers to get all of this accomplished between January and April. If it would remove the requirement that they trail 700 or 800 candidates around the state that lost.....

112 REP. MASON: The reason why I would want to leave it is that it's uniform and symmetrical and I would hate to see a situation where everybody files April 15 and all the unpaids file January 1st after they have been elected. You'll got a whole bunch of other deadlines to meet and I like the April 15 deadline.

118 REP. PARKINSON: Is there something in here that changes the date to January 1?

119 REP. MASON: No, I suggest when they take office.

120 REP. PARKINSON: The winner wouldn't file until April like everybody else.

125 REP. MASON: We had a governor who said, "If it's not broke, don't fix it". I think this applies here.

127 REP. CEASE: The very fact that you have to file probably has a potential dampening effect on how you respond. But if I look at something the size of the Portland School District, I don't know whether they're required to file or not. If not, they ought to be. They have a tremendous amount of power in terms of making judgement on property, acquisition and getting rid of property.

140 CHAIR WALDEN: As a candidate in the campaign situation it might be helpful for the public to know what may be driving a candidate in a certain direction before they discover that candidate's in office.

145 REP. CEASE: There's no question that the public may use that unfairly and yet it seems to me that's the price you pay if you want an open system.

148 CHAIR WALDEN: You may need it for both. I sense from the committee that there isn't a lot of support for 2169.

HB 2170 - PUBLIC HEARING

163 REP. PARKINSON: Presently, have they had to fill this out? They just put the federal one on file with the Commission?

165 HEARN: That's correct.

166 REP. PARKINSON: Why do they want to change that?

167 HEARN: That's what we do now but that's not what the law says now.

168 REP. CLARNO: They just want to make it legal, Rep. Parkinson.

169 REP. MASON: What if we just amend the bill to say that, if you've filed your federal form.

175 CHAIR WALDEN: Pat, do you have a comment on that in terms of amending this bill. What you're suggesting conceptually is an amendment

that would continue to have the candidates as well as incumbents file, but the form they would file with the Commission would simply be the federal form that they're now required to fill out.

180 HEARN: It sounds like a viable concept, Mr. Chair. I might even suggest amending language might offer them the option of filing either the federal form or the state form. I think it's been easier for them to file the federal form because they already have been doing it.

185 REP. CEASE: Am I clear that the current system for the federal form is required both of candidates and incumbents?

187 HEARN: Yes.

188 CHAIR WALDEN: Why don't we do that conceptually. We'll have language drafted. We have a number of hearings this week and work sessions. We'll move this bill over to another work session and plan to adopt those amendments.

HB 2171 - PUBLIC HEARING

200 CHAIR WALDEN: Would amend existing law to say that persons who are incumbents, elected or appointed officials as of April 15 and persons who are candidates for office as of April 15 would have to file these forms. So then we're back to exempting candidates.

208 HEARN: 2171 is a cleanup measure to make current existing law consistent with action taken by the 1987 Legislative Assembly which repealed the requirement that candidates who leave office in the middle of the year file a supplemental SEI. This is to make it clear that it's only those people who hold office on April 15. It's a clarification issue.

215 REP. CEASE: That's really all it does? You don't have to make the statement when you leave office?

217 HEARN: The 1987 Legislature repealed that.

220 REP. MARKHAM: Then that effect if we pass this is if you quit as a member of the Transportation Commission after a year you don't have to file something, is that correct?

224 HEARN: If you file one on April 15 and prior to the next April 15 you resign from office you do not have to file one.

230 MOTION: Rep. Carter moves to send HB 2171 to the Floor with a Do Pass recommendation.

VOTE: In a roll call vote, the Motion was unanimously approved. Reps. Baum and Hosticka were excused.

250 CHAIR WALDEN adjourns the meeting at 5:45 p.m.

Submitted by: Reviewed by:

Carol Wilder Greg Leo Assistant Administrator

EXHIBIT LOG:

A - Testimony on HB s 2169, 2170, 2171 - Patrick Hearn - 1 page.