

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

April 24, 1991 Hearing Room E 8:00 a.m. Tapes 111 - 112
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.
Kevin Mannix, District 32 Rep. Bev Stein, District 14 STAFF
PRESENT: Randall Jones, Committee Administrator Carolyn Cobb,
Committee Assistant MEASURES CONSIDERED: HB 2918 - Requires Ballot
Designation Indicating That Judge is Incumbent, Specify Whether Judge is
Elected or Appointed Incumbent, PH, WS HB 2974 - Repeals Certain
Exemptions to Public Records Law, Effective January 1, 1994, WS HB 3311
- Requires Person Be Registered At Least Five Days Before Election In
Order To Vote, PH HB 3478 - Requires Designation of Municipal Judge as
Incumbent on Election Ballots, PH, WS HJR 56 - Requires Person Be
Registered at Least Five Days Before Election, Removes Requirement Person
Reside in State During Six Months Preceding Election, PH - 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. . TAPE 111, SIDE A

003 CHAIR MARKHAM: Calls meeting to order at 8: 13 a.m. House Committee
on State and Federal Affairs April 24, 1991 - Page 2

HJR 56 - REQUIRES THAT PERSON BE REGISTERED AT LEAST FIVE DAYS BEFORE
ELECTION. REMOVES REQUIREMENT THAT PERSON RESIDE IN STATE DURING SIX
MONTHS PRECEDING - PUBLIC HEARING

HB 3311 - REQUIRES PERSON BE REGISTERED AT LEAST FIVE DAYS BEFORE
ELECTION IN ORDER TO VOTE - PUBLIC HEARING Witnesses: Bev Stein, State
Representative, District 14 Margot Beutler, Rainbow Coalition Sandra
Bishop, Legislative Coordinator, League of Women Voters of Oregon Dave
Buchanan, Common Cause Jason Coleman, Oregon Student Lobby Vicki Ervin,
Citizen Brian Hoop, Associated Students, University of Oregon Nina
Johnson, Office of the Secretary of State Steve Lanning, Political
Education Coordinator, Oregon AFL-CIO Lynn Pinckney, Executive Director,
Oregon Student Lobby

005 BEV STEIN, STATE REPRESENTATIVE, DISTRICT 14: Submits and
summarizes written testimony (EXHIBIT A) in favor of the measures.

053 REP. NOVICK: Since there was a minimal amount of fraud when there
was same-day registration, the five-day cutoff should leave sufficient
time for the paperwork. 060 REP. STEIN: I think you will hear from
Vicki Ervin, Director of Elections for Multnomah County, that she
supports this bill as do others. With increased technology, it should be
easier to deal with registration. 064 CHAIR MARKHAM: At one time it
was thirty days, and then where did we go from there? 067 REP. STEIN:
Prior to 1975 we had a thirty-day voter registration time, 1975 to 1985
same-day registration, and in 1985 the legislature adopted a one-day
cutoff, in 1986 there was a twenty- day cutoff added to the Oregon
Constitution by initiative petition. 079 NINA JOHNSON, EXECUTIVE
ASSISTANT TO THE SECRETARY OF STATE: Submits and summarizes written
testimony on behalf of the Secretary of State (EXHIBIT B) in support of
the measures. 125 REP. NOVICK: Most of the reports I see on national
voter participation cite barriers to registration as one of the major
problems. Registration here is relatively easy, yet your numbers show a
decline in voter registration since the implementation of the twenty-day

cutoff. How much of a factor does your office think that is? How many cases of voter fraud has your office prosecuted? 137 JOHNSON: It is really hard to attribute the decline in voter turnout to the initiative measure. That also happened to coincide with the beginning of vote-by-mail. Most of the literature does cite barriers to registration as being a significant factor, and one of those is the length of time before an election you have to register. The states that have same-day registration are at the top of the list for voter participation.

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159 CHAIR MARKHAM: What was the vote when the people approved the twenty-day cutoff statewide?

163 JOHNSON: I do not know what that vote was.

166 CHAIR MARKHAM: If the public prefers that, why should we be looking at it?

167 REP. NOVICK: I think the vote was somewhere in the area of 78% to 79%. 169 CHAIR MARKHAM: Was it hysteria about what was going on in Wasco County?

170 REP. NOVICK: I certainly think that helped.

172 REP. FORD: The public had a chance to vote on the twenty-day cutoff, they did not have a chance at a twelveday or a five-day.

