

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

March 13, 1991 Hearing Room E 8:30 a.m. Tapes 62 - 65
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. Sam
Dominy, District 44 Rep. Robert Pickard, District 54 Rep. Ron Sunseri,
District 22 Rep. Liz VanLeeuwen, District 37 STAFF PRESENT: Randall
Jones, Committee Administrator Carolyn Cobb, Committee Assistant Ted
Reutlinger, Legislative Counsel MEASURES CONSIDERED: HB 2517 - Increases
Number of Members of Land Conservation and Development Commission, PH,
WS HB 2703 - Requires That Oregon Liquor Control Commission Provide for
Signs and Displays in Commission Stores, PH, WS HB 2728 - Prohibits
Candidate or Political Committee From Making Payments Contingent on
Result of Election, PH HJR 31 - Changes Number of Votes Needed to be
Elected to Legislative Office and Certain Statewide Offices From
Plurality to Majority, PH

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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 62, SIDE A House Committee on State and Federal Affairs March 13,
1991- Page 2

003 CHAIR MARKHAM: Calls the meeting to order at 8:37 a.m. HB 2517 -
INCREASES NUMBER OF MEMBERS OF LAND CONSERVATION AND DEVELOPMENT
COMMISSION - PUBLIC HEARING Witnesses: Sam Dominy, State Representative,
District 44 Robert Pickard, State Representative, District 54

009 SAM DOMINY, STATE REPRESENTATIVE, DISTRICT 44: This bill does not
change the size of the LCDC (Land Conservation and Development
Commission) board, which will retain it's seven members. The bill has
been amended to have members appointed from designated districts rather
than elected. -Reviews proposed district boundaries.

032 VICE CHAIR SOWA: Parts of the B district are a different land mass,
however some parts are similar to what is in the northeast section.

037 REP. DOMINY: We tried to follow the Cascade Mountain range. -The
intent was to define two districts east of the mountains. -Resumes
review of the proposed districts. -Under current law, it is possible to
have six of the seven board members all coming from the tri-county area.

068 REP. NOVICK: Would not the Senate have to concur for the governor
to make those appointments?

072 REP. DOMINY: You are correct, but if you look at the makeup of the
legislature, you will find there are more legislators from the
tri-county also. -Explains the differences between the dash two LC
amendments (EXHIBIT A) and the dash three LC amendments (EXHIBIT B).

097 CHAIR MARKHAM: All the dash three LC amendments do is make sure we
have a contiguous coastal district.

103 REP. DOMINY: That is correct. The dash two LC amendments say that no state, county or city elected official shall be on the board, the dash three LC amendments do not. -Suggests the committee clarify if the elected official currently serving on the board may continue to serve if the measure with the dash two LC amendments is passed.

114 REP. ROBERTS: Why did you want to put this restriction in there?

120 REP. DOMINY: The Chair and a few other committee members felt the public would not be properly represented if a member has another special interest such as an elected position.

130 REP. ROBERTS: On page 2, line 19, can we put in "for all appointments after June 30, 1991 (or June 30, 1992)" so it protects the member now serving? 134 CHAIR MARKHAM: I would be willing to put in "any paid elected official" since many municipal officials are not paid. If an official is being paid a full-time salary, then they should

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not take an appointed position which will take them away from what they are being paid to do.

139 REP. DOMINY: I think the point Rep. Roberts is making is that on the same line the words "as openings occur" should be added to make it clear that incumbents would not be kicked out before the ends of their terms.

157 CHAIR MARKHAM: Is it all right if the it says "a non-paid elected official"?

159 REP. BELL: I would prefer to leave it "elected official". Any elected official is in a position to have a conflict of interest.

173 REP. ROBERTS: We have people who volunteer to serve in city governments who do not worry about being re-elected, and have the expertise to serve. This would limit the governor's ability to appoint them.

184 REP. NOVICK: The phrase we have used in the past is "lucrative office".

189 BOB PICKARD, STATE REPRESENTATIVE, DISTRICT 54: I would back the reasoning of Rep. Bell in saying there is additional cleanliness to LCDC that comes from board members who do not have to worry about re-election or salaries. I would concur that you exclude all officials who are elected. I like the geographical representation.

