

Senate Redistricting May 16, 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

May 16, 1991Hearing Room "B" 3:00 p.m. Tapes 48 - 49

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: John Houser, Committee Administrator Joan Green, Committee Assistant

MEASURES CONSIDERED: HB 2838 - Relating to campaign finance reporting, PH/WS HB 2465 - Relating to election laws, WS SB 758 - Relating to lobbying, WS

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 48, SIDE A

007 CHAIR OTTO: Called the meeting to order at 3:15 p.m.

(TAPE 48, SIDE A)

PUBLIC HEARING

HB 2838 RELATING TO CAMPAIGN FINANCE REPORTING

Witnesses:Sue Proffitt, Secretary of State, Elections Division, Bill Markham, Oregon State Representative, District 46

011 BILL MARKHAM, OREGON STATE REPRESENTATIVE, DISTRICT 46: Supports HB 283 8. In the last primary, one of my contribution and expenditure reports (C&E) was returned to me because I had used a post office box (POB) and that was not in the statute. Jack Graham, in the Elections Division, is in agreement with me. People living in the country often do not have a rural route, but only a post office box. HB 283 8 is trying to add a post office box number, in addition to the rural route and the street address, as your legal address.

030 BRENNEMAN: This does cause problems. My accountant/treasurer had a POB and a request was sent to his address, resulting in a delay and a late filing because a POB was not acceptable.

040 YIH: My campaign treasurer uses a POB number and has no problems.

042 MARKHAM: This would legalize what your campaign treasurer sends in.

052 SUE PROFFITT, SECRETARY OF STATE, ELECTIONS DIVISION: The Secretary of State's office supports HB 2838. There is no reason to require a residence address since we don't physically locate the person filing a report or making a contribution or expenditure. We would like for the POB address to be legal and proper.

WORK SESSION

062 MOTION: SEN. BRENNEMAN MOVED HB 2838 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

066 VOTE: MOTION CARRIED, 5-0. (EXCUSED: SEN. BRADBURY, SEN. SPRINGER). SEN. BRENNEMAN WILL LEAD THE FLOOR DISCUSSION.

(TAPE 48, SIDE A)

WORK SESSION

HB 2465 RELATING TO ELECTION LAWS

Witnesses:Beverly Stein, Oregon State Representative, District 14 Joel Ario, Oregon State Public Interest and Research Group

WORK SESSION

075 HOUSER: Discusses the -A4 amendments, Exhibit A. The amendments

would require that a notice be placed in bold faced type across the signature area of the petition to indicate the individual was being paid to solicit signatures.

084 OTTO: That was the proposal made by Warren Deras?

085 HOUSER: Yes.

087 OTTO: Would that be on both sides, if signatures are gathered on both sides of the paper?

088 HOUSER: On any area of the petition where signatures would be permitted. It is included in four different locations in the bill to deal with state, city, county and district measures.

095 MOTION: SEN. BUNN MOVED THE -A4 AMENDMENTS TO HB 2465, DATED 04/14/91, EXHIBIT A. MOTION CARRIED BY ACCLAMATION.

100 HOUSER: Distributes the -A5 amendments, Exhibit B.

186 BEVERLY STEIN, OREGON STATE REPRESENTATIVE, DISTRICT 14: The -A5 amendments address ballot measures. In terms of contributing dollars for measures to get on the ballot, ballot measures have been the provenance of corporations instead of just the people. The -A5 amendments would be a truth in advertising sort of deal. It would require any publications or video material, paid for by industry contributions, in support of a measure, would need to have some sort of indication. They would need to indicate that more than 50% had come from the large contributor. The initiative process needs this for integrity.

215 OTTO: They could still contribute, but they would need to be identified?

216 STEIN: Yes. There is a free speech issue of saying people can't contribute. Legislative Counsel has indicated that there may be some constitutional questions raised by the -A5 amendments.

226 JOEL ARIO, OREGON STATE PUBLIC INTEREST AND RESEARCH GROUP: Supports the -A5 amendment, Exhibit B, primarily because of our experience with Ballot Measure 6. Gives a history on Ballot Measure 6. The -A5 amendment is based on a California law, which has been struck down by the California courts for reasons unrelated to these particular provisions. Reviews the -A5 amendment, Exhibit B. The Secretary of State is supportive of the concept, but given the complexity of the matrix, if the Committee supports the concept, he would like an opportunity to "massage the definitions" to have workable definitions. The one part of the -A5 amendment that is not part of the California statute is found on pg. 2, lns. 15- 19, (6), Exhibit B. Discusses the constitutionality question and Mr. Reutlinger's, Legislative Counsel, memorandum.

