

TO: Bill Taylor, Legislative Counsel, Joint Judiciary Committee
FROM: Amy L. Becerra
DATE: March 2000
RE: Proposed Oregon Constitution Revision

MEMORANDUM

At your request, I traced the history of the proposed revision of the Oregon Constitution begun with the Commission for Constitutional Revision in 1961. You asked me to follow the proposal through the Commission and any subsequent committees as well as through any reports in following Legislative Assemblies. In particular, you wanted to know why the proposed revision “died.”

RESULTS

The Constitution of the State of Oregon was adopted in 1857.

A century later, in 1960, more than 350,000 Oregon voters approved an amendment permitting the Legislative Assembly to propose revisions to the State Constitution.¹

Pursuant to Senate Joint Resolution 20, the Fifty-first Legislative Assembly appointed an 18-member Commission for Constitutional Revision in 1961. The Commission was composed of members appointed by each of the three branches of government and its recommendations affected all three branches, but review of the group’s work prior to submission to the public was to be by one branch, the legislative.² During the interim period, the Commission met periodically, held public hearings, studied proposed revisions and sections, debated the appropriate extent of revision, and finally drafted an entirely new Oregon Constitution. The Commission presented its findings and recommendations, together with the proposed revision of the Constitution, December 15, 1962, to the Governor and the 52nd Legislative Assembly.³

In 1963, House Joint Resolution 1, the Constitution as proposed by the Commission, passed the House by one vote. However, the bill failed the required two-thirds majority of the Senate by three votes.

¹ This amendment permitted the Legislative Assembly to submit whole or partial revisions of the Constitution to the people by two-thirds majorities of each house. A NEW CONSTITUTION FOR OREGON: A REPORT TO THE 52ND LEGISLATIVE ASSEMBLY BY THE COMMISSION FOR CONSTITUTIONAL REVISION, 31 (1962).

² Id.

³ Id. at 1-3.

In 1965, the 53rd Senate created the Constitutional Revision Committee (CRC) to further draft a proposal. The Senate's revision, Senate Joint Resolution 11, inserted sections outlawing joint legislative committees in protest to the existing joint Ways & Means Committee. SJR 11 also included new sections allowing higher education employees to run for legislative office without resigning their teaching positions. The proposed revision would have combined the State's agencies into only 20 departments and expanded the legislature's membership to include 47 senators and 77 house representatives. Perhaps most controversial was the addition of a clause allowing the governor to veto the emergency clause of any bill without vetoing the entire bill and the veto of single items in appropriation bills.⁴

Not all of the Senate committee members agreed, however, and on March 8, 1965, they presented a minority report of amendments to SJR 11 on the Senate floor where it was rejected, 18-11.⁵ The minority version was similar to the 1963 revision which had passed the House except for changes in the executive branch; the minority proposed a tighter executive makeup with the Governor and a lieutenant governor running together as the only elected officials (besides the comptroller). The minority also proposed an anti-lottery provision.

The majority report of SJR 11 was also defeated on the Senate floor, March 9, 1965, in a surprising 21-8 vote.⁶ Commentators suggested that the defeat could be attributed to the fact that some senators liked the House version, while still others did not want a new Constitution.⁷

At the same time, the House Judiciary Committee began its own deliberations in the race to produce an acceptable constitutional revision. The resulting House Resolution 1 was substantially similar to the revision proposed by the 1961 Constitutional Revision Commission. April 12, 1965, the House approved HJR 1 with an overwhelming majority, 41-19. The House revision abolished the executive positions of both the Secretary of State and Treasurer, leaving the Governor as the only partisan statewide elected officer.⁸ Like SJR 11, HJR 1 eliminated most State boards and commissions and limited the number of State agencies to 20. Other changes to the Constitution included: increasing the number of required signatures for the initiative and referendum; increasing the required majority by which a constitutional referral to the voters must pass either legislative chamber; permitting, but not requiring, annual legislative sessions; removing the two-term limit on the Governor's office; allowing appointment of judges when vacancy occurs, with judges to stand for election at the next general election; creation of an 8-year term Controller non-partisan office; streamlining the Constitution and moving several sections to the Oregon Revised Statutes; removing the Attorney General and Labor Commission from the Constitution; and removing the requirement of a

⁴ Floyd McKay, "Constitution Bill Clears First Hurdle" (Statesman Journal, Feb. 23, 1965).