215 CHAIR MARKHAM: You are aware the present law requires that at least one member be a city or county official at the time of the appointment?

217 REP. PICKARD: I would like to see that go away. The reason is I live in a county that has a commissioner who serves on LCDC. You cannot sitting on a county board in Deschutes County with the kind of land use focus it has, and sit on this Commission without being in a bind.

231 VICE CHAIR SOWA: On page 2, line 18 of the dash two LC amendments, you would like to see that language basically stay in the amendment.

237 REP. PICKARD: Yes, I would.

240 VICE CHAIR SOWA: Under Measure 5 school boards, who are elected, will see their money basically come from the state. Do you consider school board members to be elected state officials?

254 REP. PICKARD: No.

255 VICE CHAIR SOWA: Would it be your desire then to say that someone elected to a city commission would be precluded, but if he was elected to a school board, he could serve on the LCDC board?

257 REP. PICKARD: Probably not.

260 REP. BELL: Lets pull more people into the system by appointing people who are not already

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part of the system.

282 CHAIR MARKHAM: We could certainly say "no state, county or local government official".

HB 2517 - INCREASES NUMBER OF MEMBERS OF LAND CONSERVATION AND DEVELOPMENT COMMISSION - WORK SESSION

297 CHAIR MARKHAM: We have the dash two LC amendments in front of us, which accomplish the things Rep. Dominy is after in his bill. . .

303 REP. ROBERTS: On page 2, lines 18 and 19 of the dash two LC amendments, how would Legislative Counsel word the amendment to allow an incumbent elected official to serve out his current term? 314 TED

REUTLINGER, LEGISLATIVE COUNSEL: The simplest thing to do is to say that "subsection 5 of that section applies to any commissioner appointed on or after the effective date of this act", if that does not conflict with Section 2. 336 CHAIR MARKHAM: Are you talking about the end of line

19 after the word "commission"? 340 REUTLINGER: I would have a whole new section that says "Subsection 5 of Section 1 of this act applies to a commissioner appointed on or after the effective date of this act."

356 VICE CHAIR SOWA: Four years ago, when the previous governor was thinking about appointing a legislator to a board or commission, they researched it and decided the law prohibited it. Does this duplicate something that is already in the statute? 363 REUTLINGER: The state constitution currently prohibits the holding of two lucrative offices at once. 376

REP. DOMINY: With that interpretation, we may find the current board in violation of that law. 396 REP. ROBERTS: Isn't per diem considered non-lucrative, non-salaried because it supposed to compensate for the expense of serving. 396

REUTLINGER: I do not know, but I believe you are correct. 400 REP. OAKLEY: Would the language we are putting in keep the current elected official serving on the board from being reappointed? 405

REUTLINGER: Yes, it would. 409 VICE CHAIR SOWA: If you think there is a constitutional provision that

prevents a state salaried person from also serving on a board or commission, is it then your determination that we do not need the words "no state, county or city elected official"?

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412 REUTLINGER: Before responding to that question, I would have to do some research. The question is, is a seat on the commission a lucrative position.

TAPE 63, SIDE A

013 VICE CHAIR SOWA: Maybe the words we need to insert, rather than this language, is "for purposes of the Oregon State Constitution, a seat on the Land Conservation and Development Commission is called a lucrative office".

018 REP. DOMINY: Legislative Counsel felt very comfortable that this language would not conflict with any other part of the law, and it would resolve the issue before us.

026 REP. BELL: I believe that leaving this in is part of what we are trying to do with the bill. If we continue not to hear the outcry from the grassroots, they are going to say they do not want land use planning. When they read this bill, they can see we are trying to respond to their concerns.

041 REP. NOVICK: I see some value to having a local public official serve on the Commission, since they are the folks who end up implementing its decisions.

049 REP. DOMINY: It was only about two terms ago that the law was changed to include a county official.

054 REP. NOVICK: So it has only been in the last four to eight years the legislature decided it might make sense to have a local government official who is affected by their decisions, serve on the board?