375 BUNN: If three groups were contributing to an initiative, a group of loggers, mill workers and log truck drivers, would that be an industry?

378 ARIO: That is an issue that the Secretary of State would like to focus on. It is also an issue in the California statute that caused problems. In California they used the standard industrial classification codes.

392 BUNN: Workers would not be, but the business itself would be?

394 ARIO: Under the provisions of this bill the industry would be the owners of companies and the companies themselves. Workers could come in under provisions that deal with labor unions, if they are unionized.

400 BUNN: Non-unionized industry, if the employees contribute to a political action committee (PAC), and the PAC contributes to a cause, that isn't an industry?

405 ARIO: It is my understanding it would not be an industry.

412 BUNN: Refers to pg. 1, lns. 19-21, -A5 amendments, Exhibit B. Could you give me an example. If you had six out-of-state contributors each contributing \$10,000, how would that be listed?

423 ARIO: If that was the single category they qualified in you would add "paid for by out-of- state contributors."

439 BUNN: Refers to \$6, (a-d), pg. 1, Exhibit B, all speak to one listing. Is there an example where you would require two disclosures?

459 ARIO: Generally there would not be more than one in any individual category, however there could be somebody in all four categories. The intent of (3) is to say that if there are more than two categories that are full, only the two largest contributor categories are required to be disclosed.

472 BUNN: If an out-of-state electric utility contributes corporate dollars for over half of the amount of either a broadcast advertisement or a printed advertisement, when you list it, would you be requiring a statement that this information was "paid for by xyz electric company" or this information was "paid for by an out-of-state contributor"?

TAPE 49, SIDE A

028 ARIO: In the case where there is one out-of-state electrical corporation that contributed, they would cross the thresholds for both industry contribution and out-of-state contribution. Therefore they would be required to disclose both facts.

039 BUNN: Refers to pg. 2, lns. 15-19, Exhibit B. The Secretary of State will develop the disclosure that will be provided at the annual stockholders meeting?

042 ARIO: Correct.

047 BUNN: It is a mailing then, so if General Motors contributed \$5,000 to any initiative in the state, their next mailing would notify all stockholders of that information?

051 ARIO: As part of the next regular mailing.

056 DUFF: Non-profit corporations aren't included?

057 ARIO: Yes, in general they won't reach the thresholds discussed here, and that is probably why they were not included.

061 OTTO: How long will it take the Secretary of State to prepare amendments?

062 ARIO: I would believe it could be done within a week or two.

064 OTTO: (unintelligible).

065 ARIO: You set a time and we'll comply.

068 OTTO: When is the next work session?

069 HOUSER: Next Tuesday.

071 OTTO: Could they be done by next Tuesday?

071 ARIO: I can't speak for the Secretary of State, but I will do my best to comply.

072 OTTO: Would you object to a severability clause to exclude a particular section, if it were found unconstitutional, so it would not affect the rest of the bill?

078 ARIO: No.

081 OTTO: What is the feeling of the Committee on the -A5 amendments, Exhibit B?

083 BUNN: I think they are misguided. The notice to the stockholder is burdensome and unreasonable. We have contribution and expenditure requirements that provide that information. I have been able to see from media accounts when a corporation or group out-spends the proponents 10 or 20-1. The public is currently informed.

093 DUFF: I think this will unnecessarily complicate a good bill that needs to pass.

097 YIH: Concurr.

098 OTTO: I don't think the -A5 amendments, Exhibit B, have much chance of passing.

100 ARIO: Concurr.

100 OTTO: Briefs Sen. Brenneman on what the Committee has discussed. So far there are three that aren't supportive.

113 BRENNEMAN: Four.

113 SPRINGER: Good amendment.

115 OTTO: Advises that no time be spent on the amendment. We will hold the bill until next Tuesday at Sen. Bunn's request.

(TAPE 48, SIDE A)

WORK SESSION

SB 758 RELATING TO LOBBYING

Witnesses: Dick Springer, Oregon State Senator, District 6 David Buchanan, Common Cause, Administrator Grover Simmons, Independent Employers Association Steve Lanning, AFL-CIO Stephen Kafoury, Stephen Kafoury Government Relations

WORK SESSION

134 DICK SPRINGER, OREGON STATE SENATOR, DISTRICT 6: Speaks to the -1 amendment, Exhibit C. This bill originally would have amended the ethics laws. The amendment changes that approach and would make this part of the elections law. The fundamental purpose of the bill is to change the way in which most of us collect contributions for our political campaigns. The bill would prohibit either soliciting, accepting or the donation of campaign contributions to candidates or incumbent office holders from lobbyist or political action committees (PAC) which have a lobbyist as a member or director. It is unrealistic to continue to expect the citizen legislature to exist in the future, if campaign costs keep spiraling. I feel strongly that we must wean ourselves off of PAC's and the way of campaign finance, that unfortunately we find ourselves in now. Likens it to an addiction, the more you get the more you need.

