

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS .

- January 23, 1991 Hearing Room E 8:30 a.m. Tapes 9 -10  
MEMBERS PRESENT:Rep. Bill Markham, Chair Rep. Larry Sowa, Vice-Chair  
Rep. Marie Bell , Rep. Mary Alice Ford Rep. Tom Novick Rep.  
Carolyn Oakley Rep. Lonnie Roberts MEMBER EXCUSED: None VISITING  
MEMBER: Rep. Randy Miller STAFF PRESENT:Randall Jones, Committee  
Administrator Carolyn Cobb, Committee Assistant MEASURES  
CONSIDERED: HB 2045 - Insurance for State Agencies, WS HB 2043 -  
Advertising of Bids for Public Contracts, PH, WS HJR 3 - Manner of  
Appointing and Electing Judges, PH, WS HJR 4 - Requires Two-Thirds  
Majority to Change Bill of Rights in Oregon Constitution, PH LC 1637 -  
Use of Residential Elevators, WS

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statements made during this session. ODIY text enclosed in quotation  
marks report a speaker's exact words. For complete contents of the  
proceedings, please refer to the tapes.

TAPE 9, SIDE A

003 CHAIR MARKHAM: Calls the meeting to order at 8:38 a.m.

HB 2045 - INSURANCE FOR STATE AGENCIES - WORK SESSION

028 CHAIR MARKHAM: Upon further consideration of this bill it was found  
that fiscal impact appears greater than originally discussed in this  
committee and it must be sent back to the Ways & Means Committee.

033 MOTION: REP. FORD moved that the committee rules be suspended in  
order to return HB 2045 back to committee. This vote will be to  
reconsider the "do pass" recommendation with that of "do pass with  
referral to the Committee on House Committee on State and Federal Affairs  
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Ways and Means".

039 CHAIR MARKHAM: Hearing no objections, it is so ordered.

050 RANDALL JONES, COMMITTEE ADMINISTRATOR: Explains the changes in  
fiscal impact from what was first thought: -In the fiscal impact  
statement there was a deficit of \$14,000 between the transfer of funds  
from the Correction Institutions to the Department of General Services.  
-General Services may have to fund a position to accomplish the work  
involved. -Under the Governor's proposed budget there was no funding for  
the cost of premiums from the Department of Corrections.

069 MOTION: REP. FORD moved to reconsider the vote whereby HB 2045  
was passed.

070 CHAIR MARKHAM: Hearing no objections, so ordered.

071 MOTION: REP. FORD: moved that HB 2045 be adopted with a "do pass"  
recommendation and be referred to the Committee on Ways and Means. VOTE:  
In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep.  
Novick, Rep. Oakley, Rep. Roberts, Rep. Sowa, and Chair M a r I c h a m  
voting AYE.

HB 2043 - ADVERTISING OF BIDS FOR PUBLIC CONTRACTS - PUBLIC HEARING

Witnesses: Joe Speight, Program Development Engineer, Oregon Highway Division Clifford Freeman, Executive Assistant to Administrator of the Purchasing Division, Department of General Services Sandra Burt, Department of General Services

083 JONES: Submits amendment LC 1072 dated 1/21/91 (EXHIBIT B) at the request of the Landscape Contractors Board. 109 JOE SPEIGHT, PROGRAM DEVELOPMENT ENGINEER, OREGON HIGHWAY DIVISION: Submits and summarizes written testimony (EXHIBIT A). 137 REP. ROBERTS: Were you aware this might have an impact on federal highway monies? 139 SANDRA BURT, ADMINISTRATOR, PURCHASING DIVISION, DEPARTMENT OF GENERAL SERVICES: No, we did not. 145 REP. ROBERTS: Do you need more time to do some research and make sure we are not going to lose federal money? 152 SPEIGHT: I think we would be willing to take a chance ORS 279.056 continues to apply.