055 REP. DOMINY: That is my understanding.

063 MOTION: REP. ROBERTS moved to amend the dash two LC amendments to HB 251 7 dated 3/8/91 (EXHIBIT A) by inserting on page 2, line 31, the words "SECTION 3. Subsection 5 of SECTION 1. of this act applies to commissioners appointed on or after the effective date of this act".

073 CHAIR MARKHAM: Hearing no objection, it is so ordered.

077 MOTION: REP. ROBERTS moved to amend the dash two LC amendments to HB 2517 dated 3/8/91 (EXHIBIT A) by inserting on page 2, line 18, between the words "No" and "state", the word "salaried".

088 VOTE: In a roll call vote, the motion failed, with Rep. Roberts and Chair Markham voting AYE. Rep. Bell, Rep. Ford, Rep. Novick, Rep. Oakley and Rep. Sowa voting NAY. 094 CHAIR MARKHAM: Orders the rules suspended to allow adoption of a conceptual amendment.

096 MOTION: REP. ROBERTS moved to adopt the dash two LC amendments dated 3/8/91

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(EXHIBIT A) to HB 2517 as amended.

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

HB 2703 - REQUIRES THAT OREGON LIQUOR CONTROL COMMISSION PROVIDE FOR SIGNS AND DISPLAYS - PUBLIC HEARING Witnesses: Jeffrey N. Kushner, Director, Office of Alcohol and Drug Abuse Programs, Department of Human Resources Brian Boe, Distilled Spirits Council of the United States Rick Willis, Director of Merchandising, Oregon Liquor Control Commission

130 RANDALL JONES, COMMITTEE ADMINISTRATOR: Reports that over the last week, he has worked with members of the industry and Oregon Liquor Control Commission (OLCC) staff to put together proposed amendments to HB 2703, which are the LC dash one amendments dated 3/12/91 (EXHIBIT C). Submits hand-engrossed HB 2703 (EXHIBIT D) which includes proposed amendments.

136 JEFFREY KUSHNER, DEPARTMENT OF HUMAN RESOURCES: Submits and summarizes written testimony (EXHIBIT E).

166 REP. ROBERTS: I think what you are saying is people who walk into liquor stores do not have brains enough to go past the signs. I do not think it will make one bit of difference to the problems you have cited, whether the signs are up or not.

173 KUSHNER: What we are saying is that advertising that advertising that advertises anything else but cost and taste, is inappropriate and promises the general public something that it cannot deliver. -Proposes amendments to the bill which would on line 23, delete the words "including but not" and insert the word "taste" after the word "to". -The Commission should be the ultimate arbiter of what can be displayed in agent stores.

184 REP. FORD: I agree with Mr. Kushner, the advertising portrays a false image. What we were presented with at the last hearing only addressed good taste. -

194 REP. NOVICK: I agree with some of the national advertising may promote inappropriate behavior with alcohol. I do not see allowing point of sale advertising in the liquor stores will create a bigger problem.

206 KUSHNER: I think your point is that this advertising would not make a critical difference in those behaviors I have enumerated that result from the use of the beverage alcohol, and I would probably agree with you. However, I would say this bill is a step in the wrong direction. When we continue to take steps in the wrong direction, they begin to put us in the situation we are in and expand upon that from the standpoint of a variety of negative behaviors. Why take one step

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in the wrong direction.

223 CHAIR MARKHAM: Have you read the amended bill?

225 KUSHNER: Yes. The concern I have about the amended bill is what you are basically saying is let the Commission decide through administrative rule what should be advertised. And while I would say we have one of the best, if not the best, ABC agencies in the country regarding responsible use and alcohol beverage control policy, I think it is still too open. My preference would be to limit the signs to cost and taste.

242 REP. NOVICK: An Oregon producer of liquor might want to point out that their's is an Oregon product. If you limit it to cost and taste, they would not be allowed to do that.