190 DUFF: Is access to the media, printing and various other aspects of campaigning part of the fund-raising package?

197 SPRINGER: Not in this bill. I think we have other legislation pending. We already have public financing through the voters' pamphlet; I would like to see that expanded through public broadcasting or other public financing of campaigns.

203 DUFF: Is the cost of television advertising a component?

206 SPRINGER: In some areas yes. During my 1986 and 1988 campaigns I accessed radio in the Portland metropolitan area in response. It was very expensive. Two weeks of radio in the Portland metropolitan area in 1986 cost \$20,000 for sufficient market penetration for a house seat.

218 DUFF: To fit with this and make it work you may need a different sort of access to that.

218 SPRINGER: I think so. Perhaps the media will see it as a condition of license, although they are not required to do so. I would hope you might see more public service opportunities for candidates. Some cable access channels are doing that. There are opportunities, if the media is willing to afford access.

231 YIH: Does your bill allow unsolicited contribution from lobbyist or PAC's?

234 SPRINGER: No, it says "shall not receive or solicit."

235 YIH: Unsolicited contributions are not allowed?

236 SPRINGER: Correct.

238 BUNN: Do you change any definition of "public official" under your bill?

239 SPRINGER: No.

239 BUNN: Is a school board member or city council member a public official?

239 SPRINGER: Let's see what this says.

241 BUNN: It would be on pg. 2, ln. 12, Exhibit C.

243 SPRINGER: That is the definition of lobbyist I believe. A school board member would not be a public official for purposes of this statute.

248 BUNN: On pg. 1, ln. 19, Exhibit C, legislative action includes testimony. Once you testify before a hearing you are involved with legislative action and then on pg. 2, ln. 2-3, Exhibit C, you would be lobbying if you testified. It would appear that a school board member or a city council member who testified in support or opposition to a bill would be lobbying, and therefore under the bill they would be lobbyist, even though it would not fit the way I understand lobbyist.

261 SPRINGER: I think lobbyist would mean exactly what is defined on pg. 2, (d), Exhibit C.

262 BUNN: And (d) is any public official who attempts to influence legislation through oral or written communication?

265 SPRINGER: Right.

266 BUNN: So if a school board member attempted to influence the basic school support by testifying in behalf of a bill, they would be a lobbyist, for purposes of this.

269 SPRINGER: Correct.

271 BUNN: Those individuals could not contribute?

272 SPRINGER: Correct.

272 BUNN: The lobbyist for the Oregon Education Association (OEA) could not contribute?

272 SPRINGER: Correct.

273 BUNN: The OEA could contribute?

274 SPRINGER: A corporation or union would not be prohibited, but a PAC would be prohibited, if it had a lobbyist.

276 BUNN: Can you walk me through that part of bill that says a PAC can't contribute?

279 SPRINGER: Reads pg. 1, §2, lns. 9-11, Exhibit C.

283 BUNN: But if the OEA had a lobbyist who was not an officer or a member, just an employee, then the PAC could write a check and mail it to a candidate, couldn't they?

289 SPRINGER: No, that would not be my intent.

292 BUNN: A PAC that does not employ a lobbyist could contribute to a campaign, correct?

293 SPRINGER: As this is written, that is correct.

294 BUNN: But once they hire a lobbyist, even if that lobbyist is not an officer or a member, then they would be prohibited from contributing?

297 SPRINGER: That would be my intent.

298 BUNN: If that PAC contributed to another PAC that did not hire a lobbyist, then they could give?

304 SPRINGER: I didn't specifically contemplate that. Run that by me again.

306 BUNN: A PAC with a lobbyist makes a contribution to another PAC, that PAC did not have a lobbyist, they write the check to the candidate.

311 SPRINGER: It would be my intent to preclude that.

312 BUNN: A lobbyist for a union could not deliver a check to a legislator, but the union itself could give to a candidate.

318 SPRINGER: To give to a candidate they would have to register as a PAC, and if they had any association, as indicated here under lobbyist, no they could not.

320 BUNN: A corporation doesn't have to register as a PAC to contribute do they?

323 SPRINGER: I think there is another bill that speaks to that.

324 BUNN: Under existing law . . .

325 SPRINGER: Under existing law no.

326 BUNN: And a union doesn't either, do they?

326 SPRINGER: Not under existing law.

327 BUNN: I could visit with a lobbyist, but I couldn't ask them for money. I could ask other members of the union for money and the union could give me money. I just couldn't deal directly with the lobbyist. One person deals strictly with trying to influence legislation and the other folks deal with the money changing hands during a campaign?