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157 REP. ROBERTS: I recommend this measure be sent to Legislative Counsel to see if it affects receipt of federal monies. 193 REP. FORD: Our laws already require contractors to be licensed, it seems your interpretation of the federal law would even put that law in jeopardy.

199 SPEIGHT: We have to get statement signed by the Contractors Board they will not enforce that section before the Federal Highway Administration will allow us to continue contracting federally aided contracts.

206 REP. FORD: Then this law is just adding the advertising, and not making anything more complicated as far as the federal statutes are concerned.

210 SPEIGHT: We haven't had an opinion from Federal Highway Administration, but it would add on to a statute they don't approve, so they would not want us to advertise the requirement.

216 REP. FORD: I have a question for Legislative Counsel, could we make an exemption for any federally funded project?

223 CLIFFORD FREEMAN, EXECUTIVE ASSISTANT TO THE ADMINISTRATOR OF THE PURCHASING DIVISION, DEPARTMENT OF GENERAL SERVICES: When there is a conflict between federal and state laws, federal law prevails.

225 CHAIR MARKHAM: The people from the Highway Department are worrying unnecessarily? 227 FREEMAN: That would be my opinion.

244 REP. SOWA: The Contractors Board said their main concern is out-of-state contractors coming in and bidding on state contracts, and most of those involve federal funds. 253 REP. BELL: I would feel more comfortable if we had an opinion from the Federal Highway Administration before we proceeded. 290 JIM STEMBRIDGE, DEPUTY ADMINISTRATOR, LANDSCAPE CONTRACTORS BOARD: Submits a proposed amendment to HB 2043 (EXHIBIT B).

HB 2043 - ADVERTISING OF BIDS FOR PUBLIC CONTRACTS - WORK SESSION

304 MOTION: REP. NOVICK moved to adopt the dash two LC amendment dated 1/21/91 to HB 2043 (EXHIBIT B). VOTE: In a roll call vote, the

motion carried, with Rep. Bell, Rep. Ford, Rep. Novick, Rep. Oakley, Rep. Roberts, Rep. Sowa, and Chair Markham voting AYE.

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HJR 3 - MANNER FOR APPOINTING AND ELECTING JUDGES - PUBLIC HEARING  
Witnesses: Ross Shepard, Lane County Public Defender Randy Miller, State Representative

363 ROSS SHEPARD, REPRESENTATIVE, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: My organization has been trying to get its name removed as a sponsor of this bill, we do not support it. Explains the effect of the proposed legislation.

398 REP. ROBERTS: I don't understand what the concern is, since most judicial races are uncontested anyway. . . .

TAPE 10, SIDE A

014 RANDY MILLER, STATE REPRESENTATIVE: This measure takes away the opportunity for people to say who is on the bench in this state. -Sub-section 2 provides for the creation of a non-partisan commission, the majority of which is appointed by the governor. -People are concerned about what is going on in the courts, and should be able to respond. -Puts judges in almost an appointment for life situation.

HJR 3 - MANNER FOR APPOINTING AND ELECTING JUDGES - WORK SESSION

086 REP. BELL: I would like to see judicial elections protected from the cat and dog fights of partisan races. So far in Oregon it has not been a problem.

104 MOTION: REP. NOVICK moved to table HJR 3.

VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep. Novick, Rep. Oakley, Rep. Roberts, Rep. Sowa, and Chair Markham voting AYE.

HJR 4 - REQUIRES TWO-THIRDS MAJORITY OF ELECTORS TO CHANGE BILL OF RIGHTS IN OREGON CONSTITUTION - PUBLIC HEARING  
Witnesses: Ross Shepard, Representative, Oregon Criminal Defense Lawyers Association Randy Miller, State Representative

119 JONES: Resolution would refer to the voters in the 1992 general election a proposed amendment which would require a two-thirds majority to amend the Bill of Rights Section of Oregon Constitution. The current laws requires 50% plus one to amend. 126 REP. ROBERTS: This amendment allows 35% of the people to defeat 65% of the people which is totally unacceptable. 141 ROSS SHEPARD, REPRESENTATIVE, OREGON CRIMINAL DEFENSE

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LAWYERS ASSOCIATION: This proposal would bring the Oregon constitution more into line with the Federal Constitution in that three-fourths of the states must ratify amendments. -Oregon Bill of Rights should be differentiated from the rest of the constitution. -It has been essentially untouched since 1857.

