

Seiler Erin

From: Dan Meek <danmeek@gmail.com> on behalf of Dan Meek <dan@meek.net>
Sent: Tuesday, February 09, 2016 4:10 PM
To: Seiler Erin
Subject: Fwd: Re: SB 1501 - Questions

Erin,

Please include this updated email chain in the committee record for SB 1501. Thanks.

Dan Meek 503-293-9021 dan@meek.net 855-280-0488 fax

----- Forwarded Message -----

Subject: Re: SB 1501 - Questions
Date: Tue, 9 Feb 2016 16:07:48 -0800
From: Dan Meek <dan@meek.net>
To: TAYLOR Robert <robert.taylor@state.or.us>, Sal Peralta <speralta@oregonlitho.com>
CC: cathy@portlandlawcollective.com <cathy@portlandlawcollective.com>, GILBERT Dan <dan.gilbert@state.or.us>, TERRILL Laura <laura.terrill@state.or.us>, Linda Williams <linda@lindawilliams.net>, Robert Harris <rharris@harrislawsite.com>

Mr Taylor:

First, your presentation to the Senate Rules Committee, documenting 3,911 new MV voters, is itself entitled "OMV Monthly Report_Template_2016-01.pdf." The title above all of the tables and charts says "Oregon Motor Voter - Statewide January 4th 2016 - February 2nd 2016." So your exhibit more than implies that the data is for a full month.

Second, even if 43,000 new Motor Voters are added by the date of the May 17 primary election, as you now assert you expect, that means that the need for the Working Families Party (WFP) to add members would be 215. As shown in my earlier emails, WFP is currently 569 to the good. So WFP would continue to qualify for 2016 ballot access, as long as it does not lose a net 355 members before the May 17 primary election.

In 2015, my distinct impression of the plan of the SoS was to register the 2014-15 drivers as voters before the May 2016 primary. That would have put WFP at risk in 2016. But the actual pace of implementation does not. Instead, the actual pace and plan for implementation now creates the far greater risk to the IPO's status from the huge block of Motor Voters you intend to add this autumn.

Dan Meek 503-293-9021 dan@meek.net 855-280-0488 fax

On 2/9/2016 12:27 PM, TAYLOR Robert wrote:

Mr. Meek:

I think you've misread the data. You state that Oregon Motor Voter is adding new voters at "the current rate of 4,000 new MV registrants per month." That is incorrect. As Ms. Terrill explained back in

December, we estimated that Oregon Motor Voter would add approximately 10,000 new voter's per month in the initial phase. Now, based on just six days of full implementation, we have added over 4,300 new registrants. Again, that's 4,300 in just six full days of implementation. Based on this very preliminary data, we are on track to add over 43,000 new voters to the rolls before the primary. Again, that is a very preliminary estimate based on just a handful of days' worth of data, and everyone should be very careful not to jump to conclusions based on that very preliminary data and very rough estimate. Accordingly, it's very dangerous to argue from that tiny snapshot of data that all of the minor parties, including the Working Families Party, will have nothing to fear in 2016. Indeed, that is not a risk that the Legislature was willing to take in 2015, which is precisely why the Legislature intended to adopt a pause for the 2016 election. Likewise, the Legislature should not take that risk now by refusing to fix the typo, especially since the typo is in a law already passed by the Legislature designed to eliminate this very risk. From our office's perspective, there is no risk to fixing the typo now, but there is a great risk to letting the typo fester beyond the 2016 short session.

Thanks,
Robert

Robert L. Taylor
Deputy Secretary of State
Oregon Secretary of State's Office
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(503) 986-6365

From: Dan Meek [<mailto:danmeek@gmail.com>] **On Behalf Of** Dan Meek
Sent: Tuesday, February 09, 2016 2:25 AM
To: TAYLOR Robert; Sal Peralta
Cc: cathy@portlandlawcollective.com; GILBERT Dan; TERRILL Laura; Linda Williams; Robert Harris
Subject: Re: SB 1501 - Questions

Mr. Taylor:

Your response confirms that no party faces any threat to its 2016 ballot access. Laura Terrill stated to me (see indented email to me, below) that "After the May primary, we begin working on communicating with those who have interacted with DMV in the last couple of years. We will have a separate rule drafting process around this phase of the program . . ." Your email states that the 2014-15 drivers could be run through the MV program sometime "before the 2016 General Election," which would have to be done after the conclusion of the rulemaking. This new rulemaking could not possibly have any effect on any party's ballot status for 2016.