333 SPRINGER: That would be my intent, under the circumstances you have described.

337 BRADBURY: The language does not address the Senator's intent, as expressed.

353 SPRINGER: I am ready to accept the language before you as a smaller package than I may have addressed in some of my comments.

371 MOTION: SEN. SPRINGER MOVED THE -1 AMENDMENTS TO SB 758, DATED 05/15/91, EXHIBIT C.

374 DUFF: We're not creating a series of loopholes with this; will that make the situation more complicated than it currently is?

380 SPRINGER: No.

381 DUFF: I have always been uncomfortable with this definition of a lobbyist, if you were to put the word "citizen" in there . . .

387 BUNN: I think it is unconstitutional. I am not convinced it is, but I am uncomfortable with it.

399 DAVID BUCHANAN, COMMON CAUSE, ADMINISTRATOR: Speaks in support of the bill and the amendments. If the bill further distances the relationship between lobbyist and candidates/legislator, it will enable all parties involved to do their respective jobs more effectively.

483 BRENNEMAN: We have a law that prohibits pass-throughs, right?

486 BUCHANAN: Several have been proposed, none currently exist.

487 BRENNEMAN: Isn't it against the law for pass-throughs?

491 BUCHANAN: Not at the moment.

491 BRENNEMAN: I couldn't legally collect money for another candidate.

495 BUCHANAN: Not without going through the PAC process.

TAPE 48, SIDE B

031 BRENNEMAN: You don't see that type of situation will extend here, with people circumventing the law?

037 BUCHANAN: That is part of the integrity of the whole process.

040 BRENNEMAN: You don't think that will happen here?

041 BUCHANAN: It is possible, but not probable.

043 BRENNEMAN: I think Sen. Bunn's scenario would happen often. You are worst off in the process than if you had full disclosure.

049 BUCHANAN: I think this allows for clear disclosure. I don't agree that this law would encourage more people to evade the law.

052 BRENNEMAN: I am not suggesting it would. I am saying you could create a problem that could muddy the situation more than having full disclosure.

057 BUCHANAN: I don't believe that would be the consequence of this law.

059 BRADBURY: I think the amendments move in a more positive direction and I support them.

065 MOTION: SEN. BUNN MOVED A CONCEPTUAL AMENDMENT TO ADD CONGRESSIONAL CANDIDATES AND MEMBERS TO THE -1 AMENDMENTS TO SB 758, DATED 5/15/91, EXHIBIT C.

070 BUNN: I think the bill has a good intent, but it leaves out one major problem area, that of congressional races.

077 SPRINGER: It may be preempted by the Federal Elections Commission. I have no objections, but if Legislative Counsel advises it would be preempted in that area . . .

082 BUNN: I have no problem with a separator clause to protect the bill. It would be nice to make the attempt and if it is preempted, let the congressional candidates decide to ignore state law if they choose, but we stuck that in the books.

087 SPRINGER: With that understanding, I would accept that as a friendly amendment.

088 OTTO: That is with a severability clause?

089 SPRINGER: Correct.

094 GROVER SIMMONS, INDEPENDENT EMPLOYERS ASSOCIATION: Discusses the Business and Industry Political Action Committee (BIPAC) structure and how this legislation would influence them. I believe this bill raises an issue of the freedom of speech. Small businesses need the

opportunity to become involved with the process. The bill does not provide a level playing field.

155 STEVE LANNING, AFL-CIO: Speaks in opposition to the bill and the amendments. Discusses the structure of his organization and how this legislation would impact it.

189 BUNN: As the amendments are worded, an individual who is a lobbyist could not make a personal contribution, even their \$100 tax credit to the candidate of their choice, under this bill, correct?

195 SPRINGER: Correct.

196 BUNN: If they happen to be married to a candidate, they couldn't contribute?

197 SPRINGER: Correct.

198 BUNN: Would it impact a candidate's ability to contribute to their own campaign or spend their joint funds?

200 SPRINGER: That is not my intent.

204 MOTION: SEN. BRADBURY MOVED A FRIENDLY CONCEPTUAL AMENDMENT TO THE -1 AMENDMENTS TO SB 758, DATED 05/15/91, EXHIBIT C, TO DELETE THE DEFINITION OF LOBBYIST (PG. 2, LNS. 6-11) AND USE THE THE DEFINITION IN STATE LAW FOR PEOPLE WHO HAVE TO REGISTER AS LOBBYIST.

