

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

May 10, 1991                      Hearing Room E 8:00 a.m.-                      Tapes 133 - 134  
MEMBERS PRESENT: Rep. Bill Markham, Chair Rep. Larry Sowa, Vice-Chair  
Rep. Marie Bell                      Rep. Mary Alice Ford Rep. Tom Novick Rep.  
Carolyn Oakley Rep. Lonnie Roberts MEMBER EXCUSED:                      None VISITING  
MEMBER: None STAFF PRESENT:                      Randall Jones, Committee Administrator  
Carolyn Cobb, Committee Assistant MEASURES CONSIDERED: HB 2484 -  
Prohibits Conflicts of Interest for Employees of State Board of Higher  
Education, WS HB 3010 - Specifies that Signatures of Electors Necessary  
for Nomination of Candidate by Assembly or Electors or Individual  
Electors Shall be Counted Only if Elector Has Not Voted for Any Partisan  
Office at Immediately Preceding Primary Election, WS HB 3069 - Requires  
Disclosures by Representatives of Charitable Organizations Soliciting  
Funds or Initiative Petition Signatures at Residences of Individuals, WS  
HB 2943 - Requires Department of Justice to Adopt Rules Relating to  
Specified Aspects of Bingo and Game Operations, WS

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

TAPE 133, SIDE A

003            CHAIR MARKHAM: Calls the meeting to order at 8:08 a.m. House  
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HB 2484 - PROHIBITS CONFLICTS OF INTEREST FOR EMPLOYEES OF STATE BOARD  
OF EDUCATION - WORK SESSION

008    RANDALL JONES, COMMITTEE ADMINISTRATOR: Submits proposed dash three  
LC amendments dated 5/9/91 to HB 2484 (EXHIBIT A).

021            SCOTT BARTLETT, LEGISLATIVE ASSISTANT TO REP. WILLIAM DWYER: The  
bill is focused on ORS 351 which puts a rather large loophole in the  
ethics statute, giving a great deal of latitude to the System of Higher  
Education. -Reviews proposed dash three LC amendments. -Expresses doubt  
about fairness of the level of administration covered by the amendments.  
-Suggests amendments to dash three amendments. 071            LARRY LARGE, VICE  
CHANCELLOR, OREGON SYSTEM OF HIGHER EDUCATION: Suggests wording for  
amendments to the proposed dash three amendments. 097            BARTLETT: The  
bill does deal with disclosure, it codifies the internal management  
rules and directives, and it stipulates those rules need to be  
consistent with ORS 244 .020. -Expresses confidence the bill does  
tighten conflict of interest prohibitions. 109            LARGE: Feels the bill  
represents progress in the effort to define, in statute and  
administrative rules, the appropriate relationship of Higher Education  
employees to the ethics laws. It continues to allow our employees to  
serve the economic development and public service needs of the state.  
127            REP. ROBERTS: Say someone wants to look at records, don't they  
have to give them at least a little advance notice? 133            BARTLETT: I  
am not an expert as to the procedures, I am sure they are uniform and  
have a certain protocol. 136            LARGE: There is a reasonable period for  
us to be able to respond to such requests. 139            MOTION: REP. ROBERTS  
moved to amend the dash three LC amendments dated 5/9/91 to HB 2484 by  
on page 3, line 6, after the word "President" changing the word "or" to

"and" and deleting the words "and persons holding the positions of school dean or positions superior thereto,". 145CHAIR MARKHAM: Hearing no objection, it is so ordered. 147 MOTION: REP. ROBERTS moved to adopt the dash three LC amendments dated 5/9/91 as amended to HB 2484 (EXHIBIT A). 150CHAIR MARKHAM: Hearing no objection, it is so ordered. 158 MOTION: REP. ROBERTS moved HB 2484 to the floor with a "do pass" recommendation.

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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.

168 CHAIR MARKHAM: Informs the committee that as of next Friday the committee is through hearing house bills.

HB 3010 - SPECIFIES SIGNATURES OF ELECTOR SHALL BE COUNTED ONLY IF ELECTOR HAS NOT VOTED FOR ANY PARTISAN OFFICE AT IMMEDIATELY PRECEDING PRIMARY ELECTION - WORK SESSION

183 REP. FORD: Reviews the provisions of the bill. Submits and summarizes proposed dash two LC amendments dated 4/25/91 (EXHIBIT B).

235 VICE CHAIR SOWA: Then if someone votes in a primary election, they may not attend and vote at a nominating convention or forum to put the name of an independent candidate forward.

243 REP. FORD: They may attend, but they cannot vote. Otherwise they would be able to make a judgement twice in one election, something no one else in Oregon may do.

252 VICE CHAIR SOWA: Then this covers any form by which the name of an independent candidate is placed on the ballot.

255 REP. FORD: Right. This says if you want a nominating convention, the people who are there should be with you and not have tried to work in another arena as well.

261 VICE CHAIR SOWA: There have to be so many people all congregated in one forum at one time, that are willing to raise their hands to nominate a candidate. If enough of these people are challenged and found not to be eligible, will that take this independent candidate off the ballot?

