

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

April 29, 1991                      Hearing Room E 8:00 a.m.                      Tapes 117 - 120  
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. Ted  
Calouri, District 7 Rep. Randy Miller, District 24 STAFF  
PRESENT: Randall Jones, Committee Administrator Carolyn Cobb,  
Committee Assistant Ted Reitlinger, Legislative Counsel MEASURES  
CONSIDERED:                      HB 2490 - Requires Candidates and Political Committees to  
file Additional Statement of Contributions and Expenditures, PH HB 3009  
- Requires Minor Political Party Candidates and Independent Candidates  
to be Registered as Members of Minor Political Party or Not to be  
Affiliated With a Party Not Later Than 250 Days Before Primary Election,  
PH HB 3069- Requires Disclosures by Representatives of Charitable  
Organizations Soliciting Funds or Initiative Petition Signatures at  
Residences of Individuals, WS HB 3297 - Prescribes Method for  
Determining Lowest Responsible Bidder for Public Contracts If  
Out-of-state Bidder Is Bidding on Discounts Rather Than Price of  
Commodity, PH, WS HB 3461 - Requires That Labeling of Alcoholic Liquor  
Containers Reflect Alcoholic Content, PH, WS

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statements made during this session. Only text enclosed in quotation  
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proceedings, please refer to the tapes.

TAPE 117, SIDE A House Committee on State and Federal Affairs April 29,  
1991- Page 2

004 CHAIR MARKHAM: Calls meeting to order at 8:17 a.m.

HB 3297 PRESCRIBES METHOD FOR DETERMINING LOWEST RESPONSIBLE BIDDER FOR  
PUBLIC CONTRACTS IF OUT-OF-STATE BIDDER IS BIDDING ON DISCOUNTS RATHER  
THAN PRICE OF COMMODITY - PUBLIC HEARING Witnesses: Ted Calouri, State  
Representative, District 7

008 TED CALOURI, STATE REPRESENTATIVE, DISTRICT 7: Addresses the area  
of the law that says when bids are taken by the state for various kinds  
of goods and services, additional help will be given to businesses  
located in Oregon. Whatever percentage of preference is given by another  
state to their own businesses on their contracts, is given by Oregon to  
Oregon bidders.

025 REP. ROBERTS: I remember working very hard to get a five percent  
preference.

026 REP. CALOURI: Refers to ORS 279.029. We use whatever percentage  
that state uses against us. 039 REP. BELL: On line 9, when you read  
8%, that 8% is equal to "the percent". 042 REP. CALOURI: Yes, that is  
the same thing. -I am not here to suggest whether we should have this  
policy, I am here about the way it is used. There are some bids put out  
that ask people to bid on the percent of discount. -Gives examples of  
bidding on prescription drugs. 061 REP. ROBERTS: What would happen if  
we give a 5% preference and they give a 10%?

065 REP. CALOURI: If we are asking the bids to come in as a percent  
discount, and everyone is using the same base list, then the firm that  
bids the highest percent discount is the one offering the lowest price.

The selling price is the gross price minus the discount. The preference should be calculated on the selling price, not the discount. The law says give a preference to Oregon bidders, so if the low bidder is from out-of-state, the preference should be applied to the net bid, not the discount. They are applying the preference margin to the discount, rather than the real price. If you support the idea that Oregon bidders should be given a preference, it should be applied correctly.

124 REP. FORD: Is the one you are talking about Oregon Medical Assistance Program and their outof-state drug bid?

128 REP. CALOURI: It was. This could happen on all kinds of things, however.

Work session on HB 3297 opens on page 12.

HB 3009 - REQUIRES MINOR POLITICAL PARTY CANDIDATES AND INDEPENDENT CANDIDATES TO BE REGISTERED AS MEMBERS OF MINOR POLITICAL PARTY OR NOT TO BE AFFILIATED WITH A PARTY NOT LATER THAN 250 DAYS BEFORE PRIMARY ELECTION - PUBLIC HEARING Witnesses: None ' '

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151 REP. FORD: This is the bill which is similar to the bill the Governor vetoed. I had amendments drafted that answered her objections in the veto. I have received notice from the Governor's office that she would veto this bill regardless of the amendments. I would suggest we not proceed any further with this bill.

163 REP. ROBERTS: I happen to disagree with the Governor on this issue. It puts everyone into the same position.

HB 3461 - REQUIRES THAT LABELING OF ALCOHOLIC LIQUOR CONTAINERS REFLECT ALCOHOLIC CONTENT - PUBLIC HEARING Witnesses: Joel Ario, Oregon Student Public Interest Research Group Brian Boe, Distilled Spirits Council of the United States Danielle Cowan, Director of Public Affairs, Oregon Liquor Control Commission Steve Kafoury, Blitz-Weinhard Brewing Co. - John Powell, Miller Brewing Company Paul Romaine, Oregon Beer and Wine Distribution Association Brenda Short, Blitz-Weinhard Brewing Co. Jon Stubenvoll, Consumer Advocate, Oregon Student Public Interest Research Group Rick Willis, Assistant Administrator, Oregon Liquor Control Commission

189 BRENDA SHORT, BLITZ-WEINHARD BREWERY: Gives history of labeling requirements. Endorses alcohol content labeling on all malt beverages. -Discusses current inconsistencies in labeling requirements. -Urges passage of HB 3461.

