FROM THE DESK OF SAL PERALTA

SUPPLEMENTAL PUBLIC TESTIMONY ON HB 3513:

Relating to public meetings;

Before the House Committee on Rules

May 22, 2013

Honorable Representatives,

I am offering this testimony on behalf of the Independent Party of Oregon as a supplement to the written testimony I provided to the committee during the truncated hearing on this bill on 5/13/13.

Ellie Dumdi testified on 5/13 to the effect that this legislation is intended to provide governing bodies with the ability to have discussions about governing decisions similar to the caucusing that happens in the Oregon legislature.

That stated goal is a direct attack on the state's Open Meetings law.

The editorial board of the News Register recently noted in its opposition to this bill (attached):

"A previous Legislature declared: "The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly. Those are wise words. Let's heed them."

The reason why community newspapers like the News Register and larger newspapers such as the Oregonian oppose this legislation is that local boards and commissions already have minimal oversight from the press. Carving out exemptions in the law to allow for private meetings of quorums on public matters with no notice or opportunity for oversight, which is the stated goal by proponents of this bill, is a terrible idea.

From the standpoint of public oversight and involvement, the work of most government boards in no way mirrors that of the legislature. At the legislature, there are multiple press bureaus, hundreds of paid lobbyists, thousands of advocates attending hearings, live video feeds of all meetings, etc.

Even what happens in private at the legislature is never really private.

By contrast, the only thing preventing a majority from cutting out other members of the board, the press, and the public, as was attempted in Lane County, is the law. This legislature should not encourage the kind of circumvention or daisy-chaining that was attempted in Lane County and it should not erode the bedrock principle behind the open meetings law, which is that decisions of governing bodies be arrived at openly.

Good people make mistakes. That's what happened in Lane County. But you shouldn't change the law to accommodate it when they do.

Sincerely,

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NEWS-REGISTER EDITORIALS

Bill would trample on public's right to know

After a judge fined Lane County Commissioners Pete Sorenson and Rob Handy $20,000 each for willful, egregious violations of Oregon's public meetings law in 2011, Handy announced, "And I am ready to consider what we may do in response to this ruling. We start that discussion today."

That remark seemed to pop into clearer focus this week when HB 3513, introduced by a member of the Lane County delegation, came up for a hearing in the House Rules Committee. The bill would do great damage to Oregon's 40-year-old, Watergate-inspired public meetings law, in the process seeming to legalize shenanigans similar to what the judge found offensive.

One of the defenses offered at trial was lack of familiarity with the law, but Sorenson is an attorney who rose to the rank of assistant minority leader in the Oregon Senate in the 1990s. What's more, he'd been warned by an independent-minded county counsel previously, the court noted.

It seems the commissioners, both still in office, wanted to fund assistants for themselves and their three colleagues. And they wanted to do it through the back door, away from public scrutiny.

In the guise of a series of "Book Club" meetings, they went so far as to actually tally votes on various elements, determining which would garner six votes on the 10-member budget committee. They found ways to conduct those deliberations toward a decision without ever having an actual quorum present, apparently thinking that would keep them safe.

Circuit Judge Michael Gillespie called the exercise a sham. He wrote in a 44-page ruling, "It was orchestrated down to the timing and manner of the vote to avoid any public discussion."

HB 3513 seems to encourage this sort of skullduggery as well as untold similar mischief. And to their shame, both the Association of Oregon Counties and League of Oregon Cities have signaled support.

The bill would require public deliberation only on matters of "budget, fiscal or policy," leaving it to officials to define those terms in their own way. It's unclear which matters this new language seeks to exclude from open meetings.

It would exempt fact-gathering activities, also subject to broad and imaginative interpretation, serving to overturn Oregonian Publishing Co. v. Oregon State Board of Parole, along the way. That sounds like an invitation to avoid the pesky press simply by declaring you are limiting yourself to a fact-finding exercise. And with the press not present, who would ever be able to suggest otherwise?

New language about quorums, again with no clarity of definition, could encourage the kind of "daisy-chaining" decision-making condemned in the Eugene case.

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News-Register

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