279 REP. FORD: Yes, but it would have to be challenged.

283 REP. NOVICK: If someone in Washington County votes in the primary because they are concerned about the state representative race, and they are also concerned about a congressional race and want to see the congressional candidate challenged, under this they would not be allowed to be involved in nominating an independent candidate.

293 REP. FORD: The primary is a selection process. An assembly for a third party is a selection process. I firmly believe, as does the U. S. Supreme Court, in one person one vote in an election. If you do not like the candidate that came out of your party, that is a problem, but that

is the way it is. 308 REP. NOVICK: What if there is not a candidate. If they missed the filing deadline and still want to be on the ballot. The people who support that individual would only have the nominating convention to get them on the ballot. 314 REP. FORD: Usually they go as a write-in.

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320 VICE CHAIR SOWA: If they filled out the ticket for everything except the congressional race, is there a process now that someone can go check to verify they did not vote in that election? 330 REP. FORD: No, because of the secret ballot. 334 REP. ROBERTS: This is old language where they have to do it in one day and not longer than twelve hours? 339 REP. FORD: They are usually planned fairly well ahead. I just want to make sure they do not vote twice on one election. The way it is now, they can vote in a partisan primary and then cast their vote in an assembly for another party. 352 MOTION: REP. FORD moved to adopt the dash two LC amendments dated 4/25/91 to HB 3010 (EXHIBIT B). 364 CHAIR MARKHAM: Hearing no objection, it is so ordered. 368 MOTION: REP. FORD moved HB 3010 as amended to the floor with a "do pass" recommendation. 373 VICE CHAIR SOWA: I will be opposing the amended version today because this could result in desiring not to vote in the primary for a particular race in order to go to a nominating assembly. 390 REP. BELL: They are going to know in far advance who is going to be on the ballot. They will just need to make a decision as to whether they are going to vote in the Democratic Party, the Republican Party, or as an independent. If they do not want to vote the party choices, they can make that decision well in advance of the primary election. 405 VICE CHAIR SOWA: If you really feel that way, we should go back and rescind the law that allows independent candidates to vote in the May primary, because somewhere down the line they may want to go to one of these nominating forums.

TAPE 134, SIDE A

007 REP. FORD: The primary is the selection process for one party or another. It is not an election process. You should only have one chance. 014 REP. BELL: They can twenty days before the election become an independent and vote on all the ballot measures, it would just exclude the candidate part of it. 032 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.

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

051 JONES: Submits proposed dash two LC amendments dated 5/3/91 (EXHIBIT C). 056 TOM DONACA, ASSOCIATED OREGON INDUSTRIES: Reviews the proposed dash two LC amendments. -Reviews the three types of non-profit organizations now recognized by Oregon statute.

113 REP. FORD: Why do we not have mutual benefit corporations in Section 2 also?

116 DONACA: Because they are already substantially covered in current law. They are required now to be registered with the Attorney General.

125 REP. FORD: Are public benefit corporations registered?

129 DONACA: No.

137 REP. FORD: What if the Chamber of Commerce wants to go door to door selling tickets to an event, would they come under the law?

143 DONACA: If they are volunteers, it is not going to make any difference.

148 REP. FORD: You want to know if they are volunteers or being paid. Our Chamber has quite a few staff persons who might be paid to sell tickets.

153 DONACA: Your Chamber of Commerce is not part of a statewide organization. Technically, if you are a local affiliate of a statewide or national organization, and all local fund raising expenses are paid by the parent organization, you would be exempt.

158 REP. FORD: Do you have any objection to making it consistent by including them?

160 DONACA: No, I have no objection to it. We are trying to make as level a playing field as it is possible to make it.

164 REP. NOVICK: In Section 4 as it is currently written, if a church wants to be involved in an initiative petition and decides to pay members to go out and collect signatures, they do not have to disclose they are being paid.

171 DONACA: As far as I understand it, no.

172 REP. BELL: Wouldn't they lose their tax exempt status if they did that?

173 REP. NOVICK: No. You are allowed under IRS 501 (c) (3) to spend up to about 25 to 30% of your (inaudible). 185 DONACA: The issue of religion raises another constitutional issue all by itself. We elected not

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to raise that issue.

192 REP. NOVICK: If somebody is collecting signatures for a for-profit

corporation, they will not under this bill be required to say they are being paid.

197 DONACA: As a practical matter, two things are going to occur. If the person is working as an employee, other than management, you get into overtime and double time provisions of existing labor law. I know of no instance when a corporation has used other than an outside organization to do this sort of thing. 212 REP. NOVICK: The company that put ballot measure 7, the work fair initiative, on the ballot, hired a for-profit firm to collect signatures. If they knocked on your door, they would not have to tell you they were being paid under this bill.

223 DONACA: No they would not, the only place disclosure would have to be made under current law is the Secretary of State's office.

227 REP. NOVICK: Have you had the opportunity to talk with the Attorney General's Financial Fraud Division where people make consumer complaints about solicitations at the door?

