

Senate Redistricting February 14, 1991 Page 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.

SENATE COMMITTEE ON REDISTRICTING

February 14, 1991Hearing Room "B" 3:00 p.m. Tapes 14 - 15

MEMBERS PRESENT:Sen. Glenn Otto, Chair Sen. Dick Springer, Vice-Chair Sen. Bill Bradbury Sen. John Brenneman Sen. Jim Bunn Sen. Scott Duff Sen. Mae Yih

STAFF PRESENT: Gail Ryder, Senior Committee Administrator Joan Green, Committee Assistant

MEASURES CONSIDERED: HJM1 - Memorializing Congress to ensure timely delivery of 1990

census data, PH/WS SB 186 - Relating to election law civil penalties, PH/WS SB 288 - Relating to election law civil penalties, PH/WS SB 521 - Relating to election law civil penalties, PH/WS Rules of assisted legislative access to redistricting technical support equipment and personnel, WS

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TAPE 14, SIDE A

011 CHAIR OTTO: Called the meeting to order at 3:10 p.m.

(TAPE 14, SIDE A)

PUBLIC HEARING/WORK SESSION

HJM1 MEMORIALIZING CONGRESS TO ENSURE TIMELY DELIVERY OF 1990 CENSUS DATA

013 MOTION: SEN. BUNN MOVED HJM1 BE TABLED.

015 VOTE: MOTION CARRIED, 6-0. (EXCUSED: SEN. BRADBURY).

(TAPE 14, SIDE A)

PUBLIC HEARING

SB 186 RELATING TO ELECTION LAW CIVIL PENALTIES

Witnesses:Shirley Gold, Oregon State Senator, District 7 Joan Dukes, Oregon State Senator, District 1 Sue Proffitt, Secretary of State's office

032 SHIRLEY GOLD, OREGON STATE SENATOR, DISTRICT 7: SB 186 places in law the

concept of a maximum civil penalty on failure to file a cost and expenditure (C & E) report. Discusses proposed amendments, SB 186-2, dated 02/12/91, Exhibit A. These amendments would essentially make SB 186 the same bill as SB 521. Currently the civil penalty on errors is on a percentage basis rather than a flat fee.

084 BUNN: Do you have a figure that you would suggest?

086 GOLD: No, I don't.

095 BUNN: Do you think a small political action committee (PAC) that has a small amount coming in and going out should have the same level penalty for not filing?

096 GOLD: No, I don't.

109 BUNN: Would it seem appropriate to have both sets of language,

whichever is less?

117 GOLD: The way this is written the Elections Division has the option of imposing a minimal figure and you have the option of appealing.

122 YIH: Is the 5% amount listed on pg. 2 a sufficient maximum for penalties?

127 GOLD: It currently makes for unbelievable fines, that is why we would like a maximum flat amount.

131 YIH: Is 5% a reasonable amount instead of a flat amount?

134 GOLD: Sen. Bunn's example of \$10,000 would be an acceptable figure for any given single report and allow the Elections Division a choice. Explains the current formula for how the 5% works.

156 RYDER: Distributes a fiscal impact statement, Exhibit B.

163 JOAN DUKES, OREGON STATE SENATOR, DISTRICT 1: Either SB 186 or SB 521 would provide an appropriate vehicle for my request. I am not advocating for either SB 186 or SB 521. Relates a personal story regarding a \$10 lien against my property, filed by the Secretary of State's office. The Secretary of State's office had determined that one of my PAC's had filed four days late. Notification from the Secretary of State's office was sent to the treasurer, who was no longer there, and the notification was returned. It went its course, with nobody aware of the process, until it went into lien. Outlines proposed request, Exhibit F.

228 SUE PROFFITT, SECRETARY OF STATE'S OFFICE: Discusses the matrix handout used in the Secretary of State's office for assessing penalties, Exhibit C. It is difficult to assess a percentage penalty for failure to file a report so we feel a flat rate must be put into the bill. The figure showing a fiscal impact of \$250/occurrence was pulled out of ORS 260 .995, but it does not apply to this particular situation. At this time we are not recommending a particular dollar amount, we are just showing you what is currently in effect.

252 BUNN: Is it reasonable to say that if a PAC can show an amount then the percentage could apply, if it is less than the amount of the fine?

257 PROFFITT: The bill does provide for a maximum dollar to be set and for the hearing process. That could all be considered at that time.

259 BUNN: That leaves it under the control of the Elections Division rather than setting a maximum that may be appropriate based on the size of the organization or the size of the contributions omitted. Is it unreasonable to have both protections?