183 STEVE LANNING, POLITICAL EDUCATION COORDINATOR, OREGON AFL-CIO: Submits and summarizes written testimony (EXHIBIT C) in support of HB 3311 and HJR 56. 219 LYNN PINCKNEY, EXECUTIVE DIRECTOR, OREGON STUDENT LOBBY: Submits and summarizes written testimony (EXHIBIT D) in support of the measures. 307 VICE CHAIR SOWA: Can you explain how they are going to step up the process in mail elections? When they register five days before the election, how are they going to receive their ballot in the mail? 313 PINCKNEY: That I cannot answer.

317 VICE CHAIR SOWA: Do you think the fact the ballots have often gone out about three weeks before the election would stimulate people to want to register?

322 PINCKNEY: I would think any contact with voters would help increase interest in elections. A number of people have suggested to us they would be much more comfortable with a seven-day cutoff rather than a five-day cutoff. The only problem I see with a five-day cutoff is that if you registered on the sixth or seventh day and your certificate was mailed to you and you did not receive it, you would have to vote under the post-election verification procedure. That might not feel good because you would know your vote would not be counted immediately. If we wanted to avoid that and make sure we have a little more time on the mail, the seven-day period might make a lot of people feel more comfortable.

342 REP. OAKLEY: What is the average number of days in other states?

348 PINCKNEY: I do not know.

359 REP. NOVICK: It is interesting that those states that do have less than twenty days or have shorter time periods, also have the highest voter participation.

365 PINCKNEY: The states that have twenty nine or more days are the ten lowest states for voter

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participation.

378 VICKI ERVIN, DIRECTOR OF ELECTIONS, MULTNOMAH COUNTY: The Oregon Association of County Clerks has supported a twenty-day cutoff, and that is their official position. They feel there were not adequate safeguards in the system that was in place before, that was same-day or one-day cutoff. This bill as drafted does not have those safeguards, however if it were amended to put in those safeguards so you had mailed verification of addresses, then the bill would be in a form that at least some of the county clerks would support. -I believe the impact of any voter registration cutoff would be lessened if it were easier to keep voters on file once they are registered. Basically in Oregon the emphasis is on getting the people to register, and we neglect the processes of keeping them on file. -There was only one state with a registration requirement longer than thirty days and that was Arizona. They now have changed theirs to a thirty-day cutoff.

TAPE 112, SIDE A

019 REP. ROBERTS: Arizona has passed the court muster because of their indian population. Even fifty days was upheld by the U. S. Supreme Court.

021 ERVIN: Yes, they did have the justification necessary for the longer registration deadline, but they have recently passed legislation shortening it to the thirty-day period.

024 RANDALL JONES, COMMITTEE ADMINISTRATOR: Current law says you must be a resident of Oregon for six months prior to the election. What is the requirement in other states?

027 ERVIN: Basically the six months residency requirement was struck down by the Supreme Court. They said you could not require the person to be a resident of the state for a longer period than was necessary for the voter registration. So although the State Constitution still says six months, it is null and void.

034 REP. ROBERTS: The people went out with a petition and got the twenty-day cutoff passed, let the people go back with a petition to change this if they want it changed.

044 REP. NOVICK: I think it is okay for the public to occasionally re-examine decisions they have previously made. The Supreme Court decision and federal regulation are a maximum of thirty days?

052 ERVIN: Yes, that is the maximum.

055 REP. NOVICK: Your county has about a third of all the registered voters in the state?

059 ERVIN: Multnomah County represents about one-fifth of the registered voters.

060 REP. NOVICK: You think with the amendments you spoke to, you would be able to adequately to police the voter rolls, and make sure voter fraud was not happening?

064 ERVIN: I do not believe there is any system that can always assure there is no fraud at all. However, I believe that with those amendments we would have additional safeguards that would

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bring it down to an acceptable threshold of risk.

068 REP. NOVICK: Prior to the twenty-day cutoff being implemented, in the prior ten years that the one-day registration was in effect, can you tell me how many cases of voter fraud your office identified and forwarded to the Secretary of State?