⁵ Legislative Calendar, Fifty-Third Oregon Legislative Assembly Regular Session, 1965. Senate Joint Resolution 11 (March 9, 1965).

⁶ Id. (March 10, 1965).

⁷ Paul W. Harvey, Jr., "Majority Report Defeated: 21-8" (Capital Journal, Vol. 77 No. 58, March 9, 1965).

⁸ Floyd McKay, "House Votes for New Constitution" (Statesman Journal, April 13, 1965).

constitutional amendment for state bonding while still requiring voter approval.⁹ The Constitution would take effect on January 1, 1969.

The convening of the 54th Oregon Legislative Assembly in January of 1967 witnessed another flurry of revision activity as previous members of the 1965 Senate Constitutional Revision Committee sought to propose Senate Joint Resolution 7, a constitutional revision encompassing the substance and spirit of both the 1965 SJR 11 and HJR 1. SJR 7 proposed revision of the entire Oregon Constitution, to be effective in 1970 if approved by the voters. As reported in the Engrossed Re-Engrossed SJR 7, the content of the revision echoed that embodied in HJR 1, as amended and adopted by the Senate, May 7, 1965, with several additional changes.¹⁰ The bill proceeded to wind its way through the legislative gamut of amendment and committee processes,¹¹ and then disappeared.

In 1969, the 55th Legislative Assembly's Senate changed the CRC name to Constitutional and Governmental Reorganization Committee where, once again a proposal to revise the entire Constitution emerged. On May 8, the committee approved a motion to pass to the Senate floor, Senate Joint Resolution 23. In a vote of 26-4, the bill passed the Senate, May 14, and was referred to the House Judiciary Committee.¹² The House adopted the proposal with amendments, 49-9, May 20. A Conference Committee was formed after the Senate refused to adopt the House-amended bill, and, after further political haggling, both the Senate and the House adopted the committee's recommendation to concur.¹³

After nine years of legislative tug-of-war, the newly revised Oregon Constitution was referred to the voters on May 26, 1970, as Ballot Measure 3, where it failed miserably with over 320,000 voters rejecting the proposed document.¹⁴ A complete revision of the Oregon Constitution has not been proposed since.

⁹ Id.

¹⁰ The 1967 revision: "Provides for protection of interests of employees of transportation systems when operation of such systems is assumed by government or public agencies; modifies initiative and referendum qualifications; limits number of principal departments in government to 20; permits literacy requirement for voter to be satisfied in any language; prohibits passage of any law respecting establishment of religion or prohibiting free exercise thereof; increases number of Senators to 35 and Representatives to 65 and changes method of determining ratio of Senators and Representatives; provides for re-apportionment under direction of Secretary of State; provides for non-partisan election of Superintendent of Public Instruction; permits counties to buy or lease property outside debt limit for 10 year periods; permits state and local governments to own corporate stock and deletes provision permitting creation of Metropolitan districts."

¹¹ A quick overview of the bill's jaunt through the "legislative labyrinth" produced: Senate Amendments (Feb. 17, 1967); Engrossed SJR 7 (Feb. 22, 1967); House Amendments-Judiciary Committee (March 29, 1967); Re-Engrossed SJR 7 (March 29, 1967); House Amendment (April 7, 1967); Conference Committee Amendments (May 30, 1967); Engrossed Re-Engrossed SJR 7 (May 30, 1967); Conference Committee Amendments (June 1, 1967).

¹² OREGON LAWS 1969, Senate Joint Resolution 23, p. 619.

¹³ Id.

¹⁴ OREGON BLUE BOOK 1999-2000. (Phil Keisling, Secretary of State & Tim Torgason, eds).