265 PROFFITT: I don't think it is unreasonable, but I would like to see what levels you would propose.

(TAPE 14, SIDE A)

WORK SESSION

RULES OF ASSISTED LEGISLATIVE ACCESS TO REDISTRICTING TECHNICAL SUPPORT EQUIPMENT AND PERSONNEL

287 RYDER: Announces that the data has arrived, but requests time be given to integrate the data and make sure the system is running. Discusses tentative plans for an open house in 347 to familiarize members with the equipment. Tentatively we are hoping to start scheduling appointments February 25, 1991. Reviews draft proposal #7, Exhibit D.

419 BRADBURY: In reference to pg. 2, 5, C, why doesn't the Senate start with two-thirds access time until we exchange redistricting projects?

423 RYDER: The original proposal from the House was two-thirds time because they have 60 members. This is a compromise between the two chairs.

431 SPRINGER: What is the target date for the exchange of redistricting projects?

439 RYDER: The original target date, set by the Joint Interim Committee, was May 10, 1991. That date was based on receipt of the data on April 1, 1991. Meetings with leadership have offered a six week period of time from receipt of the data or the point in time that the clock starts

ticking.

449 BRADBURY: You are estimating a week to integrate the data?

452 RYDER: We hope so.

453 BRADBURY: So approximately seven weeks from now would be the exchange date?

455 RYDER: Approximately. Continues with review of draft rules, pg. 2, 5, C, paragraph 2, Exhibit D.

466 BUNN: Will we be allowed access both as a committee member and as an individual legislator?

469 RYDER: Yes, you are allowed access as part of the committee and as a legislator.

472 BUNN: If I had six one-half hour units as a committee member and two one-half hour units as a legislator and someone who is not on the committee has three one-half hour units as a legislator, could they bump one of us for access?

479 RYDER: I don't know, we would request leadership from the chairs when these kinds of problems occur.

482 BUNN: If we don't have that understanding and bumping becomes a question, you would only have the committee time, not the individual time.

485 RYDER: The category was placed there to allow the committee and leadership more access than a standard member of the legislature.

TAPE 15, SIDE A

032 SPRINGER: Has there been discussion of starting one or two of the technicians/staff at 10:30 a.m. to 7:30 p.m.?

038 RYDER: The system will begin based on an 8:00 a.m. to 5:00 p.m. shift, but like I said all committee staff will be trained and overtime hours can be dealt with in that manner. We may have some technicians on a swing shift later. We need to assess what is needed first.

042 BUNN: If we have a rotation of one technician working after hours, who would have the hands-on access? If, for example, committee members or legislators went through an orientation process to draw those lines, we would have the ability for several legislators to work on plans, with one technician floating to answer questions and make sure things moved smoothly. I would like to revisit the issue of hands-on access.

051 RYDER: Could we discuss that after I finish reviewing the proposal? Continues with draft, pg. 2, 6, Exhibit D.

073 OTTO: Will the doors be locked at 5:00 p.m.?

076 RYDER: At this point in time we will be locking the doors when the work stations have completed their work. Again, that can be revised as the needs are assessed. Explains the process for scheduling with a machine.

091 BUNN: I would like the rule on hands-on access left open as an option. When we go into after hours work it would make sense to have one technician present with two or three people working at the same time.

105 MOTION: SEN. BRADBURY MOVED FOR ADOPTION OF DRAFT PROPOSAL #7 RULES OF ASSISTED LEGISLATIVE ACCESS TO REDISTRICTING TECHNICAL SUPPORT EQUIPMENT AND PERSONNEL, EXHIBIT D. MOTION ADOPTED BY ACCLAMATION.

(TAPE 15, SIDE A)

PUBLIC HEARING

SB 521 RELATING TO ELECTION LAW CIVIL PENALTIES

Witnesses: Shirley Gold, Oregon State Senator, District 7

120 SHIRLEY GOLD, OREGON STATE SENATOR, DISTRICT 7: Discusses the SB 521-1 amendment dated 02/12/91, Exhibit E. For the record, I have no objection to SB 186, it speaks to civil penalty on failure to file a report and the possibility of a \$250 civil penalty maximum spoken to by Sue Proffitt. Did I understand that correctly?

141 BUNN: No.

142 Unidentifiable speaker and reply.

145 GOLD: SB 521 speaks to a change in regard to the penalty on errors in cost and expenditure (C & E) reports. Regardless of which bill you consider as a vehicle, I would urge you to include a change in the manner in which the fines for civil penalties are levied. The amendment deleting the word "each", Exhibit E, is needed to prevent a maximum penalty for each error in a report. The intent of the bill, as drafted, was to fix an amount on each report for whatever errors were contained in the report. Discusses the blank and requests that, if it is the committee's desire, staff go through other places in the law where maximum civil penalties are dealt with and decide what a fair and equitable maximum would be for this type of error. There is a subsequent referral to Judiciary.

188 OTTO: They will determine the amount?

189 GOLD: That would be my preference.

#### WORK SESSION

207 MOTION: SEN. BUNN MOVED SEN DUKE'S CONCEPTUAL AMENDMENT TO SB 521, EXHIBIT F, BE ADOPTED. MOTION ADOPTED BY ACCLAMATION.