071 ERVIN: No, I cannot. What I can tell you is that we had far too many people who registered and voted, and after the election we got evidence back that either the address did not exist or the person did not exist. In a situation like that, it is impossible to do any prosecution because you have a "phantom" voter. Because we have had in the state, a number of elections that were decided by only a handful of votes, that is an unacceptable risk. I believe the amendments to the bill address that so there is more of a pre-verification before the ballots are cast. 085 REP. OAKLEY: In Linn County, when we were working on the twenty-day voter registration we found they had something like 204 folks that registered at the very end, and when they went to find them they did not exist. Do you remember what the vote was when the twenty-day initiative passed in 1986? 094 ERVIN: My memory is that it passed by a two to one margin. 096 REP. OAKLEY: It actually increased fraudulent voter registration according to a study done in Yamhill and Benton Counties. It also showed the folks who registered later were much less informed on the issues than folks who were registered earlier. Those registered later were frequently interested in one issue on the ballot only. 108 SANDRA BISHOP, LEGISLATIVE COORDINATOR, LEAGUE OF WOMEN VOTERS OF OREGON: Submits and summarizes written statement (EXHIBIT E) in support of HB 3311 and a written statement (EXHIBIT F) in support of HJR 56. 138 JASON COLEMAN, OREGON STUDENT LOBBY: Submits and summarizes written testimony (EXHIBIT G) in favor of the measures. 171 REP. OAKLEY: Wouldn't it be better if the students voted in their home districts as opposed to reregistering once they reach the campus? 176 COLEMAN: In the past gubernatorial election, I had to get up at five o'clock in the morning and drive 250 miles to vote. 179 REP. OAKLEY: But you can vote by mail. 182 COLEMAN: Many students are new voters who do not understand the absentee ballot process. It is a very difficult process to go through. Voting should be an easy thing to do. 189 REP. NOVICK: Our system allows people to register wherever their principal residence is. Some college students may have more interests

where they are attending school than where their parents live.

212 REP. ROBERTS: The legislature has worked tirelessly to make voting easy. What I want to

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do is respect the integrity of a lot of people. We are constantly saying we do not know if the voters really meant it, when they put something on the ballot and pass it.

228 VICE CHAIR SOWA: Did you research to see what position the Oregon Student Lobby took on the initiative that established the twenty-day cutoff?

236 COLEMAN: I do not know.

237 JONES: Are the high schools making any effort to educate seniors, knowing they will soon be going into the voting process?

243 REP. OAKLEY: My schools in Albany do a very good job and I would assume a good portion of the schools do.

248 REP. BELL: It really depends on the personal initiative of the teacher who is teaching government.

255 REP. FORD: Are you prepared to talk about the details of the bills?

259 COLEMAN: No, I am not.

270 MARGOT BEUTLER, RAINBOW COALITION OF PORTLAND: We are very much in favor of HB 3311 and HJR 56. We are in favor of anything that makes it easier for individuals to vote and is certainly going to be much more inclusive of the numbers and kinds of people who can participate in the system. The U. S. Constitution guarantees the right to vote. It does not say you must live at a given address for a specified length of time. Homeless people have a right to vote. Every time you throw up a barrier, you cut some people out of the system.

308 REP. ROBERTS: You are suggesting that government do more of this. We have to draw a line where government stops and the individual takes some responsibility.

327 BEUTLER: My point in supporting these bills is that the less obstacles we put in the way, the greater participation that we will have. I disagree that people should take certain steps or hop through certain hoops to do that. The courts have said it is illegal to require a voter be able to read, why should we prove that they are informed? There are some social justice issues involved in the voting process. Low income people are the least likely to be registered to vote. I support the least restrictive voter registration statutes. Five or seven days is certainly better than twenty days. Urges support for the measures.

381 REP. BELL: During this last election were there any times when you offered voter information? Seniors in particular find it difficult to read through the newspapers and other wriKen material, but as soon as it is explained to them, they know where they stand. 398BEUTLER:

Yes, we do. We hold voter forums in the community. We invite candidates and opponents and proponents of ballot measures to come and explain the issues. We distribute flyers door to door, explaining the pros and cons of issues. 412 REP. BELL: I really appreciate the pros and cons effort, when both sides are presented. .

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010 REP. NOVICK: Those of us who go through elections, think about these things the year around. The general public does not think about elections quite as far in advance as we do. When the voters' pamphlet arrives, they start to study the candidates and the issues. It arrives two weeks before the election, which is six days after the registration cutoff. I do not have a problem saying to people you made a decision several years ago based on perceptions of potential fraud, and now we are coming back with a measure saying would you like a shorter time period.

044 BRIAN HOOPS, ASSOCIATED STUDENTS, UNIVERSITY OF OREGON: Students are becoming more and more interested in government. Students are just learning about the election process. Many students move over the summer. When they come back in the fall it is very cliffficult to get students registered for the November elections. We deserve to give qualified Oregon residents, many of them students, a chance to vote.

