

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

February 25, 1991 Hearing Room E 8 30 a.m. Tapes 47 - 48
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: None
STAFF PRESENT: Randall Jones, Committee Administrator Carolyn Cobb,
Committee Assistant MEASURES CONSIDERED: SJR1 - Amends Time Within
Which Recall Election Must Be Held, PH, WS SB 275 - Specifies Procedure
for Gathering Signatures For Initiative Petitions, PH, WS SB 280 -
Requires Election Expenses Resulting From Changes In Certified Ballot
Information Be Paid By Jurisdiction Requiring Change, PH, WS SB 284 -
Permits Use of Statistical Sampling to Verify Signatures on Certain
District Initiative and Referendum Petitions, PH, WS

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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.

TAPE 47, SIDE A

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

SJR 1- AMENDS TIME WITHIN WHICH RECALL ELECTION MUST BE HELD - PUBLIC
HEARING Witnesses: Al Davidson, Oregon Association of County Clerks
Vicki Ervin, Director of Elections, Multnomah County House Committee on
State and Federal Affairs February 25, 1991 - Page 2

010 AL DAVIDSON, OREGON ASSOCIATION OF COUNTY CLERKS: SJR1 addresses
how we can best provide ballots to overseas personnel, particularly
military personnel. The Oregon Constitution now requires the county
clerk to hold a recall election within thirty-five days of all the
filings being completed. In order to get forty days transit time for
absentee ballots, this measure proposes changing that time to forty-five
days. 023 CHAIR MARKHAM: What happens if someone wants to recall an
office holder? 027 DAVIDSON: Describes current recall process.

038 CHAIR MARKHAM: At the end of 45 days do you hold a special
election? 040 DAVIDSON: We do our best to work with petitioners to time
the filing of their petitions so we can hit one of the regular election
dates. However, sometimes we wind up holding a special election. 047
REP. NOVICK: How often is recall used? 050 DAVIDSON: I cannot tell you
for the whole state, but it is increasing. 059 VICKI ERVIN, DIRECTOR OF
ELECTIONS, MULTNOMAH COUNTY: Our experience is similar to Marion County,
in that a number of groups have come in and started the process.
068 REP. NOVICK: I cannot support using another \$30,000 out of
general funds if it is a procedure that is used so rarely.
085 DAVIDSON: There was quite a bit of discussion on the senate side
about the fiscal impact. It was concluded there would be a minimal
number of pages in the voters pamphlet and the cost would probably be
less than the fiscal impact statement indicates. 099 REP. ROBERTS:
The voters still have a right to recall, this measure just adds ten days
to the process for both sides? 105 DAVIDSON: It does allow an extra
ten days of campaigning. The main concern it addresses is getting the
ballots to absentee voters. SJR1 - AMENDS TIME WITHIN WHICH RECALL
ELECTION MUST BE HELD - WORK SESSION 176 MOTION: REP. ROBERTS
moved SJR1 to the floor with a "do pass" recommendation. VOTE: In a

roll call vote, the motion carried, with Rep. Oakley, Rep. Roberts, Rep. Sowa, and Chair Markham voting AYE. Rep. Novick voting NAY. Rep. Bell and Rep. Ford were excused.

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SB 275 - SPECIFIES PROCEDURE FOR GATHERING SIGNATURES FOR INITIATIVE PETITIONS - PUBLIC HEARING Witnesses: Al Davidson, Oregon Association of County Clerks Vicki Ervin, Director of Elections, Multnomah County Sue Proffitt, Elections Division

192 AL DAVIDSON, OREGON ASSOCIATION OF COUNTY CLERKS: SB 275 deals with the procedure for gathering signatures on an initiative petition at the local level and does not affect state initiative petitions at all.

205 REP. ROBERTS: Do you bill the cities for the counties' time spent handling their elections?

208 DAVIDSON: We do unless it is a primary or general election. -Reviews specific provisions of the bill.

220 CHAIR MARKHAM: They can file petition signatures any day your office is open?

225 DAVIDSON: That is correct.

227 REP. ROBERTS: Does this say calendar year or within a year of when they started circulating petitions?

239 DAVIDSON: The language is tied to the anniversary date of when they get approval to circulate the petition. -Often petitions go on for two, three or four years. -Counties are only required to retain inactive voter registration files for a two year period and may not be able to validate a signature if the petition is brought in five years after it was obtained. -If the signatures are submitted and validated on an annually basis, the problem is avoided. We see this measure as a protection for the petitioners.

257 REP. ROBERTS: If you purge your voter list because someone has not sent their card back in, they still may be in the district and qualified to vote if they registered.

262 DAVIDSON: The law on initiative petitions says the signer must be a qualified registered elector at the time they sign the petition. -We feel this has some good protections in it for the petitioners, and it will be a help to the county clerks in that they will know which are active petitions and which have died.