250 KUSHNER: I agree that things probably do taste better in the area of fruit grown in Oregon, and that could be included.

256 REP. BELL: Would the wording on lines 23b and 23e of the hand-engrossed bill make it applicable to state "Made in Oregon"?

258 REP. NOVICK: I believe it would. 264 BRIAN BOE, DISTILLED SPIRITS COUNCIL OF THE UNITED STATES: We would take some exception to Mr. Kushner's testimony. -The industry has been extremely active with their messages of moderation over the last decade. -If I had anticipated Mr. Kushner's testimony, I could have presented advertisements placed by distilleries in national magazines that are solely dedicated to the message of moderation. -There is a healthy counter balance. -It is not in the interest of the industry to have abusive behavior related to the alcohol beverage they distill and sell. -The work group looked at the BATF (Bureau of Alcohol, Tobacco and Firearms) prohibitions (EXHIBIT F) and Chapter 845, Division 7 of the Oregon Administrative Rules (EXHIBIT F) which are the guidelines OLCC currently uses. It is assumed these are the criteria they would use for in-store displays. -Summarizes the federal guidelines. -Many of the concerns of the previous witness will be amply addressed through the administrative rule process. 330 REP. FORD: How much of the industry advertising dollars are spent on the moderation theme versus the happy, partying type? 341 BOE: I cannot supply those figures this morning, but I would be happy to make inquiries through our national office to obtain that information. -The advertising material presented this morning was taken from national magazines. In-store displays would be a very different merchandizing approach. -Reviews hand-engrossed HB 2703 dated 3/12/91 (EXHIBIT D).

414 REP. ROBERTS: What we are talking about is advertising in a place where only adults are admitted. Government seems constantly to be arrogant about the intelligence of the average .,

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person. I believe we already have constraints through OLCC. Don't you think if this bill is passed, OLCC will still have a great deal to say about the kind of advertising that goes in the stores?

TAPE 62, SIDE B

017 BOE: Yes I do agree they will have ample discretion. The Division 7 rules are the guidelines the Commission currently uses in making those judgements.

033 REP. BELL: Would you have any opposition to including the word "taste" as suggested by Mr. Kushner?

036 BOE: I have some serious reservations about the restrictions that may impose. These promotional materials are produced on a national basis, and if we put some overly restrictive criteria in the bill, it may preclude a lot of materials that may not be offensive in any other regard.

045 REP. BELL: From your testimony I got the idea that there are many promotional materials that are already limited to taste, and Mr. Kushner's proposed amendment would not crimp your style.

052 BOE: If you will look at the information the Seagrams distributed, I do not think it has any direct reference to taste. My concern is there may be no specific reference on that display to taste. I think it is a better approach to say this it is what will not be allowed, rather than this is what we will only have.

067 REP. BELL: To follow up on the comment on adults' intelligence, I question that because of the amount of destructive behavior going on in society. That would not concern me nearly so much if the public were not picking up the tab. We certainly do not want to be encouraging it on one side and paying for it on the other. My concern is that we be extremely careful to limit advertising. We do have some state investment here, that we have to be very careful about.

072 BOE: We certainly concur with those comments. The reason we felt this was an appropriate measure to bring before the legislature was that when someone enters a liquor agency, they have already made the decision to purchase a product. We consider it more consumer information than advertising.

091 CHAIR MARKHAM: You are not going to see in Oregon what you see in Nevada and California. 094 REP. NOVICK: The industry people and OLCC

staff sat down and worked out a bill which satisfies both of them, and I think the bill now addresses the concerns of all the interested parties.

101 REP. ROBERTS: Nobody can tell you what taste is. It is already within the rule making powers of OLCC to assure good taste in the advertising. 116 VICE CHAIR SOWA: What are you stating this list

(EXHIBIT F) says? 118 BOE: On the left-hand side are the advertising guidelines that are written in the federal rules and

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regulations by BATF, and on the right-hand side under the heading Division 7 are the current guidelines the Commission employs when they review promotions, displays or advertising that can be placed on licensed premises.