First, under ORS 248.008(4)(a), the minor party needs to meet the one-half of 1% number "at any time during the period beginning on the date of the next primary election and ending on the 90th day before the next general election." The law requires that number "at any time during the period," not at "all times" during the period. Thus, it is sufficient that WFP meet that number at any time between May 18 and August 10, 2016. As of mid-May, at the current rate of 4,000 new MV voter registrants per month, WFP would easily meet the number even if it adds zero members. Your treatment of the 2014-15 drivers cannot possibly affect this determination.

ORS 248.008(6) requires the SoS to check the voter registration numbers of the minor party "at least once per month" during the period between the primary election and the 90th day before the general election.

4,000 per month times 5 months = 20,000 new MV registrants, which translates into 100 required new WFP members. As I noted in my earlier email, WFP is already 569 above the one-half of 1% requirement (December 2015). So WFP could lose a net 468 members and still qualify.

Second, Laura Terrill wrote that the SoS will begin a new rule drafting process after the May primary. That means no rule can be in place before August and, therefore, no registrations of the 2014-15 old drivers can be done before that, anyway. ORS 183.335(1)(d) requires a minimum of 49 days of advance notice before the effective date of a rule. It also requires that the agency conduct an oral hearing if 10 persons request it (or an association with more than 10 members does so) at any time before the effective date. Then the agency has to give 21 days notice for the hearing.

So the first party that will suffer an actual adverse effect will be the Independent Party of Oregon in August 2017, when the slug of perhaps 300,000 or more 2014-15 drivers (by then fully processed as registered voters) could well send IPO back to minor party status.

Thus, what is needed and fair is a fix for all parties, particularly for IPO--as the first party actually threatened.

Subject:RE: FW: Roll out of Motor Voter = incremental?

Date:Tue, 22 Dec 2015 00:14:20 +0000

From:TERRILL Laura <laura.terrill@state.or.us>

To:Dan Meek <dan@meek.net>

Mr. Meek:

Yes, the 10,000 per month figure is an estimate of the new interactions with DMV per month. After the May primary, we will begin working on communicating with those who have interacted with DMV in the last couple of years. We will have a separate rule drafting process around this phase of the program and, at that time, will determine the rate at which these individuals will be communicated with about OMV. Please let me know if you have additional questions.

Thank you,

Laura

Laura Terrill

Chief of Staff

Oregon Secretary of State's Office

503-986-2015

Dan Meek 503-293-9021 dan@meek.net 855-280-0488 fax

On 2/8/2016 8:08 AM, TAYLOR Robert wrote:

Mr. Meek:

Later this year, before the 2016 general election, we plan to evaluate past DMV data from 2014-2015 and run those two years worth of DMV license transactions through the Oregon Motor Voter Program. The Secretary explained this during the Rule Advisory Committee and in her updates to the legislature. Accordingly, your arguments and calculations below are based on an incorrect understanding of the program. As a result, there is the possibility of immediate jeopardy for two minor parties in 2016, and SB 1501 is focused on that immediate concern.

Your amendments are focused on the 2018 and 2020 elections and there is not an immediate problem for the 2018 and 2020 elections. And again the relating to clause in SB 1501 cannot accommodate a change to the calculation for major party status (for the IPO), which seems to be your main focus.

If there are other vehicles in the House for you to pursue your desired calculations for the IPO, then we would encourage you to pursue those changes in a House Bill with a suitable relating to clause. But it seems inappropriate to use the immediate jeopardy faced by two minor parties in 2016 to try to leverage a change for the IPO for 2018 and 2020, especially in a short legislative session and especially since the narrow relating to clause in SB 1501 does not allow the two issues to be linked as you are attempting to do.

Let's keep the issues separate, allow SB 1501 to proceed as introduced to fix the immediate problem in 2016, and then you can go pursue a House Bill with an appropriate relating to clause for your desired changes for the IPO for 2018 and 2020. That seems like a sensible course of action to me.

Take care,
Robert

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Dan Meek <dan@meek.net>

Date: 02/08/2016 6:23 AM (GMT-08:00)

To: TAYLOR Robert <robtay@sos.state.or.us>, Sal Peralta <speralta@oregonlitho.com>

Cc: cathy@portlandlawcollective.com, GILBERT Dan <dan.gilbert@state.or.us>, TERRILL

Laura <lauter@sos.state.or.us>, Robert Harris <RHarris@harrislawsite.com>, Linda

Williams <linda@lindawilliams.net>

Subject: Re: SB 1501 - Questions

We don't think that fixing the status of the Oregon Progressive Party and IPO are

extraneous issues. If necessary, there are bills in the House with relating-to clauses that could carry the fix for IPO.

Also, I do not perceive a crisis for any minor party. WFP has 11,416 members as of December 2015. 1/2 of 1% of the total registrants was 10,847 as of then. So they were 569 to the good.