228 REP. ROBERTS: Do you have any comment on the use of charge cards?

231 SHORT: I do not have a comment on that part of the bill.

233 REP. NOVICK: Are beers with over 49,0 alcohol primarily the malt liquor types?

235 SHORT: Not necessarily. There are several beers, including a lot of

micro-brews that are currently on the market, that exceed 4%.

236 REP. NOVICK: And they are required to say what?

237 SHORT: They are required to have on their labels a statement that says "this product exceeds 496 by weight". Many are in compliance, but some are not.

251 REP. NOVICK: One of the arguments whenever we as a state try to enact something that is not a national standard, is that it is not fair for Oregon to impose these kinds of standards.

257 SHORT: We have dealt with this issue also in the State of Washington. It does not create a price differential because of the special labeling. Alcohol content labeling should be on a national basis, there is no question about that. But in order to get the information back to Washington, D. C., we need to pass it here.

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270 JOHN STUBENVOLL, CONSUMER ADVOCATE, OREGON STUDENT PUBLIC INTEREST RESEARCH GROUP: Submits and summarizes written testimony (EXHIBIT A) supporting the measure because it addresses the public's right to know. 357 REP. FORD: How does OSPiRG feel about the section allowing purchase of alcoholic beverages by credit card?

362 STUBENVOLL: OSPiRG does not have a position on that part of the bill. We are here today in support of Section 2 of the legislation.

368 REP. FORD: IS there a reason why you did not look at that section of the bill? 369STUBENVOLL: It is an issue that never came up for discussion within our policy making committee. 371 REP. NOVICK: What other countries have these laws or how many of them?

376 STUBENVOLL: We know that many countries in the European Community and many countries in eastern Europe also have this requirement. Canada, Australia, and Brazil are among other countries having the requirement.

383 BRIAN BOE, DISTILLED SPIRITS COUNCIL OF THE UNITED STATES: Urges the committee to look at what has been done on the federal level on the issue of labeling, and to keep in mind that uniformity when dealing with distribution systems for fifty states is a key issue for the manufacturers of these substances. -Supports the introduction of credit cards into Oregon Liquor Control Commission outlets as a consumer convenience. -Checks up to \$200 with a check guarantee card are currently allowed. -A person who uses a check guarantee card most likely also has a credit card in their possession. It makes no sense to prohibit the use of one payment mechanism and allow the other.

425 REP. ROBERTS: My problem with the credit thing is the individual may be in the store with a credit card, that may not be his or hers.

TAPE 118, SIDE A

008 BOE: That can happen with a check guarantee card as well. There are some pretty good checks and balances in place to deal with that issue. The banks have gone a long way to stem that.

014 REP. NOVICK: Are we proposing to allow the outlets to charge a little bit more to make up for the fees charged by the financial institution processing the sales drafts?

020 BOE: I believe that revenue would be deducted from the state's markup. The Oregon Liquor Control Commission representative can speak much more clearly to that subject. I do not believe there would be another price for credit card sales. I believe the increased sales that would come from facilitating credit cards would make up for it. We see no problem in putting the same \$200 limit on charge card sales as on checks. .~

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036 VICE CHAIR SOWA: Many of the liquor agents are operating on a very narrow margin, do you have a survey asking them if they want to get into the charge card sales?

040 BOE: I also represent the Retail Liquor Agents Association. They are very much in favor of the this. They believe Oregon Liquor Control Commission should absorb whatever discount is charged. In border areas, they do lose a lot of out-of-state sales.

048 REP. ROBERTS: If this is going to be a direct hit on OLCC, then it is going to be a direct hit on the general budget. Is this going to Ways and Means?

052 CHAIR MARKHAM: I am relatively sure it will have to. The compensating factor is that sales are up considerably this year and are projected to go up for next year. Testimony will show that if credit cards are allowed, people buy the more expensive brands. 064 REP. FORD: What are the states of Washington and Idaho are doing? 067 BOE: I will let the Oregon Liquor Control Commission representatives address that. 071 REP. FORD: Someone made a comment about competition with other states, and I wanted to know if that is our immediate neighbors. 074 BOE: I do not know if it is so much a question of competition, as it is lost sales. 079 CHAIR MARKHAM: Expresses support for deleting Section 2 of the bill, the part that requires the alcohol content to appear on the label. The State of Washington enacted that two years ago and this year they repealed it for whatever reason. The OLCC is in the rule making procedure right now on that issue. There is a bill that speaks directly to the question in the senate. 088 REP. NOVICK: I would like to see it left in. 091 JOHN POWELL, MILLER BREWING COMPANY: The Senate Committee has seen fit not to move their bill to floor. -Federal law governs this area of content labeling. It has been challenged in court and is being litigated at this time. -Questions whether the required labeling would provide sufficient information to the consumers to make it worthwhile. -If the State of Oregon passes this measure, brewers will have to make special labels just for Oregon, and bottles so labeled cannot be sold in any other state. -This differs from the "bottle bill" where the labels can list the deposits for multiple states. 134 REP. NOVICK: In the early days of the bottle bill, when there were not nine or ten states, was that still the case, Oregon labels were used in other states? 138 POWELL: It is my understanding it would not be against the law to sell bottles labeled for Oregon in other states. -Prior to effective date of Washington regulation, it was

revoked. OLCC has held hearings and is in the rule making stage on this issue. -This issue has been fully addressed by the Bureau of Alcohol, Tobacco and Firearms. They

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determined the consumer would not be benefitted by the labeling of all beer. Congress has debated this issue at some length. -Miller Brewing would not oppose the enactment of this legislation federally, so it would affect all states.

