

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

March 12, 1991 Hearing Room E 5:00 p.m. Tapes 19 - 20

MEMBERS PRESENT: Rep. Greg Walden, Chair Rep. Peter Courtney, Vice-Chair Rep. Ray Baum Rep. Margaret Carter Rep. Ron Cease Rep. Beverly Clarno Rep. Carl Hosticka Rep. Bill Markham Rep. Fred Parkinson

MEMBERS EXCUSED: Rep. Mason Rep. Miller

STAFF PRESENT: Greg Leo, Committee Administrator Mary Walling, Committee Assistant

MEASURES CONSIDERED: HB 2873 - Gifts to public officials, PH and PWS SB 9 - Government ethics, PH and PWS HB 2769 - Runoff elections, PH and PWS

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TAPE 19, SIDE A

006 CHAIR WALDEN: Calls the meeting to order at 5:05.

(Tape 19, Side A) HB 2769 - RUNOFF ELECTIONS, PUBLIC HEARING Witnesses: Liz VanLeeuwen, House District 37 Bob Pickard, House District 54 Wayne Anderson, Chair, Democratic Party Sue Proffitt, Election Division, Secretary of State

011 LIZ VANLEEUVEN, STATE REPRESENTATIVE, DISTRICT 37: As chief sponsor of HB 276 9, requests that this committee look favorably on this proposal which would specify a runoff election be held in a general election in which there was more than a two-way race and the lead person did not receive at least 50 percent plus 1 of the votes cast.

>It would apply to the main elected state officials as well as to state representatives and senators.

>There are changes that need to be made and some amendments. The companion bill, HJR 31, has major changes to make it work according to

the Secretary of State's obligations.

>HB 2769 provides on page 2, line 10, that the runoff election could be held by mail.

056 BOB PICKARD, STATE REPRESENTATIVE, DISTRICT 54: It is a poor way for a state to run its elections when the Secretary of State wins office with 43.1 percent of the vote and the Governor receives 45.7 percent of the vote. That is not a majority.

>The general public thinks in terms of the majority ruling. The idea of having 50 percent plus 1 in a three-person race and then having a runoff makes a lot of sense.

>Problems were discovered with this type of legislation in Arizona, but modifications have been made to avoid those problems.

070 REP. CEASE: Probably be less return on a vote by mail election unless you used the vote by mail for all of the elections.

>How would you deal with the time factor? When would you have the general election? When would you have the third election?

140 TED REUTLINGER, LEGISLATIVE COUNSEL: The way this bill is written now the election would be held a minimum of 55 days after the general election and we would retain the same date for the general election in November.

>HB 2769, Section 3 (3), provides that the Secretary of State shall call any necessary runoff election not later than the 23rd day after the date of the general election. That gives them 20 days to figure out who won.

>Section 3 (4) provides that the runoff election shall be held 32 days after the date the Secretary of State orders the runoff election. That gives time for preparation of the ballots and for a minimum of 28 days to send out absentee ballots which is the minimum that is currently in the law today. If you add up these two, the minimum is 55 days and that still is prior to the first of the next year.

178 REP. VANLEEUEWEN: If no reason why that long a time frame is necessary, it should be shortened. Have the winner of the runoff in office by the second week in January.

225 REP. COURTNEY: In a general election when no candidate receives a majority vote, it would go to a runoff. The runoff would be conducted by vote by mail. The general election was not held by vote by mail. If a non-vote by mail is used for the general election and the general election is settled with a vote by mail, could there be a problem of constitutionality?

245 REP. CEASE: An additional concern is preparation of the budget if the Governor is not known till January.

>Would there be a need for another voters' pamphlet? Would the platform of the two candidates change?

372 REP. BAUM: How do they do it in other states? Has anyone looked at how they do it?

>We have to weigh the procedural hassles against the value of having

the policy of 50 plus 1. What is the advantage? What happens if you aren't represented by a majority? Does that make the Governor ineffective?

421 REUTLINGER: Two states, Arizona and Georgia, have a majority requirement either in their constitution or in their statutes.

>In Arizona they amended their constitution to do just this but the legislature failed to enact the corresponding statutory legislation.

>The next general election the same problem came up again and no one received a majority and just about six weeks ago they finally elected a governor after quite a few years of having an appointee in office. This stresses the importance of passing the enacting statutes.

>The changes in the statutes would simply shorten the election time frames. Everything is in the statutes now. Basically these changes would compress the time frames to enable the election to happen quickly.

TAPE 20, SIDE A

064 REP. VANLEEUEWEN: Suggests that amendments LC HB 2769-1 (EXHIBIT A) be adopted. The amendments are necessary for the implementation of HJR 31.

>Asks committee to look favorably at bill and pass it out of committee.

090 WAYNE ANDERSON, CHAIR, DEMOCRATIC PARTY: Reviews written testimony (EXHIBIT B) listing reasons the Democratic Party opposes HB 2769.

>Additional cost to state budget for runoff election.

>Example of problems in Arizona.