128 VICE CHAIR SOWA: You are maintaining that these regulations prohibit or allow those?

131 BOE: I think under the combined regulations, some of the pieces of the magazine advertising that were presented to the committee, probably would not be allowed as a store display. However, I cannot say that would be the definitive judgement the Commission would make.

140 VICE CHAIR SOWA: The wording that everyone has agreed upon does not give the Commission the option to make a determination whether the displays abide by these regulations or not.

146 BOE: They are limited to the regulation of content, size, and type of sign. That gives fairly broad discretionary powers to the Commission in terms of regulating this type of sign.

157 VICE CHAIR SOWA: Is it your feeling that the language you have agreed upon would prohibit OLCC from placing large displays in a store saying alcohol can be a danger to your health or your pregnancy? 162 BOE: Absolutely not. This in no way places any constraints on the Commission's ability to place warnings or any other information they feel is important to the consumer.

174 VICE CHAIR SOWA: If the warning signs were four feet square, would your company approve of those being in liquor stores?

178 BOE: We historically do not enter an opinion on those subjects. If the Commission feels that is in the public interest, that is within the Commission's authority to do that, and we do not enter into those discussions.

190 RICK WILLIS, DIRECTOR OF MERCHANDIZING, OREGON LIQUOR CONTROL COMMISSION: The Commission does support HB 2703 with the hand-engrossed amendments. 204 VICE CHAIR SOWA: Does the Commission Board support these amendments? 205 WILLIS: At their previous Commission meeting, the Commissioners voted a conditional support of it as long as they had some latitude to pass administrative rules on those kinds of issues.

HB 2703 - REQUIRES THAT OREGON LIQUOR CONTROL COMMISSION PROVIDE FOR SIGNS AND DISPLAYS - WORK SESSION 290 MOTION: REP. NOVICK moved to adopt the dash one LC amendments dated 3/12/91 to HB 2703 (EXHIBIT C). VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep. Novick, Rep. Oakley, and Chair Markham voting AYE. Rep. Sowa voting NAY. Rep. - House Committee on State and Federal Affairs March 13, 1991- Page 10

Roberts was excused.

231 MOTION: REP. NOVICK moved HB 2703 as amended to the floor with a "do pass" recommendation. 234 REP. FORD: Legislative intent on this bill is very, very clear to the industry and to OLCC on the type of advertising we expect in the stores. 264 VICE CHAIR SOWA: I will be supporting moving this bill out of committee, but I would have preferred that we add some additional restrictions on these signs. Since they are basically guaranteeing us that this will be done in a very straightforward and professional manner, we will give it a try.

276 CHAIR MARKHAM: I am sure if things are not going the way we think they should, we will be hearing about it from committee members and others two years from now. 285 VOTE: In a roll call vote, the motion

carried, with Rep. Bell, Rep. Ford, Rep. Novick`, Rep. Oaldey, Rep. Sowa, and Chair Markham voting AYE. Rep. Roberts was excused.

291 CHAIR MARKHAM: Recesses the meeting at 9:53 a.m.

-Resumes the meeting at 10:05 a.m.

293 REP. ROBERTS: Requests unanimous consent that the rules be suspended to allow him to be recorded as voting AYE on the motion to adopt the dash one LC amendments dated 3/12/91 to HB 2703 (EXHIBIT C).

310 CHAIR MARKHAM: Hearing no objection, it is so ordered.

318 REP. ROBERTS: Requests unanimous consent that the rules be suspended to allow him to be recorded as voting AYE on the motion to send HB 2703 as amended to the floor with a "do pass" recommendation.

320 CHAIR MARKHAM: Hearing no objection, it is so ordered.

HJR 31 - CHANGES NUMBER OF VOTES NEEDED TO BE ELECTED TO LEGISLATIVE OFFICE AND CERTAIN STATEWIDE OFFICES FROM PLURALITY TO MAJORITY -PUBLIC HEARING Witnesses: Ron Sunseri, State Representative, District 22 Liz VanLeeuwen, State Representative, District 37

329 RANDALL JONES, COMMITTEE ADMINISTRATOR: HJR 31 and HJR 38, which is also in the Committee, address almost exactly the same issues. HB 2769, which is in another committee, is the enabling statutory language which puts the mechanism into action if HJR 31

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is approved by the voters.