176 VICE CHAIR SOWA: Tell me about the court case.

179 POWELL: Coors Brewing Company sued the federal government, saying they have a constitutional right to be able to put the alcohol content on the label of any product they produce. -The concern is the possibility of "strength wars". The lower court found they have a right to label as they wish. It is now on appeal.

208 PAUL ROMAIN, OREGON BEER AND WINE DISTRIBUTORS ASSOCIATION: We are in opposition to Section 2 of HB 3461. We support the rest of this bill. -From the distributors' point of view, the access to the product is extremely important. Packaging would have to be specially designed for Oregon. Beer is pulled from the shelf within four months of when it is brewed. For any brewing company to run special labels for Oregon, they must stop an operation, set up the cans or bottles for Oregon, and then run it separately. -In the early days of the "bottle bill" distributors placed stickers on the product sold in Oregon. It became cost prohibitive. Now they run a multi-state label which has produced another set of problems. -Expresses concern about a "strength" war. If the court case is upheld and it is done nationally, we have no problem with that. -Anhauser Busch tried to market a low alcohol beer, which was not successful. -The fact that we require alcohol content on everything over 4% has caused some brands to be pulled out of the state.

291 CHAIR MARKHAM: Are all beers age dated?

293 ROMAIN: Not all of them are. All domestics are age dated, but not foreign.

309 REP. NOVICK: The over 4% labeling is an Oregon Liquor Control Commission rule?

310 ROMAIN: Yes.

315 REP. NOVICK: Alcohol content labeling is already required on wines and other spirits, why is beer different?

321 ROMAIN: It is a puzzling question. If people want strength, why don't they buy the malt liquors rather than regular beers? Consumers seem to prefer the smoother beers. Recovering alcoholics seem to think consumers will buy for strength.

366 POWELL: The question is, why would some alcohol content labels be required and not others. If someone is producing a high alcohol content brew, they would be required to label that. All wines and distilled

spirits are in that category, unless it is a non-alcoholic wine. Any beer that would come close to wine, would be required to be labeled. This issue has more to do with marketing than consumers.

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410 REP. NOVICK: Do you have the CFR cites from Bureau of Alcohol, Tobacco and Firearms regulations that prohibits states from alcohol content labeling

412 POWELL: I do not have the specifics.

TAPE 117, SIDE B

013 REP. BELL: If indeed the taste changes as the strength changes, why would there be a "strength war". As long as the taste changes, won't people still choose their drinks by taste?

021 ROMAIN: When you are talking about over 4% malt liquors, they tend to have a more bitter taste. The differences in alcohol content of the under 4% products are minuscule. 039 REP. BELL: Then I do not see this problem about a "strength" war. 043 ROMAIN: The whole fight over alcohol content until recently was between Coors and Anheuser-Busch. It is more of a perception rather than an actual difference in strength.

052 REP. BELL: Do we need advertising guidelines for what may be marketed as a light beer, what is a regular beer and what is a strong beer? 054 ROMAIN: There are advertising guidelines already put out by

the federal government. We have been bad about our marketing practices in the past. In the last few years, we have come a long way in the industry in promoting temperance. From a distributor's standpoint, we do not want to do anything that will encourage the marketing of the product from other than a moderation standpoint. I do not think the evidence is clear what this would do on a national basis. 071 REP. BELL: How

would you feel if there was no prohibition but no requirement, so individual brewers could put it on the label if they wanted to disclose it to the public? 075 ROMAIN: Originally that was our position, but federal law now prohibits it. 085 STEVEN KAFOURY, BLITZ-WEINHARD

BREWERY: Cites conflicting statements from previous witnesses. -If there was a serious problem about labeling, it would be a serious problem for us also. -The trend is toward lower alcohol consumption. It is hard for consumers to do that in this country because we do not give them the information. It would be a good idea for us to allow consumers around the state to be better educated about the alcohol content. -Urges passage of the measure. 127 CHAIR MARKHAM: In Section 3, there would

be a minimum amount that could be charged on a credit card. After thinking about it, I believe that should be left to administrative rules rather than in the statute. 132 DANIELLE COWAN, DIRECTOR OF PUBLIC AFFAIRS, OREGON LIQUOR CONTROL COMMISSION: With regard to Section 2, we are currently in rule making and our commissioners have not taken a position on that section of the bill. We are here primarily . These

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to speak about the credit card issue.