288 CHAIR MARKHAM: How long under this bill can you keep a petition open?

289 DAVIDSON: There is no limit. We started to place a limitation on the amount of time you could have to obtain the required signatures on a petition and were advised it is probably unconstitutional.

299 CHAIR MARKHAM: How can the Secretary of State administratively

limit the time on state petitions if it is probably unconstitutional?
Wouldn't we all be better off if there House Committee on State and
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was a time limit?

308 DAVIDSON: We did the same thing in this measure without raising the
constitutional issues and it is limited to local petitions.

314 REP. SOWA: Why do you want it limited to only local initiatives?

316 DAVIDSON: The state has already dealt with the issue in a manner
that seems to be satisfactory.

323 REP. SOWA: I thought I heard you say that if someone challenged the
Secretary of State, it probably would be found unconstitutional.

328 DAVIDSON: In dealing with local initiatives we did not want to raise
the constitutional issue. I am not making any judgement on the Secretary
of State's procedure. 338 REP. NOVICK: What was the thinking behind the
desire to limit the amount of time?

344 DAVIDSON: At the time that was the only way we could think of to
accomplish the business of making sure the signatures could be
validated. -We do not want to restrict petitions at the local level, but
we want to provide the safeguards.

359 REP. NOVICK: If petitioners miss an anniversary filing under this
measure, then those signatures are useless?

369 DAVIDSON: I believe that probably is correct. As a practical matter
I would advise them to have the signatures validated anyway.

395 REP. FORD: It seems to me by getting the signatures in and having
them validated, you would find out periodically what the percentage of
invalid signatures is and correct any problem that is revealed.

406 DAVIDSON: Yes, that is a side benefit that would come about. -Very
few petitions last more than a year. -Generally the petitions in
circulation more than one year are never completed.

TAPE 48, SIDE A

014 REP. NOVICK: Is there any problem with not turning in all the
signatures gathered before the anniversary date? 017 DAVIDSON: You can
turn signatures in for verification at any point.

020 RANDALL JONES, COMMITTEE ADMINISTRATOR: If they fail to submit
their petition signatures after notice on the annual date, from that
point onward the petition is null and void?

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022 DAVIDSON: That is correct.

SB 275 - SPECIFIES PROCEDURE FOR GATHERING SIGNATURES FOR INITIATIVE

PETITIONS - WORK SESSION

025 MOTION: REP. ROBERTS moved SB 275 A-Engrossed to the floor with a "do pass" recommendation.

027 REP. SOWA: I would like a conceptual amendment to make sure this bill is not interpreted at some time to nullify some of the signatures gathered in the first year.

MOTION: REP. SOWA moved to amend SB 275 by substituting the word "may" for the word "shall" in appropriate places, and in the appropriate places include statewide initiatives in this concept.

041 REP. FORD: That would not only allow the petitioners a chance to see how they are progressing, but it would take a load off the Secretary of State's office if they did not have to validate all the signatures at once.

044 MOTION: REP. ROBERTS withdrew his earlier motion.

045 REP. ROBERTS: If you make this statewide then the Secretary of State is going to have to send out the notices to the chief petitioners to remind them they have to check in and say their petitions are still alive.

050 ERVIN: You may want to rethink including the state. Signatures on state petitions are checked by random sample. On a state petition you must turn in 100% of the required number of signatures, you cannot piecemeal it. The majority of petitions filed are statewide, not local. Explains why it would result in a significant economic impact to the counties. 068 SUE PROFFITT, ELECTION DIVISION: Explains why it would not help the state at all to include them by Rep. Sowa's amendment.

074 REP. SOWA: I have heard the discussion before that it probably unconstitutional for there to be a time limit on the statewide initiative petitions. My proposed amendment is looking to the future when that is challenged.

091 REP. ROBERTS: I understand what Rep. Sowa is saying, but this is not the vehicle for it. I think we can separate the two questions and allow this measure to go to the floor and address Rep. Sowa's question on a different bill.

110 CHAIR MARKHAM: Why do petitioners need more than a year?

114 REP. ROBERTS: Under this bill once the petitioners get the signatures and submit them, they are valid even if a signer is subsequently purged from the voter rolls.

