

OREGON LAW COMMISSION

Date October 3, 2012
3:00 p.m.

Oregon Civic Justice Center
Melvin Henderson-Rubio Hearing Room
Salem, OR

MEMBERS PRESENT: Lane Shetterly, Justice Martha Walters, Dean Peter Letsou (in place of Prof. Symeon Symeonides), Susan Gary, Julie McFarlane, Bernie Vail, Sen. Floyd Prozanski, Judge Steven Bushong, Rep. Chris Garrett, John DiLorenzo

MEMBERS EXCUSED: Chief Judge Rick Haselton, AG Ellen Rosenblum

STAFF PRESENT: Prof. Jeff Dobbins, Wendy Johnson, Lisa Ehlers

GUESTS: Phil Schradle

MEASURE/ISSUES HEARD:

Discussion of Conducting Professional Poll for Work Group

Speaker	Comments
Shetterly	Call the meeting to order.
Dobbins	Welcome to Judge Bushong. Officer elections need to be done at our next meeting. Appellate Judicial Selection Work Group report was given. We are at the point of deciding what, if any, proposals we take forward. John DiLorenzo suggested polling for the group. The question is whether or not public polling is something the OLC can and should participate in.
Shetterly	Perhaps DiLorenzo can tell us more about the thought process behind polling. I am concerned with the idea of us doing polling generally and accepting funds, etc.
DiLorenzo	Whatever we decide to propose will require an amendment to the constitution which means it will be referred to the voters. It won't get off dead center unless we can show public polling. I don't care who does the polling, but we have to be able to show that it has a chance of being passed.

Shetterly	Calls on Phil Schradle.
Schradle	The more information the better, as always. The OLC comes up with the best good government when looking at issues. If you start down the path of polling, does it look like the OLC is being too political? Also, who would sponsor the poll?
Rep. Garrett	I don't want the OLC getting into the habit of doing this, but in this case it is tied to good government.
Judge Bushong	Has the OLC pursued a constitutional amendment before or done polling before? Timing is everything. Frame the debate first, and then lay it out there for the public to consider and then poll them.
Justice Walters	I feel like we are a little premature. I would like to see the Work Group decide if there is a problem first. What about having focus groups first? Then use that data to craft legislation and then poll.
Shetterly	Questions: Do we want to poll? When do we do it? How and who funds it?
Schradle	I think it is a good idea to leave timing and structure to the work group. John felt it was better to do it sooner.
DiLorenzo	I am concerned that we will not even get a hearing without showing that there is some kind of support for taking away voting. The timing might be better once we congeal around a proposal.
Schradle	What kind of guidelines should we have for polling?
Shetterly	This has to come back to the OLC and it would be better to do the polling before then.
Justice Walters	What does Sen. Prozanski think?
Sen. Prozanski	I would be very receptive to getting information like this.

	Maybe one of our colleagues should request this?
Garrett	That is a workable idea. Maybe a joint letter?
Shetterly	Approve poll to be taken upon receipt of request from Sen. Prozanski and Rep. Garrett but leave timing and substance to Work Group. Also, authorize Jeff and Wendy to secure funding.
Dean Letsou	There is a difference in polling between testing political popularity and measuring knowledge and factual information.
Justice Walters	Keep it to seek public receptivity rather than a specific plan.
Dobbins	We can't just ask if you want to lose the vote – the answer will be no. Devil is in details.
Shetterly	Maybe we authorize work group to seek public opinion on Judicial Selection generally and including specific alternatives. How fast can all of this happen?
Johnson	In December the Work Group will end and we could poll in January. We need to be careful in accepting funds for the polling from a source with an interest.
Dean Letsou	There is a risk to OLC to submit to public opinion and not take a higher road.
Johnson	Assuming we get a letter from the legislators, that makes us feel like it would be acceptable.
Sen. Prozanski	Like a letter of authorization. Give it to Bill Taylor and he can get the chairs to sign off.
Shetterly	Authorize work group to engage in assessment of the public opinion relating to judicial selection and including specific options for constitutional amendment upon receipt of request from the legislature and authorize staff to work with work group to develop funding proposal for that purpose.

DiLorenzo

So moved.

Shetterly

Any further Discussion? Objections? None. So passed.

Adjourned 3:40 p.m.

Submitted By,

Reviewed By,

Lisa Ehlers
Legal Assistant

Wendy Johnson
Deputy Director and General Counsel

EXHIBIT SUMMARY

**Policies and Procedures of the Oregon Law Commission
ORS 173.315 – 173.357**