Originally, Motor Voter (MV) was envisioned as quickly adding 300,000 to 400,000 new registrants to the voter roles. But in fact MV is not being implemented this year to include any past licensed drivers. Instead, only about 4,000 registrants were added in the first month. Let's assume the same through the deadline for minor party status (effectively the end of July 2016). That means MV would add 28,000 new registrants, assuming that no new drivers would otherwise register to vote under the current system (which is not accurate, of course; some would register to vote anyway, either when offered the already-required opportunity at DMV or otherwise).

So at most we are looking at 28,000 additional registrants, which means WFP would have to add 140 new registrants by August 2016. But WFP is already 569 to the good, so it would need to add zero new registrants and still be 429 to the good. Further, some number of the new MV registrants will join WFP.

With 17,242 registrants, it appears that the Libertarian Party would never need this fix, as they are already 6,395 to the good and would survive even if MV were to add over 1.2 million new voter registrants and zero of them chose the Libertarian Party. In the first month, however, the Libertarians garnered 2% of all those who selected a party.

So the fix does not appear needed for the 2016 cycle for any party. It could well be needed by the 2018 cycle by IPO and WFP and the 2020 cycle by Oregon Progressive Party.

Here is the amendment I have suggested that would fix the situation for all of the parties:

Sec. 9. (1) For the purpose of maintaining status as a minor political party:
(a) under ORS 248.008 [(4)(b)] **(4)(a)** for the general election to be held on November 8, 2016, the total number of registered electors in this state is deemed to be the total number of registered electors identified in the elector registration records of the Secretary of State on July 1, 2015.

(b) under ORS 248.008 (4)(b) for the general election to be held on November 3, 2020, the total number of votes cast in the state or electoral district for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term is deemed to be that occurring at the November 4, 2014, election.

(2) For the purpose of maintaining status as a major political party under ORS 248.006 (1) for general elections to be held on or before November 3, 2020, the total number of registered electors in this state is deemed to be the total number of registered electors identified in the elector registration records of the Secretary of State on July 1, 2015.

I hope we can all agree on this.

Dan Meek 503-293-9021 dan@meek.net 855-280-0488 fax

On 2/5/2016 6:31 AM, TAYLOR Robert wrote:

Mr. Meek:

Thank you for the email. I can talk this afternoon at 12:45 or after 4:30. We have tried very hard to focus SB 1501 on avoiding the immediate issue under 4(a) that might befall some minor parties immediately in 2016.

I understand from your email that the change for the 4(b) minor parties is directed at the 2020 election and that you'd acknowledge those parties do not face an immediate issue with losing their existing status before the 2016 election. On the IPO issue, I similarly understand that your change is directed at the 2018 election and that you'd acknowledge that the IPO does not face an immediate issue with losing its existing status before the 2016 election. Accordingly, the only change that is necessary to maintain the status quo for all parties through one election cycle in 2016 is the change in the existing SB 1501 to fix the typo.

Additionally, the relating to clause on SB 1501 is narrow and focused only on minor party status, so I don't think we can adjust the major party calculation for the IPO for 2018 in this bill. But Dan Gilbert from Legislative Counsel can confirm this. Candidly, given a bad experience we had in 2015 at the end of session with a broad relating to clause, we wanted a narrow relating to clause here so that we could simply fix this one silly typo, maintain the status quo for all parties through 2016, and avoid piling extraneous issues into a bill that is really just trying to fix a typo so the legislature's original intent from 2015 can be accomplished.

I understand how you might feel like you have the legislature's attention now because two minor parties are in serious and immediate jeopardy for the 2016 election, but I'd rather we simply solve that immediate problem for 2016 instead of using this potential crisis for some as an opportunity for others to rewrite the calculation rules for other minor (and major) parties in 2018 and 2020.

I remain hopeful that we can just fix this typo now to avoid immediate harm to minor parties in 2016.

Please let me know when you're available to talk.

Take care,
Robert

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Dan Meek <dan@meek.net>

Date: 02/05/2016 1:10 AM (GMT-08:00)
To: TAYLOR Robert <robtay@sos.state.or.us>, Sal Peralta
<speralta@oregonlitho.com>
Cc: cathy@portlandlawcollective.com, GILBERT Dan
<dan.gilbert@state.or.us>, TERRILL Laura <lauter@sos.state.or.us>
Subject: Re: SB 1501 - Questions

Robert,

The ability of a small minor party to get the attention of the Oregon Legislature, much less change the law as it wishes, is very limited. If the 2 larger minor parties are to be held harmless from the change in voter registration resulting from HB 2177 (2015), we think that should apply to the 3 smaller minor parties as well. And this would appear to be the time to do that, as there may be no future realistic opportunity to direct the attention of the Legislature back to this particular narrow issue in future sessions.