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126 CHAIR MARKHAM: You have to notify the petitioners before the year is up? 129 DAVIDSON: Yes, that is correct. Describes turnover in the voter files. 136 REP. SOWA: If people are collecting signatures and you notify them of the anniversary date and they do not turn in the signatures collected so far, what happens? 143 DAVIDSON: Under

subsection 9, the county clerk shall not accept for filing any petition that has not met the provisions of subsection 7, which is the annual filing of signatures. 147 REP. FORD: I would like to see some assurance that the chief petitioners actually receive the notice from the county clerk. 153 DAVIDSON: It would be appropriate to include the words "by certified mail". 177 REP. ROBERTS: Do they have to respond in person or can they do it by mail? 179 DAVIDSON: We could provide a form which they would sign and send back in stating the petition is still active, then they could come in and make arrangements to get their signatures verified. 190 ERVIN: It could be clarified that any one of the chief petitioners shall file that form. 201 REP. ROBERTS: My concern is to put "certified mail" in on page 2, line 18. 206 MOTION: REP. ROBERTS moved to amend SB 275 by inserting in the proper places the words "the county clerk will notify the chief petitioners in writing by certified mail", subject to review by legislative counsel. 210 REP. NOVICK: Does the sender of certified mail get a return receipt? 215 ERVIN: We send things certified mail with a return receipt requested. 219 REP. SOWA: Any body at the designated address can sign for certified mail, it must be registered mail to require only the addressee may sign? 223 REP. FORD: Certified mail is safer under some circumstances. 231 REP. SOWA: On certified mail there is no guarantee that the person the mail is addressed to will ever see it. 248 MOTION: REP. ROBERTS moved to amend SB 275 by on page 2, line 18, page 3, line 19, and page 4, line 20, after the words "in writing" by inserting the words "by certified mail with a return receipt", subject to review by legislative counsel, by which motion his previous motion was effectively withdrawn.

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

282 REP. SOWA: Did you rule out changing "shall" to "may.?"

293 ERVIN: Is the intent of your amendment that the petitioners may file, but would not be required to file the statement or their signatures?

300 REP. SOWA: The county clerks' intention is that at the end of one year, if the petitioners do not file all the signatures, then the initiative is null and must be thrown out.

323 REP. ROBERTS: A side benefit to the county clerks is that they would not have to carry an inactive petition on and on. They give the petitioners an opportunity to make it clear to the county clerks as to whether they are still in business.

334 REP. NOVICK: If you do not turn in 100% of the signatures gathered during the previous year, those not submitted are lost.

347 REP. ROBERTS: The people who are successful are on top of the situation.

365 REP. NOVICK: This measure is saying if you are not super organized, we may throw out some of the signatures you have gathered.

380 CHAIR MARKHAM: Under this measure the county clerks are going to

save the signatures that would have been thrown out because the voter is no longer registered.

385 REP. SOWA: At the end of one year, what happens if when the signatures come in and are verified, they are barely short of the total required?

395 DAVIDSON: Nothing in this proposal restricts them from gathering signatures for a dozen years as long as they bring in what they have each year. What they have done is guarantee the signatures are verified while the records are available.

415 REP. SOWA: A lot of times a gatherer gets one or two signatures in a day and eventually fill up the sheet, then signs and dates it. How are you going to tell the dates the signatures were obtained except by the date at the bottom of the sheet?

TAPE 47, SIDE B

022 DAVIDSON: The voter who signs has to date the sheet to show the date they signed.

026 REP. OAKLEY: What would happen if people were collecting signatures from December 10th to December 31st and they did not get those included in their submission for the year? Are those signatures lost?

035 DAVIDSON: That is certainly not our intent and if there is some amendment to make that clear we are willing to work with you on that.

043 REP. OAKLEY: Could we put a grace period in it so that those signatures gathered in

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the last three months or so could be shifted into the next year?

049 DAVIDSON: We would not be opposed to doing that.

052 REP. NOVICK: Perhaps on page 2, line 14, the bill could be amended to say "submit to the County Clerk for verification any signatures in possession of the chief petitioner".

058 ERVIN: You may simply want to add another sentence to clarify that it is not the intent if a petition sheet is turned in after this that has signatures gathered during that previous year, that it does not invalidate those signatures.

066 DAVIDSON: If you want to give us a few days to work up language you might find acceptable, we would be happy to propose it as amendments.

077 CHAIR MARKHAM: Will you come back to us with amendments?

078 DAVIDSON: We will.

080 CHAIR MARKHAM: Recesses the meeting at 9:41 a.m.

-Resumes the meeting at 9:51 a.m.

SB 280 - REQUIRES ELECTION EXPENSES RESULTING FROM CHANGES IN CERTIFIED BALLOT INFORMATION BE PAID BY JURISDICTION REQUIRING CHANGE - PUBLIC HEARING Witnesses: Al Davidson, Oregon Association of County Clerks

084 AL DAVIDSON, OREGON ASSOCIATION OF COUNTY CLERKS: Reviews the provisions of the measure.

SB 280 - REQUIRES ELECTION EXPENSES RESULTING FROM CHANGES IN CERTIFIED BALLOT INFORMATION BE PAID BY JURISDICTION REQUIRING CHANGE - WORK SESSION

106 MOTION: REP. ROBERTS moved SB 280 to the floor with a "do pass" recommendation. VOTE: In a roll call vote, the motion carried, with Rep. Ford, Rep. Novick, Rep. Oakley, Rep. Roberts, Rep. Sowa, and Chair Markham voting AYE. Rep. Bell was excused.