343 CHAIR MARKHAM: These bills cannot be merged into a single measure because one goes to the people and one is enabling legislation?

344 TED REUTLINGER, LEGISLATIVE COUNSEL: That is correct. One is a constitutional amendment and the other is statutory.

350 VICE CHAIR SOWA: I would be opposed to the concept until I could be assured there was enabling legislation. If you do not change the constitution so you have an additional runoff election date, you are going to have some offices vacant for two years.

367 RON SENSURI, STATE REPRESENTATIVE, DISTRICT 22: These two resolutions are almost identical. The only difference is that HJR 38 provides for that mechanism you are concerned about. No one objects to the number of candidates running for the same office. The question is, do we want officials serving the State of Oregon who have not been elected by a majority of the people.

403 CHAIR MARKHAM: The resolution does not cover the Attorney General's office?

408 REP. SENSURI: The offices affected are Secretary of State, State Treasurer, Superintendent of Public Instruction, state senators, state representatives, and the Governor.

414 CHAIR MARKHAM: What are the statewide constitutional offices?

419 REP. SENSURI: They are the Secretary of State, State Treasurer, Superintendent of Public Instruction and the Governor.

423 REP. ROBERTS: The Superintendent of Public Instruction is the only one which has no term limitation.

430 REP. FORD: Why are we not including the congressional delegation?

TAPE 63, SIDE B

013 REP. SENSURI: They certainly could be included.

017 REP. ROBERTS: I support this legislation, because it would go a long way in keeping certain groups from directing the results of an election. That is spoiler type government.

025 REP. FORD: The reason I suggested the congressional delegation is because it happened in a congressional race some years ago.

028 VICE CHAIR SOWA: What Rep. Roberts believes is that third party candidates should not be allowed.

039 REP. SENSURI: I just want to assure Rep. Sowa that the intention was not to preclude any person from any party from running for any of these offices. The intention was to make sure

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these officers were elected by a majority.

048 CHAIR MARKNAM: You would not object if congressional races were included?

049 REP. SENSURI: I would not object at all.

055 REP. ROBERTS: Why did you not include all state offices? 059 LIZ VAN LEEUWEN, STATE REPRESENTATIVE, DISTRICT 37: Some are statutory offces rather that constitutional offices.

068 REP. ROBERTS: This deals strictly with constitutional offces?

071 REP. SENSURI: The reason I did not put them in my bill is the cost of running the second election thirty-two days later. 076 REP. ROBERTS: I am thinking of the rights of the individuals to know that whoever gets elected, received a majority of the votes. 078 REP. NOVICK: Does this apply to primary elections? 081 REP. VAN LEEUWEN: Only to the general election. 084 REP. NOVICK: I am concerned when the fiscal analysis says it will cost \$500,000 to run a statewide runoff election. Are there other states that mandate a runoff in this situation? 105 CHAIR MARKHAM: There are two other states. 107 TED REUTLINGER, LEGISLATIVE COUNSEL: The two states are Georgia and Arizona.

117 REP. BELL: What would happen if neither candidate could get a majority of the voters voting?

120 REP. VAN LEEUVVEN: The bill does not say a majority of voters, it says a majority of the votes cast. 135 VICE CHAIR SOWA: Before we get carried away with this notion, in HJR 38 the next election would be thirty two days. In testimony on another bill, it was stated it takes at least forty days to conduct an election for people overseas. 145 REP. SENSURI: The information we received was that thirty-two days is sufficient'

149 REP. VAN LEEUWEN: In the implementing legislation, I argued for the shorter time. There would not need to be another voters' pamphlet sent out, the bill does not call for that. The biggest amount of turnaround time would be for a recount if that was necessary.

167 REP. BELL: In a worst case scenario, how could the governor get their budget prepared in time after a runoff?

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174 CHAIR MARKHAM: Really a governor's budget is an outline for the legislature to look at. It is not as terribly important as it is thought to be.

