SB 229-A9 (LC 533) 6/29/17 (DRG/ps)

Requested by Representative MCLANE

PROPOSED AMENDMENTS TO A-ENGROSSED SENATE BILL 229

1 On <u>page 1</u> of the printed A-engrossed bill, line 2, after the semicolon in-2 sert "creating new provisions;".

In line 3, after "249.865," delete the rest of the line and insert "250.045,
250.052, 250.062, 250.065, 250.067, 250.075, 250.085, 250.143, 250.141".

5 On page 4, delete lines 23 through 45 and delete pages 5 and 6.

6 On page 7, delete lines 1 through 4 and insert:

7 **"SECTION 14.** ORS 250.052 is amended to read:

"250.052. (1)(a) For each state initiative, referendum or recall petition, the 8 Secretary of State shall prepare official templates of the cover and signature 9 sheets for the petition. Except as provided in this section, templates of cover 10 and signature sheets for state initiative and referendum petitions are subject 11 12 to the requirements of ORS 250.045. The templates of signature sheets to be used by persons who are being paid to obtain signatures on the petition shall 13 be a different color from the sheets to be used by persons who are not being 14 15 paid to obtain signatures on the petition.

"(b) For each prospective petition for a state measure to be initiated the secretary shall prepare official templates of the cover and signature sheets. The templates of signature sheets to be used by persons who are being paid to obtain signatures on the prospective petition shall be a different color from the sheets to be used by persons who are not being paid to obtain signatures on the prospective petition. Each signature sheet for the prospective 1 petition shall:

"(A) Contain a notice describing the meaning of the color of the signature
sheet; and

"(B) If one or more persons will be paid for obtaining signatures of electors on the prospective petition, contain a notice stating: 'Some Circulators
For This Prospective Petition Are Being Paid.' The notice shall be in boldfaced type and shall be prominently displayed on the sheet.

"(2) A person obtaining signatures on a state initiative, referendum or 8 recall petition or a prospective petition for a state measure to be initiated 9 may use only the cover and signature sheets contained in the official tem-10 plates prepared for the petition or prospective petition. A person who is be-11 ing paid to obtain signatures on the petition or prospective petition shall 12 use the signature sheet template designated for use by persons being paid to 13 obtain signatures. A person who is not being paid to obtain signatures on 14 the petition or prospective petition shall use the signature sheet template 15 designated for use by persons who are not being paid to obtain signatures. 16

"(3) The secretary shall issue templates for a petition or prospective petition only to a chief petitioner of the petition or prospective petition or to an agent designated by a chief petitioner.

20 "(4) The secretary shall issue official templates to a chief petitioner or 21 designated agent not later than:

"(a) Three business days after the deadline for filing a petition under ORS
250.085 relating to a ballot title certified by the [Attorney General] Citizens'
Initiative Review Commission for the state initiative petition or, if a petition is filed with the Supreme Court under ORS 250.085, three business days
after the Supreme Court certifies to the secretary [of State] a ballot title for
the state initiative petition;

"(b) Three business days after a prospective petition is filed under ORS
249.865 or 250.045 for a state recall petition or state referendum petition; or
"(c) Three business days after the chief petitioner files a statement with

the secretary under ORS 250.045 (2) for a prospective petition for a state
measure to be initiated.

"(5) [Not later than five business days after the deadline for the secretary 3 to issue templates under subsection (4) of this section,] The secretary by rule 4 shall establish a process by which a chief petitioner of a state initiative, $\mathbf{5}$ referendum or recall petition or a prospective petition for a state measure 6 to be initiated [may submit to the secretary a written] may request [for] a 7 modification of the templates issued under subsection (4) of this section. 8 [The secretary shall approve or disapprove the request not later than five 9 business days after receiving the request. If the secretary disapproves the re-10 quest, the secretary shall advise the chief petitioner in writing of the reasons 11 for the disapproval.] 12

"(6) In addition to the templates prepared under subsections (1) to (5) of 13 this section, for each state initiative, referendum or recall petition or pro-14 **spective petition**, the secretary shall prepare an official electronic template 15of a signature sheet for the petition or prospective petition. A template 16 prepared under this subsection shall allow space for the signature of one 17 elector. An elector may print a copy of the electronic signature sheet for a 18 petition or prospective petition, sign the sheet and deliver the signed sheet 19 to a chief petitioner or an agent designated by a chief petitioner. Electronic 20templates described in this subsection are subject to the requirements of ORS 21250.045, other than ORS 250.045 (6), (9) and (10). 22

"(7) The secretary shall adopt rules prescribing the contents and method
of production of official templates required under this section.