078 DAVID BUCHANAN, DIRECTOR, OREGON COMMON CAUSE: In the public's mind when voting for the twenty-day cutoff, was the Rajneeshee situation. Most of that was focused on the issue of new registrants. Most of the impact has been on people who have already been registered and need to re-register. The first thing that happened to that ballot measure was the next session of the legislature had to correct parts of it. This is a benefit for people who have to re-register as well as new registrations.

111 REP. NOVICK: We heard about some potential amendments to change it to seven days, which I have not seen. Will we have those?

113 CHAIR MARKHAM: Nobody showed up with those.

119 VICE CHAIR SOWA: The measure that provided for a twenty-day cutoff was aimed at new residents. We should allow all of the citizens of Oregon, once they have proved to be a resident, to become registered to vote automatically. As long as they stay here, they should be able to keep that registration.

126 REP. OAKLEY: I certainly think voting is a responsibility and if a person wants to vote, they should be able to meet the deadline that is set, currently twenty days.

HB 2974 - REPEALS CERTAIN EXEMPTIONS TO PUBLIC RECORDS LAW EFFECTIVE JANUARY 1, 1994 - WORK SESSION

143 JONES: Submits and reviews proposed dash five LC amendments dated 4/23/91 to HB 2974 (EXHIBIT H) 167 MOTION: REP. ROBERTS moved to

adopt the dash five LC amendments to HB 297 4 dated 4/23/91 (EXHIBIT I).

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

174 MOTION: REP. ROBERTS moved HB 2974 as amended to the floor with a "do pass"

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recommendation.

VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep. Oakley, Rep. Roberts, Rep. Sowa, and Chair Markham voting AYE. Rep. Novick was excused. Work Session on HB 2974 re-opens on page 9.

HB 2918 - REQUIRES BALLOT DESIGNATION INDICATING THAT JUDGE IS INCUMBENT SPECIFY WHETHER JUDGE IS ELECTED OR APPOINTED INCUMBENT - PUBLIC HEARING
Witnesses: Kevin Mannix, State Representative, District 32

194 KEVIN MANNIX, STATE REPRESENTATIVE, DISTRICT 32: I consider this bill a truth in advertising measure. Of the judges who ended up on the Supreme Court, Court of Appeals, Circuit Court and District Court in the last few years, 135 of them began as appointees and 32 were initially elected. Under the law we recognize that judges are a different breed in terms of elected officials. They are not as well known to the public and when they are running for reelection, they are allowed to indicate on the ballot that they are the incumbent. We usually do not hear anything about these judges unless they have done something really bad. Generally the public expects that public officials who are incumbents got there through election. A disproportionate number of judges, the first time they are on the ballot, are not actually elected incumbents, they are appointed incumbents. The bill requires the incumbent designation to also indicate whether they are an elected incumbent or an appointed incumbent.

232 CHAIR MARKHAM: Can an appointed legislator use the designation "incumbent"?

236 REP. MANNIX: In the voters' pamphlet, you are allowed to use the word "retain" if you were appointed to the office. Re-elect can only be used if the candidate was previously elected. We no longer allow any candidates to have a label on the ballot, except judicial candidates.

242 REP. ROBERTS: The reason we did that is that judges are under restrictions as to how they collect their campaign funds. They do not have the leeway other elected officials have.

246 REP. MANNIX: I am not attacking the concept of allowing them to have a label on the ballot to say they are an incumbent, but there ought to be one other word there so the public knows if they were elected or appointed.

252 REP. BELL: Is there a need for both bills?

253 REP. MANNIX: Yes, the other bill relates to municipal judges, who are covered by a different statute. They are not part of the state court system. Not all municipal judges are elected.

262 REP. BELL: Do you think the ballot should indicate elected or appointed for municipal judges?

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263 REP. MANNIX: I think so.

HB 2918 - REQUIRES BALLOT DESIGNATION INDICATING THAT JUDGE IS INCUMBENT SPECIFY WHETHER JUDGE IS ELECTED OR APPOINTED INCUMBENT - WORK SESSION

266 MOTION: REP. ROBERTS moved HB 2918 to the floor with a "do pass" recommendation. 269 VICE CHAIR SOWA: Certain county commission chairmen are called judges. Would this affect them? 272 REP. MANNIX: No, it will not because it specifies the judges. 284 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.