182 REP. VAN LEEUWEN: The way it happens right now is the incumbent governor prepares the budget and the new governor makes changes.

220 REP. NOVICK: I would have a concern about the thirty-two day schedule for the runoff election. The federal level says the optimum time is about 45 days.

231 REP. SENSURI: I am certainly not married to 32 days. If we made it forty days it would still make it about the 15th of December.

242 JONES: Submits and summarizes proposed dash one LC amendments dated 3/12/91 (EXHIBIT H) and hand engrossed HJR 31 dated 3/12/91 (EXHIBIT I). 250REUTLINGER: Explains the need for and purpose of the proposed amendments. 301REP. VAN LEEUWEN: On line 8 of your amendments, there is incorrect wording.

306 REUTLINGER: The other situation is that it requires the governor to be elected at the same time as members of the legislature. HJR 31 provides the opportunity for both the governor and members of the legislature to be elected in a runoff election.

322 REP. BELL: Did you ask what is the minimum amount of time it takes the Elections Division to do a runoff election?

330 REP. PICKARD: The bill I had in mind said two weeks, but I was thinking in terms of the candidate and the general public. Maybe the people who vote by mail will not be able to participate in a runoff election. How often will just the presence of this measure preclude the kind of maneuvers that brought it to this legislature?

367 REP. BELL: Couldn't absentee ballots for the runoff election be sent automatically to anyone who voted by absentee ballot in the general election?

369 REUTLINGER: The way the bill is drafted now, you would have to reapply for an absentee ballot.

382 REP. NOVICK: If I remember correctly, the forty days did not include the application period.

392 REP. FORD: I think it is very important if we pass this measure out, that we make the policy decision as to whom may vote in the runoff election.

401 REUTLINGER: From a legal standpoint you have a real problem in attempting to limit it to just those who voted in the general election.

408 REP. VAN LEEUWEN: Can constitutional issues only be on the general election ballot or can they be on the primary election ballot? ~.

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022 REUTLINGER: You could put this on the primary election ballot.

030 REP. SENSURI: I am not married to the thirty-two days at all, and I think the idea of including the congressional seats is a good one. My main concern is the principal of the bill.

HB 2728 - PROHIBITS CANDIDATE OR POLITICALCOMMITTEE FROM MAKING PAYMENTS CONTINGENT ON RESULT OF ELECTION - PUBLIC HEARING Witnesses: Robert Pickard, State Representative, District 54 Liz VanLeeuwen, State Representative, District 37

048 ROBERT PICKARD, STATE REPRESENTATIVE, DISTRICT 54: This is a housecleaning bill designed to eliminate a practice we first saw in the last election cycle. A bonus was to be paid in the event of victory. The public has to wonder about the motives of the people involved in this process. The hiring of outsiders is offensive to some people in the first place. It is bad enough if you are hired on a straight fee basis, but to be given an additional incentive puts a twist on that entire election. We have enough in the way of political aberrations in every election, without allowing people to be paid addition sums to win. Urges passage of the bill.

096 VICE CHAIR SOWA: Would this measure prevent candidates who do not raise sufficient funds to pay their campaign staff during the campaign, from making those payments after the election if the funds are then available?

113 REP. PICKARD: This bill does not address that practice, which I was not aware of.

120 REP. BELL: I see that as a different situation. It can show up very legitimately after the election that we owe that debt. What we are trying to get at are the hidden ones that are based only on winning. I do not think this bill is intended in any way to ban legitimate agreements between candidate and staff or consultants.

137 REP. PICKARD: This is designed simply to take the inordinate pressure this type of arrangement puts on winning, out of the game. This just takes that extra dollar bonus out of the picture.

148 REP. NOVICK: I agree the practice is distasteful. There is an argument made that challengers do not have access to funding the incumbent does. It allows those candidates who are not incumbents the ability to have access to the same services the incumbents do.