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"SECTION 15. ORS 250.067 is amended to read:

²⁶ "250.067. (1) The Secretary of State, upon receiving a draft ballot title ²⁷ from the [*Attorney General*] **Citizens' Initiative Review Commission** under ²⁸ ORS 250.065 or 250.075, shall provide reasonable statewide notice of having ²⁹ received the draft ballot title and of the public's right to submit written ³⁰ comments as provided in this section. Written comments concerning a draft ballot title may be submitted to the secretary not later than the 10th business day after the secretary receives the draft title from the [Attorney General] commission. On the next business day after the deadline for submitting comments, the secretary shall send a copy of all written comments to the [Attorney General] commission. The secretary shall maintain a record of written comments received.

"(2)(a) If written comments are submitted to the secretary under subsection (1) of this section, the [*Attorney General*] **commission** shall consider the comments and certify to the secretary either the draft ballot title or a revised ballot title not later than the 10th business day after receiving the comments from the secretary.

"(b) If no written comments are submitted to the secretary, the [Attorney General] commission shall certify the draft ballot title not later than the [20th] 21st business day after the secretary receives the draft title from the [Attorney General] commission. If the [Attorney General] commission determines that a draft ballot title described in this paragraph contains a clerical error, the [Attorney General] commission may correct the error before certifying the corrected draft ballot title to the secretary.

"(c) If the [Attorney General] commission determines that a ballot title certified under this subsection contains a clerical error, the [Attorney General] commission may correct the error and certify to the secretary a corrected ballot title not later than the 10th business day after the date the ballot title was certified.

"(d) The secretary shall furnish the chief petitioner with a copy of each
ballot title certified under this subsection.

"(3) Unless the Supreme Court certifies a different ballot title, the latest
ballot title certified by the [*Attorney General*] commission under subsection
(2) of this section is the title to be printed in the voters' pamphlet and on
the ballot.

30 "(4) If a petition is filed with the Supreme Court as provided in ORS

250.085, the Secretary of State shall file with the Supreme Court a copy of
the written comments received as part of the record on review of the ballot
title.

"(5) The secretary by rule shall specify the means for providing reasonable statewide notice for submitting comments on a draft ballot title.

6 "(6) As used in this section, 'clerical error' means a typographical, arith-7 metical or grammatical error or omission that is evident from the text of the 8 draft or certified ballot title or by comparison of the text of the draft or 9 certified ballot title with a written explanation that was provided by the 10 [Attorney General] commission and issued concurrently with the draft or 11 certified ballot title.

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"SECTION 16. ORS 250.065 is amended to read:

"250.065. (1) When a prospective petition for a state measure to be re-13 ferred is filed with the Secretary of State, the secretary shall authorize the 14 circulation of the petition using the final measure summary of the latest 15version of the printed, engrossed measure in lieu of the ballot title. On the 16 next business day after the referendum petition has been filed containing the 17 required number of verified signatures, the Secretary of State shall send [two 18 copies] one copy of the prospective petition to the [Attorney General] 19 **Citizens' Initiative Review Commission.** 20

"(2) When an approved prospective petition for a state measure to be initiated is filed with the Secretary of State, the secretary immediately shall send [*two copies*] **one copy** of it to the [*Attorney General*] **commission**.

"(3) Not later than the fifth business day after receiving the [copies] copy of the prospective petition for a state measure to be initiated, the [Attorney *General*] commission shall provide a draft ballot title for the state measure to be initiated and [return] send one copy of the [prospective petition and the] ballot title to the Secretary of State.

"(4) Not later than the 10th business day after receiving the [copies] copy
 of the prospective petition for a state measure to be referred, the [Attorney

General] commission shall provide a draft ballot title for the state measure
to be referred and [return] send one copy of the [prospective petition and
the] draft ballot title to the Secretary of State.