137 RICK WILLIS, ASSISTANT ADMINISTRATOR, OREGON LIQUOR CONTROL COMMISSION: Submits and summarizes written testimony (EXHIBIT B) in support of allowing credit card sales at liquor stores. 146 VICE CHAIR SOWA: Do the larger retail stores that sell wines allow those to be purchased with credit cards? 152 WILLIS: Yes sir. Since those are not under contract like liquor agents, it is an individual choice. -Resumes written testimony. 166 VICE CHAIR SOWA: Could you give us a projection of how much that would increase if you accepted credit cards? 169 WILLIS: After talking with other states, we estimate there would be a 6% increase in consumer sales. That is 6% of the consumers would use credit cards. In our fiscal impact statement, we gave you three different scenarios, no increase, a 2.5% increase and a 5% increase, based on 6% of the customers using credit cards. 177 VICE CHAIR SOWA: My concern about using a credit card is, the people that do not have the money, will buy liquor. Have you done projections to find out if the total amount of liquor sales will increase because of credit cards? 187 WILLIS: We have not done it. Other control states that have, did not experience a volume increase. 194 REP. FORD: I am wondering why the liquor agents are supporting this, if the volume is not going to rise. 199 WILLIS: I believe they support it because they believe it is good service to their customers. 201 REP. FORD: The ones I talked with are concerned about Oregon Liquor Control Commission rules, they are concerned about the reimbursement they are getting, and you are trying to convince me they are not concerned their sales and their income? 209 WILLIS: I believe many of them care a lot about the customer service aspect of the business. And they do expect customers to buy up, that is the purchase of higher priced brands. Since they get paid on the dollar amount, there might be some compensation for that. 213 REP. FORD: Would there be more or less compensation to the state? 217 WILLIS: There would be more sales, but it would not be enough in our projections to offset the cost of the program. 220 REP. FORD: What is the policy on credit sales in Washington and Idaho?

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222 WILLIS: Washington does not allow credit sales, Idaho does. 223 FORD: So is the idea that in some parts of Oregon, there would be a lot more sales to Washington residents? 225 WILLIS: I believe that is very true along the border of Washington. 228 REP. NOVICK: Why wouldn't charging more equal the handling fee? 236 WILLIS: We could have a two-tiered pricing system, one cash, one credit card. We have discarded that idea because it would cost more to do than we would realize from the increase. 241 REP. NOVICK: Could you explain that? 242 WILLIS: Explains how a two-tiered pricing system would impact the operation. 254 REP. NOVICK: What would be the problem with just programming it into the central computer system? 264 WILLIS: Only 59 of our 235 stores have that computerized system. In their contracts, credit card companies do not allow you to just sell for an extra charge when the buyer puts it on his credit card. You can have a two-tier pricing system. You cannot just have a button that adds on 2.5%, you must have two separate prices. 282 REP. NOVICK: Some states have a minimum purchase amount for a credit card purchase in order to not have a lot of small dollar amount charges. Would you have a problem putting a floor and a ceiling in the bill? 288 WILLIS: Some states did have it, but some dropped it

because of customer complaints. 295 VICE CHAIR SOWA: Is there any state law that prohibits you from authorizing credit sales at this time? 298 WILLIS: No, it is an administrative rule. 299 VICE CHAIR SOWA: Couldn't you just change the administrative rule? 300 WILLIS: We could, but this issue has been so controversial, we elected to take direction from a larger body, the legislature. 305 REP. FORD: Where does the opposition come from? 308 WILLIS: From some moderation groups who have reservations about allowing credit card sales. 310 REP. FORD: It does not come from the business community? 311 WILLIS: No.

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319 REP. NOVICK: With regard to Section 2, when is the rule making proceeding?

323 COWAN: We have heard testimony from all the parties and the hearings examiner is putting together a report that she will bring to the commissioners at a future date. I am not sure exactly when that will take place.

331 REP. NOVICK: Since you have already held the hearings, I am not sure what the time constraints are. We will probably drop this because you are in a rule making process. 339 COWAN: Our rule making generally takes from three to six months, and we just closed the hearings less than a month ago, so it would not have happened sooner. 351 BOE: The only controversy surrounding this issue, that I am aware of, is that our previous governor felt that credit cards were inappropriate. Our feeling is that this is just a matter of perception. The agencies are currently taking checks up to \$200 with a check guarantee card. There is virtually no difference between the two instruments with the exception of the discount rate and how OLCC would need to handle that. 364 VICE CHAIR SOWA: Do you mean to tell me that a check with a check guarantee card that guarantees you have the money in the bank is the same thing as using a credit card which does not require you to have any money in the bank and gives you months to pay it off! 371 BOE: There is a difference, but a check guarantee card is overdraft protection. I could go to a liquor agency today and present my check guarantee card and write a check for \$100 I didn't have in the bank, and the bank would send me an overdraft notice and take care of how I pay that back.

HB 3461 - REQUIRES THAT LABELING OF ALCOHOLIC LIQUOR CONTAINERS REFLECTS ALCOHOL CONTENT - WORK SESSION

389 MOTION: REP. ROBERTS moved to amend HB 3461 by deleting Section 2 and inserting in Section 3, which would become Section 2, the administrative rule making power of the Oregon Liquor Control Commission to deal with the issue of the allowable amounts on a credit card purchase, subject to review by legislative counsel. 396 CHAIR MARKHAM: Is there any discussion?