166 REP. PICKARD: It puts a special emphasis on a "win at any cost" mentality. There is ample disgust on the part of the public with the way we conduct campaigns. Anything we can do to change that direction benefits the process.

182 VICE CHAIR SOWA: Do you consider that similar to some PACs that hold their money back until the last few weeks of the campaign?

190 REP. PICKARD: I do not see that is the same and this bill does not address it.

These minutes contain m&serials which paraphrase Sand/or summarize stments m&de during tnis session. Only text enclosed in quotation rnarks report a speaker ~ exact words. For complete contents of the proceed IgS please refer to the tapes. . House Committee on State and Federal Affairs March 13, 1991- Page 15

195 REP. BELL: I see an individual challenger wanting to have the services of a consultant can still do that within our system. Even if they put it down under loans, a monthly loan from a consulting service, and even if those loans are forgiven at the end of the campaign, the attempt for full disclosure would have been there.

211 REP. ROBERTS: Asks for a clarification of line 8 of the bill.

226 REP. PICKARD: I think this is written broadly enough to make sure you are not paying different prices for goods and services contingent on whether you win or lose. 231 REP. BELL: On line 8, section 2 would it not be better to use the word "received" rather than "purchased"?

242 REP. PICKARD: You would have to ask Legislative Counsel for a proper answer to that. 263 LIZ VAN LEEUWEN, STATE REPRESENTATIVE, DISTRICT 37: Asks the committee to pass HB 2728 in close to its original form. -The bill is a clarification of what I thought was already covered under ORS 260.635. -Mating an agreement to pay only if you win to my mind is wagering on the election results. -The practice does away with the citizens legislator idea and getting the grassroots involved. -Staff payment is totally different from betting on the election by paying a bonus on the outcome.

HB 2728 - PROHIBITS CANDIDATE OR POLITICAL COMMITTEE FROM MAKING PAYMENTS CONTINGENT ON RESULT OF ELECTION - WORK SESSION

351 MOTION: REP. ROBERTS moved HB 2728 to the floor with a "do pass" recommendation. 355 REP. NOVICK: I am going to vote no on the bill. Not because I disagree with the premise that it is a distasteful practice, but because I am concerned it will limit the ability of people who are challengers to get access to some of these services. 367VICE CHAIR SOWA: This legislation is something that is needed to clear up some of the practices that are going on. However I am really concerned that some of the things we are doing could cause us problems with this bill. 385 MOTION: REP. ROBERTS withdrew his earlier motion.

397 VICE CHAIR SOWA: Asks for clarifying language that if you contract for staff to run your campaign and you get behind on payments to them, that you may raise funds after you are elected to pay them.

404 REP. ROBERTS: Discusses possible wording of an amendment to address the issue raised by Rep. Sowa.

422 REP. VAN LEEUWEN: To answer what Rep. Sowa is saying, on line 9 insert "except for monthly salary to personal campaign staff" - 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 State and Federal Affairs March 13, 1991 - Page 16

441 REP. BELL: I do not think an amendment is needed.

TAPE 65, SIDE A

024 JERRY KEENE, CITIZEN: The word "purchasing" in the bill refers to contracting as opposed to employing. If you make the intent clear on the record, it should cause no problem with payments to campaign staff.

037 REP. NOVICK: I want to make sure this bill would not prevent paying a bonus to a campaign worker who did a superior job.

052 CHAIR MARKEIAM: Rep. Sowa and the Committee Administrator will work on the bill.

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

- EXHIBIT LOG:

A - Amendments to HB 2517 - Rep. Dominy - 2 pages B - Amendments to HB 2517 - Rep. Dominy - 2 pages C - Amendments to HB 2703 - Randall Jones - 1 page D - Hand-engrossed HB 2703 - Randall Jones - 1 page E - Testimony on HB 2703 - Jeffrey N. Kushner - 7 pages F - Testimony on HB 2703 - Brian Boe - 1 page G - Testimony on HB 2703 - Brian Boe - 2 pages H - Amendment to HJR 31 - Randall Jones - 1 page I - Hand-engrossed HJR 31 - Randall Jones - 2 pages

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