4 "SECTION 17. ORS 250.075 is amended to read:

⁵ "250.075. (1) When the Legislative Assembly refers a measure to the peo-⁶ ple, a ballot title for the measure may be prepared by the assembly. The ⁷ ballot title shall be filed with the Secretary of State when the measure is ⁸ filed with the Secretary of State.

9 "(2) If the title is not prepared under subsection (1) of this section, when the measure is filed with the Secretary of State, the secretary shall send [two 10 copies] one copy of the referred measure to the [Attorney General] Citizens' 11 Initiative Review Commission. Not later than the 30th day after the Leg-12 islative Assembly adjourns, the [Attorney General] commission shall provide 13 a draft ballot title for the measure. The [Attorney General] commission shall 14 send a copy of the draft ballot title to each member of the Legislative As-15 sembly, and file with the Secretary of State a copy of the [referred measure 16 and the draft ballot title and a certificate of mailing of the draft ballot title 17 to each member.". 18

19 On page 32, after line 39, insert:

²⁰ "<u>SECTION 55.</u> Section 56 of this 2017 Act is added to and made a ²¹ part of ORS 250.139 to 250.143.

"SECTION 56. (1) The Citizens' Initiative Review Commission shall convene a separate citizen committee to draft a ballot title for each prospective petition to initiate or refer a state measure under Article IV, section 1, of the Oregon Constitution, and for each measure referred by the Legislative Assembly for which the commission is required to prepare a ballot title.

"(2)(a) The commission shall select citizens for each committee
 from a representative sample of anonymous electors, using survey
 sampling methods that, to the extent practicable, give every elector a

similar chance of being selected. Each citizen committee shall consist
of not fewer than 18 and not more than 24 electors.

"(b) The commission shall ensure, to the extent practicable and legally permissible, that the demographic makeup of each citizen committee fairly reflects the population of the electorate of this state as a whole, with respect to the following characteristics, prioritized in the following order:

8 "(A) The location of the elector's residence.

9 **"(B)** The elector's party affiliation, if any.

10 "(C) The elector's voting history.

11 "(D) The elector's age.

"(c) In addition to the criteria described in paragraph (b) of this
 subsection, the commission may also consider:

- 14 "(A) The elector's gender.
- 15 **"(B) The elector's ethnicity.**

16 "(C) Any other criteria.

"(3) The commission shall, from moneys in the account established
 under ORS 182.470:

"(a) Compensate each elector for each day served on a citizen
 committee in an amount established by the commission by rule;

"(b) Reimburse each elector who serves on a citizen committee for
travel expenses in accordance with reimbursement policies determined
by the commission by rule; and

24 "(c) Provide for costs required to convene and conduct a citizen
 25 committee.

"(4)(a) Each citizen committee shall meet to review the prospective
petition or legislatively referred measure and to fulfill the
commission's duties set forth in ORS 250.045, 250.052, 250.062, 250.065,
250.067, 250.075 and 250.085.

30 "(b) Each citizen committee shall conduct public hearings at which

the citizen committee shall receive testimony or other information from both proponents and opponents of the prospective petition or legislatively referred measure. Unless otherwise determined by a majority of the citizen committee members, equal time shall be allotted to proponents and opponents of a prospective petition or legislatively referred measure.

"(c) The chief petitioners of a prospective petition shall designate two persons to provide information in favor of the prospective petition to the citizen committee. If the chief petitioners fail to timely designate two persons to appear before the citizen committee, the commission may designate two persons who support the prospective petition to provide information in favor of the measure.

13 "(d) The commission shall designate two persons who oppose the 14 prospective petition or legislatively referred measure to provide infor-15 mation in opposition to the prospective petition or legislatively re-16 ferred measure.

"(e) The commission, by rule, may specify additional criteria re garding the public hearings.

"(5) The commission shall provide each citizen committee with any
 complaints regarding the citizen committee not later than the third
 day after the citizen committee convenes.

"(6) The commission shall, by rule, establish qualifications for moderators for each citizen committee. A moderator must have experience in mediation and shall complete a training course established by the commission.

"(7) The commission shall contract with two moderators for each
 citizen committee and shall compensate each moderator for service.