222 MOTION: SEN. BUNN MOVED TO CONCEPTUALLY AMEND SB 521 TO SET A PERCENTAGE AND A MAXIMUM, WHICHEVER IS LESS.

229 RYDER: Whichever is greater?

230 BUNN: Whichever is less. For example, if you had a percentage or \$10,000, and a political action committee (PAC) had a couple hundred dollars and filed incorrectly, the maximum amount they could be fined would be based on their reporting. For failure to report, an opportunity would be provided to show the amount and the fine would be based on the size of what should have been reported. We will be building in a cap.

241 YIH: The fine would be equal to the amount that was omitted from the report?

242 BUNN: No, we would leave the existing system with the additional condition that the maximum is "x" dollars. We would address a failure to report by putting in a maximum fine of "x" dollars, but it can be lower if it is shown, based upon the information that should have been reported, that the amount was smaller.

255 VOTE: MOTION ADOPTED BY ACCLAMATION.

258 MOTION: SEN. BUNN MOVED A \$25,000 MAXIMUM PENALTY FOR INTENTIONALLY VIOLATING THOSE PROVISIONS.

267 GOLD: I think that gets into the criminal end of it. There is another portion of the election law that deals with criminal penalties. This portion deals with error and civil penalties.

281 BUNN: I would make the conceptual amendment contingent on Legislative Counsel clarifying that. My concern is that we do not bring down the level of penalties and leave a gaping hole. I don't want a group saying "I will pay whatever the dollar amount is because the political benefits are worth it".

292 GOLD: I agree with Sen. Bunn's point because it is possible, the way both sections of the law are now written, for the criminal penalty to be less than the civil penalty.

311 YIH: You said 25%?

312 BUNN: No, \$25,000.

313 VOTE: MOTION ADOPTED BY ACCLAMATION.

316 RYDER: Remaining are Sen. Gold's amendment and the blank.

319 MOTION: SEN. BUNN MOVED THE SB 521-1 AMENDMENTS DATED 02/12/91, EXHIBIT E, BE ADOPTED. MOTION ADOPTED BY ACCLAMATION.

332 RYDER: Do you want to fill the blank?

333 BUNN: It doesn't matter.

334 OTTO: It goes to Judiciary?

335 RYDER: Yes.

336 OTTO: We will send SB 521 to Legislative Counsel and then bring the bill back.

WORK SESSION

SB 186 RELATING TO ELECTION LAW CIVIL PENALTIES

343 OTTO: Is there any need for SB 186?

347 MOTION: SEN. BUNN MOVED SB 186 BE TABLED.

351 VOTE: MOTION CARRIED, 6-0. (EXCUSED: SEN. BRADBURY).

(TAPE 15, SIDE A)

PUBLIC HEARING

SB 288 RELATING TO ELECTION LAW CIVIL PENALTIES

Witnesses: Shirley Gold, Oregon State Senator, District 7

361 SHIRLEY GOLD, OREGON STATE SENATOR, DISTRICT 7: SB 288 deals with a problem of time lines on cases that come before the Elections Division. Currently there is the potential, from the time a report is filed until the time a penalty is announced and the appeals process is completed, for a two year time frame. SB 288 is an effort to expedite. Suggests the blanks on pgs. 1-3 have "thirty" as the number of days. At 120 days you would have come to the end of the appeals procedure and a resolution would be made. I think it would be wise, for all involved, to expedite by inserting "not later than".

450 RYDER: Distributes fiscal impact statement, Exhibit G. The fiscal notes that if the deadline is thirty days there would be no fiscal impact. If the deadline is fifteen days or less the expenditures of hearings officers would increase.

457 OTTO: Does this bill go to Judiciary?

458 RYDER: No.

463 MOTION: SEN. BUNN MOVED THE NUMBER "THIRTY" BE INSERTED IN THE FOUR BLANKS IN SB 288. MOTION ADOPTED BY ACCLAMATION.

471 MOTION: SEN. BUNN MOVED SB 288 TO THE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.

478 VOTE: MOTION CARRIED, 6-0. (EXCUSED: SEN. BRADBURY). SEN. BUNN WILL LEAD THE FLOOR DISCUSSION.

498 Meeting adjourned at 4:10 p.m.

Submitted By:

Joan Green  
Assistant

Reviewed By:

Jayne Hamilton  
Assistant

EXHIBIT LOG

A - Amendments, Gold, 1 pg. B - Fiscal impact statement, Staff, 1 pg. C - Matrix, Proffitt, 2 pgs. D - Access rules for Redistricting, Staff, 2 pgs. E - Amendments, Gold, 1 pg. F - Proposal, Dukes, 1 pg. G - Fiscal impact statement, Staff, 1 pg.