402 VICE CHAIR SOWA: I am unclear what the motion is, and I would prefer to see this in writing before we go ahead on it. On line ~ I have a concern we pretty well take the Commission's flexibility out of it by saying they "shall allow" rather than "may allow".



416 MOTION: REP. ROBERTS moved to amend HB 3461 by to deleting Section 2, by which motion his previous motion was effectively withdrawn. 439 VOTE: In a roll call vote, the motion carried, with Rep. Ford, Rep. Oakley, Rep. Roberts and Chair Markham voting AYE. Rep. Bell, Rep. Novick and Rep. .~ . -

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Sowa voting NAY.

TAPE 118, SIDE B

015 JONES: Suggests an amendment to delete the word "allow" and insert the words "make provision fore.

022 REP. BELL: Does that include deleting the last sentence?

024 REP. FORD: Can they have a limit if it is not in the statute?

029 JONES: Suggests deleting the last sentence. Section 2 would say "The Commission shall make provisions for the use of credit cards for the purchase of alcoholic liquors in any store established by the Commission under ORS 471.750."

033 VICE CHAIR SOWA: I assume by that motion we are not allowing the commission any leeway as to whether they allow them or not. This says every liquor store has to have credit cards in the store. 038 CHAIR MARKHAM: The Oregon Liquor Control Commission administrator felt strongly that if you are going to do it, it has to be all stores or none. Otherwise you cause real confusion with the public.

048 MOTION: REP. ROBERTS moved to amend HB 3461 by inserting a new section 2 with the addition of the words "the Commission shall make provisions for the use of credit cards for the purchase of alcoholic liquors in any store established by the Commission under ORS 471.750.", and deleting the last sentence of the bill, subject to review by legislative counsel. 057 VICE CHAIR SOWA: I will be opposing this amendment, and I would be prepared to make a motion that would disallow the use of check guarantee cards in liquor stores, or any form of credit.

068 REP. ROBERTS: If you are successful, we would be turning the clock back because checks have been used for some time.

071 REP. NOVICK: Now there are new cards out which are debit cards which immediately remove the money from your checking account. This bill would allow their use, which cannot be done right now.

076 VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep. Novick, Rep. Oakley, Rep. Roberts, and Chair Markham voting AYE. Rep. Sowa voting NAY. 092 MOTION: REP. ROBERTS moved HB 3461 as amended to the Committee on Ways and Means with a "do pass" recommendation. VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep. Novick,

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Rep. Oakley, Rep. Roberts and Chair Markham voting AYE. Rep. Sowa voting NAY.

HB 3297 - PRESCRIBES METHOD FOR DETERMINING LOWEST RESPONSIBLE BIDDER FOR PUBLIC CONTRACTS IF OUT-OF-STATE BIDDER IS BIDDING ON DISCOUNTS RATHER THAN PRICE OF COMMODITY - WORK SESSION

102 MOTION: REP. FORD moved HB 3297 to the 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.

110 CHAIR MARKHAM: Recesses meeting at 9:47 a.m.

-Resumes meeting at 10:12 a.m.

HB 3069 - REQUIRES DISCLOSURES BY REPRESENTATIVES OF CHARITABLE ORGANIZATIONS SOLICITING FUNDS OR INITIATIVE PETITION SIGNATURES - WORK SESSION

113 TOM DONACA, ASSOCIATED OREGON INDUSTRIES: Submits and summarizes written testimony (EXHIBIT C) on HB 3069 in explanation of proposed dash one LC amendments dated 4/16/91 (EXHIBIT D) and additional proposed amendments. 162 REP. NOVICK: My opinion has not changed much with the amendments. Even though I do not like people who are doing charitable solicitations in a manner that may be misleading, how do you control that without limiting someone's political speech. 172 DONACA: You had raised the issue of whether a corporation using hired people or it's own employees, would not be covered under the bill. There is merit to that argument. The question arises, where in the statutes would you put it. 190 REP. NOVICK: Someone who is soliciting signatures on the street only has to check a box, someone who is knocking at a door has an additional burden. How do we reconcile that with the Supreme Court cases that say knocking at the door is no different than confronting someone on the street? 198 DONACA: In my original testimony, we agreed to remove the thirty second requirement. We have had some discussion with the Attorney General's office, and they agreed the 30 seconds is much too fast. We have attempted to meet that objection by saying the statement must be made sometime prior to actually making a request. 210 REP. NOVICK: Is it fair to say an individual who is being paid to collect signatures and does it door to door, versus out on the streets, will have additional requirements put on them?

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213 DONACA: My experience is that when I am out on the street I get about a five second spiel, when I am on my doorstep I get twenty

minutes.

220 CHAIR MARKHAM: What do your amendments do when you go to the door?

222 DONACA: The amendments do not change the bill except they delete the thirty second provision, and now say you must make the disclosure prior to making the request.