HB 2974 - REPEALS CERTAIN EXEMPTIONS TO PUBLIC RECORDS LAW EFFECTIVE JANUARY 1. 1994 - WORK SESSION

301 REP. NOVICK: Requests unanimous consent that the rules be suspended to allow him to be recorded as voting NAY on the motion to move HB 2974 as amended to the floor with a "do pass" recommendation.

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

HB 3478 - REQUIRES DESIGNATION OF MUNICIPAL JUDGE AS INCUMBENT ON ELECTION BALLOTS - PUBLIC HEARING Witnesses: Kevin Mannix, State Representative, District 32 Janet Zyryanoff, Legislative Chair, Oregon Municipal Judges Association

320 REP. FORD: I believe we can eliminate Sections 2 and 3 of the bill and go with Section 1 because the others are a duplication of HB 2918. Those are the sections that are contained in the state court system. Section 2 of HB 2918 is the same statute as Sections 2 and 3 of HB 3478.

352 KEVIN MANNIX, STATE REPRESENTATIVE, DISTRICT 32: If we just did Section 1 of this bill, that would be sufficient.

359 JANET ZYRYANOFF, LEGISLATIVE CHAIR, OREGON MUNICIPAL JUDGES ASSOCIATION: There are very few municipal judges who are elected, By and large they are appointed by the city council and serve at the pleasure of the city council. For those municipal judges who are elected, we want the opportunity to have the word "incumbent" with the name of the judge on the ballot. All judges in the state court system have that opportunity. 387CHAIR MARKHAM: Would you agree with the words "elected" or "appointed" on the ballot?

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397 ZYRYANOFF: I personally have no problem with it, but I do not know what the Municipal Judges Association position would be.

396 REP. NOVICK: This bill would allow someone who has been appointed to say they are an "incumbent". Since we feel the additional designation is good for the vast majority of other judges, I would favor putting in this bill as well.

400 REP. MANNIX: I have an answer as to why Sections 2 and 3 were put in the other bill. Municipal judges are not part of the state court system. There is a separate provision about the city elections officer certifying candidates to the county clerk. Then there is a separate section about the authority of the Secretary of State for primary and general elections. Technically they would want to have the provision for the primary and general election authority, which is why they want to have Sections 2 and 3 in the bill.

TAPE 112, SIDE B

004 REP. MANNIX: Section 1 is very clear for municipal judges in certifying by the city to the county clerk. The other two sections have to do with the Secretary of State certification for the primary and general elections.

HB 3478 - REQUIRES DESIGNATION OF MUNICIPAL JUDGE AS INCUMBENT ON ELECTION BALLOTS - WORK SESSION

016 REP. FORD: Proposes amendments.

029 REP. ROBERTS: As an appointed municipal judge, are you a lawyer also?

033 ZYRYANOFF: Yes, I am.

034 REP. ROBERTS: But you do not have to be. '

034 ZYRYANOFF: Most municipal judges are required by the city charters to be lawyers.

035 REP. ROBERTS: What kind of cases do you handle?

037 ZYRYANOFF: I handle all traffic infractions, all misdemeanors, all violations of municipal ordinances, and pretty much anything that a district court judge would handle in his criminal capacity.

059 MOTION: REP. FORD moved to amend HB 3478 by on page 1, line 15, after the word "of" inserting the words "elected or appointed"; and on page 2, line 17, change the word "word" to "words" and change the word "incumbent" to "elected incumbent" and after the word "incumbent" inserting the words "or "appointed incumbent", and making the same changes on page 2, line 40. 073 CHAIR MARKHAM: Hearing no objections, it is so ordered.

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076 MOTION: REP. FORD moves HB 3478 as amended to floor with a "do

pass" recommendation. 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. Submitted by: Carolyn Cobb Randall Jones Assistant Administrator Reviewed by:

EXHIBIT LOG:

A -Testimony on HB 3311 and HJR 56 - Rep. Bev Stein - 2 pages B - Testimony on HB 3311 - Nina Johnson - 2 pages C -Testimony on HB 3311 and HJR 56 - Steve Lanning - 1 page D -Testimony on HB 3311 and HJR 56 - Lynn Pinckney - 2 pages E - Testimony on HB 3311 - Sandra Bishop - 1 page F - Testimony on HJR 56 - Sandra Bishop - 1 page G -Testimony on HB 3311 and HJR 56 - Jason Coleman - 1 page H - Amendments to HB 2974 - Randall Jones - 6 pages

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