232 DONACA: Yes, I have. 235 REP. NOVICK: I have as well, and I understand there are a fairly limited number of complaints received over the course of a year.

239 DONACA: If the citizens do not know, how can they complain?

241 REP. NOVICK: Under current law, are those who solicit by phone required to say if they are being paid?

244 DONACA: They are required to disclose who they are within thirty seconds.

249 REP. NOVICK: So on the phone they do not have to tell me if they are being paid.

251 DONACA: This bill is not that broad, it is solicitation at the residence.

259 REP. FORD: We ran into the FCC, we cannot make our own restrictions on the telephone.

262 REP. NOVICK: If I am house sitting for someone, and they come to the door, are they required to make that disclosure?

265 DONACA: Yes, as I read the bill.

273 VICE CHAIR SOWA: If the visit to the door was preceded by a phone call, and the resident expressed interest in helping out, would that exempt the person when they came to the door?

289 DONACA: I would assume that it does. If they have indicated interest, you work on the assumption there would be no complaint.

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304 MOTION: REP. FORD moved to amend the dash two LC amendments dated

5/3/91 to HB 3069 (EXHIBIT C) by on page 1, lines 5, 11, and 12, inserting in Section 2 before the words "public benefit corporation. the words "mutual or". 326 CHAIR MARKHAM: Hearing no objection, it is so ordered. 331 MOTION: REP. ROBERTS moved to adopt the dash two LC amendments dated 5/3/91 to HB 3069 as amended. 334 CHAIR MARKHAM: Hearing no objection, it is so ordered. 335 MOTION: REP. ROBERTS moved HB 3069 as amended to the floor with a "do pass" recommendation. 342 REP. NOVICK: This bill sets itself up to be challenged in court. It is fairly clear that parts of this law will be thrown out. We are going to spend money defending something that is clearly unconstitutional. 370 REP. BELL: I have a hard time with the concept that wanting to know the solicitor's name limits their speech. 379 REP. NOVICK: We decided we could not do that when someone is on the street, but someone doing the exact same activity at your door has an additional burden. 389 CHAIR MARKHAM: Is there any distinction if you are on the street or on your own property?

395 DONACA: On the street, I can walk away. At my residence, the person is trespassing, they have not been invited.

TAPE 133, SIDE B

006 REP. NOVICK: The U. S. Supreme Court has spoken loudly and clearly on this issue many times. There are many groups that are going to sue on this.

011 REP. FORD: It may very well go to a court case. If it does hold up in court, the people will like this. They get really irritated with the solicitations. 020 VICE CHAIR SOWA: Reads into the record that it is the intent of the committee, when a person comes to the door with their badge on that gives their name, the name of their organization, volunteer or paid volunteer, that is the same thing as saying it verbally. 027 REP. ROBERTS: I am willing to go back to court. I think your home is different than the streets. We have elderly people who may be easily confused and may be swayed. 034 REP. NOVICK: Someone who comes to your door who is being paid by a religious group would have to tell you the same things. 037 VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep. Oakley,

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

045 REP. NOVICK: Serves notice of a possible minority report.

Work session on HB 3069 re-opens on page 8.

HB 2943 - REQUIRES DEPARTMENT OF JUSTICE TO ADOPT RULES RELATING TO SPECIFIED ASPECTS OF BINGO AND RAFFLE OPERATIONS - WORK SESSION

067 JONES: Gives background of the bill.

080 ROSS LAYBOURN, ASSISTANT ATTORNEY GENERAL: The \$1 million handle is a limitation. Handle is defined as being the proceeds from the betting only. It does not include proceeds from operation of the snack bar. -In

my view, this bill is not giving the Attorney General any authority he does not already have. This bill is giving direction to the Attorney General to adopt certain rules that he already has the authority to do, but may not have done. -Reviews provisions of the bill.

164 REP. ROBERTS: Subsection (a) says "the Department of Justice shall adopt rules that" and then it speaks about license fees. Why does the Department of Justice make a determination about license fees and not the legislature?

170 LAYBOURN: The scheme of the 1987 legislation was to leave it to the Department of Justice to set up these classes and to decide the fees with respect to the classes to generate enough money to operate the program. 176 REP. ROBERTS: I remember we had a bill that allowed the Secretary of State's office to determine the higher limits on civil

penalty and I was not happy with that. 181 LAYBOURN: I do not understand subsection (a) in the sense it says "exclude the value of door prizes from gross income for the purpose of determining license fees". -Discusses how door prizes are handled.

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

232 VICE CHAIR SOWA: Requests unanimous consent that the rules be suspended to allow him to be recorded as changing his vote to NAY on the motion to move HB 3069 as amended to the floor with a "do pass" recommendation.

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

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Submitted by: Carolyn Cobb                      Randall Jones Assistant                      Administrator                      Reviewed by

EXHIBIT LOG:

A - Amendments to HB 2484 - Randall Jones - 6 pages B - Amendments to HB 3010 - Rep. Mary Alice Ford - 2 pages C - Amendments to HB 3069 - Randall Jones - 2 pages

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