228 VICE CHAIR SOWA: That is before making a request for either money or signatures on a petition?

231 DONACA: Section 2 covers money and other things of value, Section 4 covers petition signatures.

234 REP. FORD: If they are wearing a name tag indicating the organization, do they have to say it too, or is that adequate?

241 DONACA: If the button were of a reasonable size, worn in an prominent place, and said they were being paid, it probably would be a reasonable alternative.

247 REP. FORD: It says indicate clearly, it does not say they have to say it.

251 DONACA: Yes, it does not say you have to state it, it says indicate clearly.

269 REP. NOVICK: Mr. Reitlinger, based on your knowledge of constitutional law and election law, do you think it is likely that putting additional burdens on someone collecting signatures door to door versus those who are collecting on the streets might be challenged in court?

276 TED REITLINGER, LEGISLATIVE COUNSEL: Making predictions about the likelihood of a challenge is tricky.

282 REP. NOVICK: If it were challenged how do you think the courts would view it?

287 REITLINGER: Whenever in the law you have it treating the same group of people in a different way, you have the possibility of a challenge based on the equal protection argument. In this case, you are simply requiring an additional disclosure that other folks are not required to make. If I were defending this statute, I would make the argument it defends the integrity of the process. I personally believe that if that were to become law, that provision applied to the initiative could be subject to a challenge.

318 MOTION: REP. ROBERTS moved to adopt the dash one LC amendments dated 4/16/91 to HB 3069 (EXHIBIT D). 322 VICE CHAIR SOWA: If a person had a badge on with their picture and the name of the organization, and underneath it says "volunteer", would that be sufficient to indicate they are unpaid? 330 DONACA: I agree with Rep. Ford's reading of the bill. \_

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351 VICE CHAIR SOWA: I am just referring to the word "volunteer". Does that mean they are an unpaid person? 358 DONACA: The bill still says "unpaid volunteer". If that is critical, we support the deletion of the word "unpaid". 368 MOTION: REP. ROBERTS amends motion to adopt the dash one LC amendments to HB 3069 dated 4/16/91 (EXHIBIT D) by on line 8 the changing the word "'an" to "a" and deleting the word "unpaid", and the same changes on line 21. 388 REP. NOVICK: A lot of the organizations that do this, have the individuals carry identification cards on their clip boards that identify them as a staff member of the organization. Would that fulfill the requirements of this bill? 397 DONACA: To allow staff members of certain organizations to be "volunteers" would not fall within the purview of the bill as drafted. You would be a paid solicitor. 422 REP. NOVICK: I was asking if the current identification cards that say they are a staff member placed on the clip board would be acceptable.

TAPE 119, SIDE A

015 DONACA: I do not know whether that would be acceptable or not.

017 REP. BELL: I would suggest in the case of political organizations, the word "staff" does not tell whether the person is paid or unpaid.

025 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 voting NAY.

045 DONACA: Reviews proposed amendments to Section 2 of HB 3069 prepared by Associated Oregon Industries, page 2 of written testimony (EXHIBIT C). 065 REP. FORD: On line 11; there is also delete the words "an" and "unpaid". And on line 8 also. 080 MOTION: REP. ROBERTS moved to adopt the amendments presented by Associated Oregon Industries to HB 3069 (EXHIBIT C), and change the words "charitable organization" to "public benefit corporation" wherever they appear, subject to review by legislative counsel. 108 VICE CHAIR SOWA: Mr. Reitlinger, is it your impression that this bill, affecting only one group of people which is a public benefit corporation, and only on the door step rather than anywhere else, is constitutional? 118 REITLINGER: I cannot give you a definitive yes or no answer. I can tell you, it is requiring additional disclosures at the door step. In the case of an initiative you have certain people who can go out on the street corners and not have to make these disclosures, whereas people who go to

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the door step, somehow have to make this disclosure. It is obvious to me you are treating the same group of people in a different way. Unless you can demonstrate you have some rational state interest in imposing an additional burden, the court may strike it down.

136 REP. NOVICK: There are for-profit companies in the State of Oregon which can be hired to circulate petitions. If someone is working for this company, and they go to a door, they do not have to say they are being paid or by whom.

143 DONACA: Reads ORS 128.836 pertaining to professional fund raising firms.

162 REP. NOVICK: If they are being paid only to collect signatures, this bill would not require disclosure, the way it is currently worded.

168 DONACA: That is probably correct.

169 REP. FORD: Public benefit corporation, could that be a church?

175 DONACA: Yes, the bill is all encompassing, public benefit corporation, mutual benefit corporation and religious. Last year when corporations had to make their annual reports to the Corporation Commissioner, they were required to make a determination as to which of these categories they fell into.

190 REP. FORD: What about the groups that go around to raise money to go to summer camp?

195 DONACA: Yes, they would be included.

198 REP. BELL: Would it stand that these two groups of solicitors are different because one is in the public domain, while the other has actually entered private domain?

209 REITLINGER: That is an argument that could be made in defense of the distinction. Freedom of speech is another issue that could come up.

221 REP. NOVICK: Is a mutual benefit corporation like Associated Oregon Industries covered under this?

225 DONACA: This covers only public benefit corporations.

228 REP. NOVICK: So if AOI which is a mutual benefit corporation, decided to do an initiative and sent people door to door, you would not have to disclose that.