(8) If the commission determines under ORS 250.149 that the account established under ORS 182.470 to carry out all the duties, functions and powers of the commission has insufficient moneys to carry out the duties set forth under this section and ORS 250.045, 250.052,
 250.062, 250.065, 250.067, 250.075 and 250.085, the Attorney General shall
 be responsible for fulfilling the commission's duties under ORS 250.045,
 250.052, 250.062, 250.065, 250.067, 250.075 and 250.085.

5 "SECTION 57. ORS 250.045 is amended to read:

6 "250.045. (1) Before circulating a petition to initiate or refer a state 7 measure under section 1, Article IV, Oregon Constitution, the petitioner 8 shall file with the Secretary of State a prospective petition. The prospective 9 petition for a state measure to be initiated shall contain the signatures of 10 at least 1,000 electors. The signature sheets must be attached to a full and 11 correct copy of the measure to be initiated.

"(2) Before obtaining signatures on a prospective petition for a state 12 measure to be initiated, the chief petitioners shall file with the secretary a 13 statement declaring whether one or more persons will be paid money or other 14 valuable consideration for obtaining signatures of electors on the prospective 15 petition. After a statement has been filed under this subsection, the chief 16 petitioners shall notify the secretary not later than the 10th day after any 17 of the chief petitioners first has knowledge or should have had knowledge 18 that: 19

"(a) Any person is being paid for obtaining signatures, when the statement filed under this subsection declared that no such person would be paid.
"(b) No person is being paid for obtaining signatures, when the statement
filed under this subsection declared that one or more such persons would be
paid.

"(3) The secretary by rule shall establish procedures for verifying whether
a prospective petition for a state measure to be initiated contains the required number of signatures of electors.

"(4) The secretary shall date and time stamp the prospective petition and specify the form on which the initiative or referendum petition shall be printed for circulation as provided in ORS 250.052. The secretary shall retain 1 the prospective petition.

"(5) The chief petitioner may amend the state measure to be initiated that
has been filed with the secretary without filing another prospective petition,
if:

5 "(a) The [Attorney General] Citizens' Initiative Review Commission 6 certifies to the secretary that the proposed amendment will not substantially 7 change the substance of the measure; and

8 "(b) The deadline for submitting written comments on the draft title has9 not passed.

"(6) The cover of an initiative or referendum petition shall designate the 10 name and residence address of not more than three persons as chief 11 petitioners and shall contain instructions for persons obtaining signatures 12of electors on the petition. The instructions shall be adopted by the secretary 13 by rule. The cover of a referendum petition shall contain the final measure 14 summary described in ORS 250.065 (1). If a petition seeking a different ballot 15title is not filed with the Supreme Court by the deadline for filing a petition 16 under ORS 250.085, the cover of an initiative petition shall contain the latest 17 ballot title certified by the [Attorney General] commission under ORS 18 250.067 (2). However, if the Supreme Court has reviewed the ballot title, the 19 cover of the initiative petition shall contain the title certified by the court. 20

"(7) The chief petitioners shall include with the prospective petition a statement declaring whether one or more persons will be paid money or other valuable consideration for obtaining signatures of electors on the initiative or referendum petition. After the prospective petition is filed, the chief petitioners shall notify the filing officer not later than the 10th day after any of the chief petitioners first has knowledge or should have had knowledge that:

"(a) Any person is being paid for obtaining signatures, when the statement included with the prospective petition declared that no such person
would be paid.

"(b) No person is being paid for obtaining signatures, when the statement included with the prospective petition declared that one or more such persons would be paid.

"(8)(a) Each sheet of signatures on an initiative petition shall contain the
caption of the ballot title. Each sheet of signatures on a referendum petition
shall contain the subject expressed in the title of the Act to be referred.

7 "(b) Each sheet of signatures on an initiative or referendum petition8 shall:

9 "(A) Contain a notice describing the meaning of the color of the signature
10 sheet in accordance with ORS 250.052; and

"(B) If one or more persons will be paid for obtaining signatures of electors on the petition, contain a notice stating: 'Some Circulators For This Petition Are Being Paid.' The notice shall be in boldfaced type and shall be prominently displayed on the sheet.

"(c) The secretary by rule shall adopt a method of designation to distin guish signature sheets of referendum petitions containing the same subject
 reference and being circulated during the same period.