213 BRADBURY: That prevents the local school board member, or any citizen who comes, from potentially being considered a lobbyist unless they meet the requirements of registration for a lobbyist.

216 SPRINGER: I would accept that as a friendly amendment.

233 BRENNEMAN: This is just on the Bradbury amendment?

233 OTTO: Just the Bradbury amendment, then we will go to the Bunn amendment and then we go to the Springer amendment and then . . .

240 YIH: What does the statute say about the number of hours needed to register as a lobbyist? What other requirements are there?

245 OTTO: More than sixteen hours in any one quarter.

247 YIH: What about the amount of money spent?

248 OTTO: I don't know.

252 MOTION: SEN. BUNN MOVED TO AMEND THE -1 AMENDMENTS TO SB 758, DATED 05/15/91, EXHIBIT C, ON PG. 1, LNS. 10-11 AND LNS. 16-17, DELETE LANGUAGE BEGINNING WITH "CONTROLLED" .

259 BUNN: We're creating a major loophole when you say you can accept money from a PAC, if the PAC is not controlled by the lobbyist or the lobbyist is not an officer or a member.

275 HOUSER: The definition of lobbyist in Sen. Springer's amendment is identical to the definition in ORS 171.725.

280 YIH: Is it in the bill?

281 HOUSER: Yes, on pg. 2, lns. 6-12, of the -1 amendments, Exhibit C.

286 BRADBURY: Somewhere in the statute, perhaps in the ethics law, there is a rule dealing with lobbyists who are required to register. That is what I want to reference.

306 STEPHEN KAFOURY, STEPHEN KAFOURY GOVERNMENT RELATIONS: I have no position on the bill. I work with a number of PAC's. I'm not an officer or member of any of the PAC's, although I do make recommendations to them. If you are going to leave it without Sen. Bunn's amendment, then where would I fall? I don't know what "control" means. The only way to really control it is to say PAC can't give money to candidates.

332 HOUSER: There is an additional provision of the statute that says the lobbying regulation provisions do not apply to a group of individuals. In that group of exceptions is the language that Sen. Bradbury is looking for, as less than sixteen hours.

345 BRADBURY: Can it be written to do what I want?

347 HOUSER: There are five groups of individuals that are exempt from that lobbyist definition. Do you want to include all of those or just that subsection that deals with the individual that works less than sixteen hours?

352 BRADBURY: What are the five groups?

353 HOUSER: Reads the exemptions from ORS 171.735.

370 BRADBURY: I think all of them should be included, reference that part of the statute.

375 KAFOURY: I don't care which way this goes, I do want the bill to be clear as to whether what I am doing is legal or not.

385 OTTO: It will be run by Legislative Counsel before final action is taken on it. Requests Sen. Bunn to restate his last amendment.

387 BUNN: I moved to amend the -1 amendments to SB 758, dated 05/15/91, Exhibit C, on pg. 1, lns. 10-11, delete language beginning with "controlled", I would also delete language in §2, lns. 16-17, beginning with the word "controlled".

407 BRADBURY: Is the law clear about what a PAC is?

418 SPRINGER: It is defined in ORS 260.

427 VOTE: MOTION CARRIED 4-3. (VOTING NO: SEN. DUFF, SEN. SPRINGER, CHAIR OTTO).

451 BRADBURY: My amendment would specify who is and who is not exempt in the definition of lobbyist that is currently in state law.

456 SPRINGER: I have no objection to that.

457 VOTE: MOTION CARRIED: 7-0.

465 BUNN: To include congressional members and candidates, with a severability clause.

473 YIH: A what clause?

473 BUNN: Severability. If it is determined we cannot control contributions to federal races it would not cause the whole bill to be deemed unconstitutional.

478 VOTE: MOTION CARRIED, 5-2. (VOTING NO: SEN. BRADBURY, SEN. SPRINGER).

TAPE 49, SIDE B

029 SPRINGER: Restated prior motion to move the -1 amendments, Exhibit C, as further amended.

034 VOTE: MOTION CARRIED: 6-1. (VOTING NO: SEN. BRENNEMAN).

037 OTTO: It would be my intention to bring the bill back next Tuesday hopefully.

041 Meeting adjourned at 4:44 p.m.

Submitted By:
By:

Reviewed

Joan Green
Assistant

Julie Muñiz
Assistant

EXHIBIT LOG

A - HB 2465-A4 amendments, Staff, 1 pg. B - HB 2465-A5 amendments, Staff, 2 pgs. C - SB 758-1 amendments, Springer, 2 pgs.