230 DONACA: Under this bill, no.

234 REP. NOVICK: The Supreme Court decisions going back to the thirties say there is not a difference in limiting someone's free speech whether they are on the street or at your door.

243 DONACA: There is a difference between those cases and cases involving the payment of money.

263 JOEL ARIO, OREGON STUDENT PUBLIC INTEREST RESEARCH GROUP: The courts

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have said that fund raising is tied to political speech. There is no distinction to be drawn between political speech that includes fund raising and political speech that does not.

273 REP. BELL: Solicitations by Red Cross or Muscular Dystrophy that

are not political speech, they are in a different category?

276 ARIIO: In general political speech has been the most protected form of speech. In general commercial speech is being given higher levels of protection also. There are people who can afford to deal in political speech and get their money elsewhere, and then there are the little people who can only engage in political speech if they have fund raising as part of that political speech. I think this bill has serious legal problems and practical problems.

315 REP. FORD: I would feel a lot better about this if we included every kind of corporation, because I would like to have that information when they come to my door.

325 VICE CHAIR SOWA: I agree with that, whether they come to the door or accost you on the street corner.

329 ARIIO: When you think about the broader implications, it becomes difficult to manage that.

331 REP. FORD: You just said you would not object, if it included everybody.

339 ARIIO: If we included everybody and all forms of political speech. As a practical matter, it would be difficult to write a bill that would apply across the board.

358 DONACA: In order to respond to that, we would propose an amendment to change, wherever in Section 4 we have said a public benefit corporation, to add mutual benefit corporation. Leave religious out since that raises another problem.

384 REP. BELL: That does not seem inclusive enough to me. Could a professional corporation fall into this category?

389 DONACA: They fall in the middle somewhere. A professional corporation, if it is anything, it is a mutual benefit organization.

416 REP. ROBERTS: Withdraws his previous motion.

417 CHAIR MARKHAM: Asks Mr. Donaca to work on amendments. Closes the hearing.

TAPE 120, SIDE A

HB 2490 REQUIRES CANDIDATES AND POLITICAL COMMITTEES TO FILE ADDITIONAL STATEMENT OF CONTRIBUTIONS AND EXPENDITURES - WORK SESSION

018 JONES: Submits and reviews amended matrix (EXHIBIT E). Submits proposed dash seven LC amendments dated 4/17/91 to HB 2490 (EXHIBIT li).

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047 TED REITLINGER, LEGISLATIVE COUNSEL: Reviews proposed dash seven LC amendments dated 4/17/91 (EXHIBIT F)

066 CHAIR MARKHAM: So there are two things a candidate or his committee can do. One is to give to a national candidate, and the other is to give to a measure committee.

069 VICE CHAIR SOWA: He can also give to a national political action committee.

071 REITLINGER: Correct.

072 REP. FORD: The candidate could then give to Right to Life or to NARAL, and then either of them could turn around and give it to other candidates. So it is another pass-through.

077 REP. ROBERTS: All you are doing is setting up another maze, that someone who is slick enough can get around. To me giving to a measure would create more conflict than giving to another candidate.

083 REP. BELL: Would it make more sense to really limit what campaign funds can go for, maybe nothing but that candidate's own campaign, but not limit what an individual could do out of their own pocket?

088 REP. ROBERTS: You can now.

091 JONES: Page 2, item 2 does say "nothing shall prohibit" and lists a few items there.

093 REP. BELL: With that guarantee, I do not see why we cannot be tougher here about what their campaign funds can be used for.

095 REITLINGER: A lot of the exemptions in the bill are because the federal law is very complicated. There is nothing we can do at the state level to prohibit contributions from Oregon candidates or individuals to federal candidates, that has been preempted by the federal statute. It may be difficult to prohibit contributions from exclusively federal PACs or candidates back to state candidates although this bill attempts to do that by prohibiting state candidates from accepting those contributions. That raises a whole separate constitutional issue related to preemption.

114 VICE CHAIR SOWA: You have attempted to cut off money going from candidate to federal PAC and back to a different candidate by prohibiting a candidate from taking federal money?

118 REITLINGER: That is correct. -The way this is written now, it would have to be an exclusively federal PAC. If you have a PAC that is organized in Oregon and is spending money on state candidates and is involved in the federal system as well, it is going to be hard to get at.

132 VICE CHAIR SOWA: Have you gotten at the Oregon Democratic candidate who wants to give his friend the money to contribute to the national Democratic Party, and then they turn around and write a check to the other Democratic candidate?