SB 284 - PERMITS USE OF STATISTICAL SAMPLING TO VERIFY SIGNATURES ON CERTAIN DISTRICT INITIATIVE AND REFERENDUM PETITIONS - PUBLIC HEARING Witnesses: Vicki Ervin, Director of Elections, Multnomah County Sue Proffitt, Elections Division . There minutes contain materials which paraphrase and/or summarize statements made during their session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tape. . . House Committee on Senate and Federal Affairs February 25, 1991 - Page 9

120 VICKI ERVIN, DIRECTOR OF ELECTIONS, MULTNOMAH COUNTY: SB 284 deals with but a handful of the largest districts, cities and counties. As in state petitions, it allows applying a statistical sampling to verify signatures. 141 REP. ROBERTS: When the state has you validate signatures, do you send them a bill? 143 ERVIN: No, the county pays. 146 REP. NOVICK: Under SB 275, if the signatures submitted at the end of the year totaled more than 4,500, would statistical sampling be used to verify those signatures? 149 ERVIN: No, sampling requires you turn in 100% of your signatures at one time. 151 REP. ROBERTS: The fiscal impact is an \$8,000 to \$10,000 one time hit? 156 ERVIN: The fiscal impact is the result of the provision on page 1, line 16 and line 17, which allows the Secretary of State to employ professional assistance to determine the sampling technique. 177 SUE PROFFITT, ELECTIONS DIVISION: Discusses the use of the consultant and the costs involved. 190 REP. FORD: I cannot support this bill unless it is referred to the Ways and Means Committee. 209 REP. SOWA: The summary says this bill "permits" use of statistical sampling but the wording says "shall" which does not permit any discretion. 216 ERVIN: The "shall" is for the Secretary of State, so if the county chooses to verify by statistical sampling the rule will be in place. 225 REP. SOWA: If the Secretary of State in talking with the consultant, decides that for 4,501 signatures, there is no way to do statistical sampling, does she have the option of saying it will not be done in this case? 234 ERVIN: I believe the Secretary of State would have the authority to designate as large a sample as may be necessary. -We did determine there is not a minimum threshold necessary. 244 REP. ROBERTS: If you go by random sampling you have to save some money somewhere, can't you recover the initial cost over a period of time? 253 ERVIN: Yes, I believe you can, the number 4,500 picks up the largest of the districts. Submits a letter of support from the Metropolitan Service District (EXHIBIT A). 268 REP. ROBERTS: Who verifies the signatures? 271 ERVIN: We use our own staff as much as possible,

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301 REP. NOVICK: In the City of Portland does the city auditor verify the signatures? 308 ERVIN: Generally the City of Portland contracts with us to verify signatures. 323 REP. SOWA: If the Secretary of State determines on the first sampling the signatures are adequate, he stops there; if he determines the signatures are not adequate, then he has to run another sample? 332 ERVIN: Yes, that is correct.

SB 284 - PERMITS USE OF STATISTICAL SAMPLING TO VERIFY SIGNATURES ON CERTAIN DISTRICT INITIATIVE AND REFERENDUM PETITIONS - WORK SESSION 337 MOTION: REP. ROBERTS moved SB 284 to the floor with a "do pass" recommendation. VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Novick, Rep. Oakley, Rep. Roberts, Rep. Sowa, and Chair Markham voting AYE. Rep. Ford voting NAY. WORK SESSION 363 REP. BELL: Mr. Chair, I request unanimous consent that the rules be suspended to allow me to be recorded as voting AYE on the motion to move SB 280 to the floor with a "do pass" recommendation. 365 CHAIR MARKHAM: Hearing no objections, it is so ordered 366 REP. BELL: Mr. Chair, I request unanimous consent that the rules be suspended to allow me to be recorded as voting AYE on the motion to move SJR1 to the floor with a "do pass" recommendation. 370 CHAIR MARKHAM: Hearing no objection, it is so ordered. 380 REP. FORD: Mr. Chair, I request unanimous consent that the rules be suspended to allow me to be recorded as voting AYE on the motion to move SJR1 to the floor with a "do pass" recommendation. 385 CHAIR MARKHAM: Hearing no objection, it is so ordered.

390 REP. FORD: Mr. Chair, I request unanimous consent that the rules be suspended to allow me to be recorded as voting NAY on the motion to move SB 284 to the floor with a "do pass" recommendation. 395 CHAIR MARKHAM: Hearing no objections, it is so ordered.

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Submitted by: Reviewed by: Carolyn Cobb Randall Jones
Assistant Administrator

EXHIBIT LOG: A - Testimony on SB 284 - Vicki Ervin - 1 page

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