>Questions why Attorney General and Commissioner of Labor and Industries are excluded from list.

136 REP. BAUM: Not heard a good policy reason stated other than the perception that the public likes majority winners. Is the Governor ineffective because he/she did not get a majority vote?

>How many times has this happened that someone is not elected by a majority?

168 CHAIR WALDEN: Sue Proffitt, Secretary of State's Office, submitted testimony for the record. (EXHIBIT C)

REUTLINGER: The Attorney General and the Labor Commissioner are not constitutional offices and HJR 31 applies only to those offices that are specified in the constitution. That is why they are not in HB 2769.

REP. VANLEEUEWEN: It might be wise to amend HB 2769 to include those two offices also. I think the same principles would apply.

190 REP. COURTNEY: Supreme Court and Court of Appeals positions are statewide positions. Should they also be included?

>Can you file and run in the general election if you haven't run in the primary?

>If you have two coming out of the primary can a third enter after the primary in a judicial race?

192 REUTLINGER: I believe a write-in candidate could. In the case of judicial nominees, they are nonpartisan so there is no nomination happening at the primary election by a political party. I think a write-in would be the only opportunity after the primary.

(Tape 20, Side A) SB 9 - GOVERNMENT ETHICS, PUBLIC HEARING Witness: Steve Smith, Deputy, State Treasurer

215 STEVE SMITH, DEPUTY, STATE TREASURER: The features of the bill address a problem that arose during the interim with the Housing, Educational, and Cultural Facilities Authority (HECFA) which was created last session. The Treasurer appoints five members to the HECFA which allows nonprofit associations to access the tax exempt market to borrow money to build facilities.

>At the first meeting, OMSI approached the HECFA to issue debt and there are two members of the HECFA on the OMSI Board. The question arose whether they could vote or make any judgment on the ability for OMSI to use the HEFCA for the tax exempt market. Not only to not vote but to declare they had a conflict.

>ORS 244.020 does not clarify. Section 1 of Section 244.020, describes what a business is and talks about nonprofit corporations. ORS 244.020, Section 8, does not exempt people who sit on nonprofit boards from volunteering their services for commissions of the state.

SB 9 clarifies this problem: On Page 2 of SB 9, lines 3 and 4, it adds the exemption. On page 4, line 39, and on page 7, line 10, it exempts, but also has them file an economic interest form with the Ethics Commission. The members of the Commission are currently doing that.

(Tape 20, Side A) SB 9 - GOVERNMENT ETHICS, WORK SESSION

368 MOTION: Rep. Cease moves SB 9 to the floor with a do pass recommendation.

VOTE: In a roll call vote, the motion carried with all members present voting aye. Rep. Mason and Miller were excused. REP. CEASE will carry the bill.

(Tape 20, Side A) HB 2873 - GIFTS TO PUBLIC OFFICIALS, PUBLIC HEARING

394 CHAIR WALDEN: No one is here to testify.

>This bill pertains to the confusion over what a lobbyist reported as being spent on a legislator and what the legislator reported.

TAPE 19, SIDE B

016 MARKHAM: Is there a distinction that should be made between food, lodging or travel expenses in an official capacity versus socially. Are these two different things?

>On page 1, lines 26 and 27, have to do with the social expenses plus the cost of living increase. The \$50 amount has to do with the legislator's official capacity.

032 CHAIR WALDEN: Reads from ORS 244.060 (6), "If a public official has received food, lodging, and payment of travel expenses exceeding \$50 when participating in an event which bears relationship to the public official's office and when appearing in an official capacity, the name, nature and business address of the organization paying the expenses and the date and the amount of that expenditure". That would be separate from going to dinner with a lobbyist which is covered under ORS 171.745.

>The distinction is an event that directly bears a relationship to the legislator's public office. The legislator appears there in an official capacity.

054 REP. HOSTIKA: The main thrust of this bill is to assure that if a lobbyist reports something the legislator is also notified so it minimizes the possibility of discrepancy in reports.

>Social obligation, the lobbyist reports, the legislator does not.

>Official trip, both the lobbyist and the legislator report. This would require the lobbyist to give the legislator notice within ten days.

>Less than \$50 neither lobbyist or legislator would have to report it.

(Tape 19, Side B) HB 2873 - GIFTS TO GOVERNMENT OFFICIALS, WORK SESSION

108 MOTION: REP. HOSTIKA moves HB 2873 to the floor with a do pass recommendation.

VOTE: In a roll call vote, the motion carried with all members present voting aye. Rep. Mason and Parkinson excused. REP. HOSTIKA will carry the bill.

122 CHAIR WALDEN: Adjourns meeting at 6:10 p.m.

Submitted by: Reviewed by:

Mary Walling Greg Leo Assistant Committee Administrator

EXHIBIT LOG:

A - LC HB 2769-1 - 1 page B - Testimony on HB 2769 - Wayne
Anderson - 1 page C - Testimony on HB 2769 - Sue Proffitt - 1 page