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137 REITLINGER: So the contribution would be from the National

Political Committee of the Democratic Party to a candidate running for state office in Oregon? I think this bill would attempt to prohibit that contribution. -The way it is written now, if that federal committee is exclusively federal, the state candidate could not accept the contribution. 150 VICE CHAIR SOWA: Give me an example of a PAC that could be federal and state. 154 REITLINGER: A PAC organized by a corporation could give money to both state and federal candidates. That PAC would not be an exclusively federal PAC. 159 REP. BELL: Would a little agricultural PAC be prohibited from giving to their larger umbrella PAC that had the same ideals and goals? 166 REITLINGER: Yes, it would. 167 REP. NOVICK: Does this still include the tax credit language? 170 REITLINGER: I think it does. 172 JONES: Yes, on page 6, Section 5 of the bill goes into the tax credits. 174 REP. OAKLEY: It takes away tax credits? 177 JONES: Yes, for contributions to political action committees. 181 REITLINGER: This bill would take the tax credit away for contributions to political committees, but it would leave it for contributions to political parties or to candidates. 184 REP. OAKLEY: But it takes them away from PACs? 185 REITLINGER: Right. In other words, an individual could not claim a credit for a contribution to a PAC, including a PAC that is organized just to support a measure. 192 VICE CHAIR SOWA: You said the one loophole now is the corporation that is a PAC, and a candidate can contribute to a corporation that is a PAC. 197 REITLINGER: The first section is intended to prevent candidates from giving to any PAC, unless it is an exclusively federal PAC that is opposing or supporting federal candidates. 206 RANDY MILLER, STATE REPRESENTATIVE, DISTRICT 24: I share the frustration that this product may not be perfect for all of you. But I think it represents an improvement over the current state of affairs. There are those who are interested in pursuing this kind of legislation through the initiative process. If we do not do it, the public will, and in a way that we do not believe is as appropriate as we might do. 235 REP. FORD: Could you tell us what some of the provisions are in the initiative that you do not support? Might their initiative not be constitutional? - Iboce \_ . coreain matedab v~hicb paraphrare and/or rummarize ~tatementr made turu~ dlir ~ion Only text enclosed in quotation marh report a speaker's exact wordr Por complete contedr of the proceedingr, pleare refer to die taper House Committee on State and Federal Affairs April 29, 1991 - Page 19

240 REP. MILLER: Part of the ambition of those preparing the initiative is to change the constitution to attempt to make their restriction on current free speech impossible. 245 REP. FORD: Can they do that within the provisions of the United States Constitution? 247 REP. MILLER: I would let Mr. Reitlinger comment on that. To the extent they are just Oregon activities, they may be successful. 251 REP. FORD: Do they contain as these do, references to the national political parties and candidates? 252 REP. MILLER: I am not aware of that particular provision. When you limit the contributions flowing in to particular numbers, I foresee the growth of independent expenditures and campaigns that will make current ones seem rather mild. 263 REP. FORD: Are you saying we will all have to be as rich as Lonsdale in order to run? 267 REP. MILLER: No, but I think those who are sponsoring that initiative are fooling themselves to believe that limiting direct contributions to candidates will somehow limit the amount of money spent on campaigns. It is my impression that money does not always represent a plus. Sometimes a candidate finds having the most money early is a liability. 288 REP. OAKLEY: This measure looks as if it may be a step in the right direction too as far as controlling costs of campaigns. We will not have the kinds of dollars we have been using in our campaigns. 297 REP. MILLER: I think it will have that effect on contributions.



321 REP. NOVICK: Several of the bills I have been reluctant to support because I have been watching the Rules Committee looking at some of the more comprehensive things. I am always concerned if you do things piecemeal, you get more balloon effect. -Submits and explains proposed dash eight LC amendments dated 4/26/91. 349 REP. MILLER: The thrust of the legislation I have supported is just bring the source of funds out into the open. From district to district, people are focused upon the candidates in front of them, and where they are getting their funds. I do not know how interested they are in how much particular unions or corporations are giving statewide. 379 REP. NOVICK: Submits proposed dash nine LC amendments dated 4/26/91 (EXHIBIT H). -In an attempt to level the playing field, I have an amendment that says 250 days out, anything over \$2,500 in a campaign account would be turned back pro-rata to the contributors or to a charitable organization. So an individual thinking of running, would not be inhibited by the incumbent's large war chest. 398 REP. MILLER: I would say the electorate seems to be more interested than they used to be in war chests. That is as far as I would advocate this committee needs to go. I just want to concentrate more on disclosure. .

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409 REP. NOVICK: Would you agree it might be somewhat discouraging to a potential challenger, in deciding whether or not to run, in seeing the incumbent has \$100,000 in the bank?

TAPE 119, SIDE B

028 REP. MILLER: You probably have to ask the question, why do incumbents have that kind of surplus. Maybe they are able to attract it because their supporters think they are doing a good job. As you well know I support a bill on term limits to take care of some of the incumbency problems.

033 CHAIR MARKHAM: Do you want to hear some more of the bill?

040 REP. BELL: We need time to digest the amendments before we continue on.

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

- EXHIBIT LOG:

A - Testimony on HB 3461 - Jon Stubenvoll - 3 pages B - Testimony on HB 3461 - Rick Willis - 2 pages C - Testimony on HB 3069 - Tom Donaca - 4 pages D - Amendments to HB 3069 - Tom Donaca - 1 page E - Testimony on HB 2490 - Randall Jones - 1 page F - Amendments to HB 2490 - Randall Jones - 5 pages G - Amendments to HB 2490 - Rep. Tom Novick - 2 pages H - Amendments to HB 2490 - Rep. Tom Novick - 2 pages

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