170 CHAIR MARKHAM: What is the Oregon Bill of Rights?

174 SHEPARD: Article 1 of our constitution.

181 CHAIR MARKHAM: While it takes three-fourths of the states to ratify an amendment to the federal constitution, is it not true the vote within each state only requires 50% plus 1.

184 SHEPARD: That is right.

186 REP. ROBERTS: Does not the U. S. Constitution prevail over the Oregon Constitution?

194 SHEPARD: The Federal Constitution provides a floor in guaranteeing rights, the Oregon Constitution can guarantee additional rights.

200 REP. ROBERTS: The people of Oregon have common sense and I don't think they will get too far out of line with the U.S. Constitution. What bothers me is 35% of the people can defeat 65% of the people.

259 RANDY MILLER, STATE REPRESENTATIVE: Super majorities have not been regarded favorably in very many instances. The state cannot take away rights that are guaranteed by the Federal Constitution. Do we want to say the public is incapable of handling that kind of responsibility in reaching conclusions that are well founded? The number of people participating in these decisions in the electoral process has been declining. When you talk about 33% of the people stopping a proposition, it is really 33 % of those participating in the process, we are talking about a pretty small group.

298 REP. BELL: The thing that has me worried about 50% plus 1 is there are many factors, other than the measure's merits, that can affect the outcome of an election. The principal we have to deal with is, is there a difference between electing people and changing statutes in our basic fundamental rights? In order to insure acceptance of something as important as changing the constitution, I think we need two-thirds because it would eliminate all these other factors that could change two percentage points into a win or a loss.

378 REP. MILLER: Present law has worked very well in this state. I don't think we have seen any loss of liberty as a result of the 50% plus one concept.

TAPE 9, SIDE B . 021 REP. MILLER: Discusses possible effect of Article 1, Section 8 on enacting campaign

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expenses reform.

040 REP. BELL: One hundred thirty two years ago 50% plus 1 was probably a valid indicator of what the people wanted. Now the public is being manipulated. At this time we need to protect them from this technology and manipulation of public opinion.

053 REP. MILLER: I just want us to be very cautious about legislation that protects people from themselves.

068 REP. NOVICK: One of the most profound changes in our constitution occurred when Measure 5 was passed, and it was adopted by 51% of the voters. The opponents, who used more sophisticated techniques, did not win.

089 REP. ROBERTS: In 132 years how many times has the Bill of Rights of the Oregon Constitution been amended.

097 SHEPARD: Amendments started with Sec. 35 and we are now up to Sec. 40. 103 REP. ROBERTS: So standing amendments are very few.

111 SHEPARD: There is an initiative process started that would abolish Article 1, Sec. 9 and Sec. 12 which deal with rights of privacy, search and seizure, self incrimination and double jeopardy.

LC 1637 - USE OF RESIDENTIAL ELEVATORS - WORK SESSION

133 CHAIR MARKHAM: Rep. Shiprack has asked, if as a courtesy, the committee would introduce LC 1637 (EXHIBIT C) as a bill. 137 MOTION: REP. ROBERTS moved LC 1637 be put in as a committee bill as a courtesy to Rep. Shiprack. 140 CHAIR MARKEIAM: Hearing no objections, it is so ordered. Submitted by: Reviewed by:

Carolyn Cobb Randall Jones Assistant  
Administrator House Committee on State and Federal Affairs January 23,  
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EXHIBIT LOG:

A - Testimony on HB 2043 - Joe Speight - 2 pages B - Amendments to HB 2043 - Jim Stembridge - 1 page C - Draft of LC 1637 - Rep. Markham - 1 page