Here is the language I suggest to do that.
SECTION 1. Section 9, chapter 8, Oregon Laws 2015, is amended to read:

Sec. 9. For the purpose of maintaining status as a minor political party under ORS 248.008 [(4)(b)] **(4)(a)** for the general election to be held on November 8, 2016, the total number of registered electors in this state is deemed to be the total number of registered electors identified in the elector registration records of the Secretary of State on July 1, 2015. **For the purpose of maintaining status as a minor political party under ORS 248.008 (4)(b) for the general election to be held on November 3, 2020, the total number of votes cast in the state or electoral district for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term is deemed to be that occurring at the November 4, 2014, election.**

I much doubt that my opposition to SB 1501, as written, may jeopardize the status of any minor parties, in light of the large Democratic majorities in both chambers.

I see no next hearing for this bill on the committee agenda. Bills typically get one hearing only. My review of the tape did not hear a commitment from the chair to have another hearing (just a work session), but I could be wrong about that.

The more important change is to hold harmless the major party status of the Independent Party of Oregon (IPO) from the change in voter registration resulting from HB 2177 (2015). IPO has been seeking that since 2014, without success, including at meetings with Kate Brown and your predecessor. I provided this updated language to Val Hoyle a month ago, before SB 1501 was public:

SECTION 9. For the purpose of maintaining status as a minor political party under ORS 248.008 (4)(b) **or as a major party under ORS 248.006 (1)** for the general election to be held on November 8, 2018~~6~~, the total number of registered electors in this

state is deemed to be the total number of registered electors identified in the elector registration records of the Secretary of State on July 1, 2015.

Now that I see the language of SB 1501, I would suggest:

Sec. 9. The total number of registered electors in this state is deemed to be the total number of registered electors identified in the elector registration records of the Secretary of State on July 1, 2015, for the purpose of maintaining status:

(1) as a minor political party under ORS 248.008 (4)(a) for the general election to be held on November 8, 2016; or

(2) as a minor political party under ORS 248.008 (4)(b) for the general election to be held on November 3, 2020; or

(3) as a major political party under ORS 248.006 (1) for the general election to be held on November 8, 2018.

The editors of The Oregonian think that this change is important. See:

http://www.oregonlive.com/opinion/index.ssf/2015/02/motor_voter_benefits_dont_just.html

http://www.oregonlive.com/opinion/index.ssf/2015/07/fear_of_the_independent_party.html

http://www.oregonlive.com/opinion/index.ssf/2015/08/a_legislative_session_to_watch.html

http://www.oregonlive.com/opinion/index.ssf/2015/08/how_motor_voter_lawmakers_can.html

http://www.oregonlive.com/opinion/index.ssf/2015/12/oregon_voting_initiative_would.html

I am available most afternoons for conversation. My ability to get to Salem for hearings is limited by the appointments and tasks of my law practice.

Dan Meek 503-293-9021 dan@meek.net 855-280-0488 fax

On 2/4/2016 4:48 PM, TAYLOR Robert wrote:

Dear Mr. Meek and Mr. Peralta:

Thank you for submitting your comments on SB 1501 this morning. I thought I'd see you both at the hearing this afternoon, but I'm sorry you chose not to attend in person.

Would you have a chance to talk tomorrow or early next week about your comments on the bill? Our concern is holding the minor parties harmless through the 2016 election. The parties that currently qualify under ORS 248.008(4)(a) have an immediate issue in 2016 that we are trying to solve with SB 1501. The other minor parties that qualify under ORS 248.008(4)(b) are not affected by registration increases in 2016 for the 2016 election because calculations for them are based on turnout in the 2014 Governor's race. Since the calculation under ORS 248.008(4)(b) is based on 2014 Gubernatorial turnout, no fix is needed for that subsection ahead of the 2016 election.

I am afraid that your opposition to this immediate fix may jeopardize the status of two minor parties in the upcoming 2016 election. I'm sure this is not your intent.

I can be reached at the number below. I've also copied Dan Gilbert from Legislative Counsel, Laura Terrill from our office, and Kathy Highet from the Working Families Party, who was in attendance today and testified in favor of the bill. Dan and Kathy can weigh in about the effect of the bill on minor parties in 2016 as well.

If we are unable to connect, I hope you'll be able to attend the next hearing on this bill so we can discuss it then and you can make yourself available to the committee for questions about your concerns.

Take care,
Robert

Robert L. Taylor
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