"(9) The reverse side of the cover of an initiative or referendum petition
 shall be used for obtaining signatures on the initiative or referendum peti tion.

"(10) Not more than 20 signatures on the signature sheet of the initiative or referendum petition may be counted. The circulator shall certify on each signature sheet of the initiative or referendum petition that the circulator:

"(a) Witnessed the signing of the signature sheet by each individual
whose signature appears on the signature sheet; and

²⁶ "(b) Believes each individual is an elector.

"(11) The person obtaining signatures on the petition shall carry at least one full and correct copy of the measure to be initiated or referred and shall allow any person to review a copy upon request of the person.

30 "SECTION 58. ORS 250.062 is amended to read:

¹ "250.062. If the [Attorney General] Citizens' Initiative Review Com-² mission determines that the subject, purpose and major effect of two or more ³ state initiative measures to be submitted at the same election are substan-⁴ tially similar, the [Attorney General] commission shall provide identical ⁵ draft ballot titles for the measures.

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"SECTION 59. ORS 250.085 is amended to read:

"250.085. (1) Any elector dissatisfied with a ballot title prepared by the Legislative Assembly for a measure referred to the people by the assembly and filed with the Secretary of State may petition the Supreme Court seeking a different title. The petition shall state the reasons that the title filed with the Secretary of State does not substantially comply with the requirements of ORS 250.035.

"(2) Any elector dissatisfied with the latest ballot title for an initiated 13 or referred measure certified by the [Attorney General] Citizens' Initiative 14 Review Commission and who timely submitted written comments on the 15draft ballot title may petition the Supreme Court seeking a different title. 16 The petition shall state the reasons that the title filed with the Secretary 17 of State does not substantially comply with the requirements of ORS 250.035. 18 "(3) The petition shall name the [Attorney General] commission as the 19 respondent and must be filed: 20

"(a) Not later than the 10th business day after the [Attorney General]
 commission certifies a ballot title or a corrected ballot title to the Secretary of State, whichever is later; or

"(b) If the title is provided by the Legislative Assembly under ORS
250.075, not later than the 10th business day after the Legislative Assembly
files the ballot title with the Secretary of State.

"(4) An elector filing a petition under this section shall notify the Secretary of State in writing that the petition has been filed. The notice must be received in the office of the Secretary of State not later than 5 p.m. on the next business day following the day the petition is filed. 1 "(5) The Supreme Court shall review the title for substantial compliance 2 with the requirements of ORS 250.035.

³ "(6) When reviewing a title certified by the [Attorney General] commis-⁴ sion, the Supreme Court shall not consider arguments concerning the ballot ⁵ title not presented in writing to the Secretary of State unless the court de-⁶ termines that the argument concerns language added to or removed from the ⁷ draft title after expiration of the comment period provided in ORS 250.067.

8 "(7) The review by the Supreme Court shall be conducted expeditiously 9 to ensure the orderly and timely circulation of the petition or conduct of the 10 election at which the measure is to be submitted to the electors.

"(8) If the Supreme Court determines that the latest ballot title certified 11 by the [Attorney General] commission or prepared by the Legislative As-12 sembly substantially complies with the requirements of ORS 250.035, the 13 court shall certify the title to the Secretary of State. If the Supreme Court 14 determines that the latest ballot title certified by the [Attorney General] 15 **commission** or prepared by the Legislative Assembly does not substantially 16 comply with the requirements of ORS 250.035, the court shall modify the 17 ballot title and certify the ballot title to the Secretary of State or refer the 18 ballot title to the [Attorney General] commission for modification. 19

"(9) Not later than five business days after the Supreme Court refers a 20ballot title to the [Attorney General] commission under this section, the 21[Attorney General] commission shall file a modified ballot title with the 22Supreme Court and serve copies of the modified ballot title on all parties to 23the ballot title review proceeding. If no party to the ballot title review pro-24ceeding files an objection to the modified ballot title within five business 25days after the date the modified ballot title is filed, the Supreme Court shall 26certify the modified ballot title to the Secretary of State and enter an ap-27pellate judgment the next judicial day. If any of the parties to the ballot title 28review proceeding timely files a petition objecting to the modified ballot ti-29 tle, the Supreme Court shall review the modified ballot title to determine 30

whether the modified ballot title substantially complies with the requirements of ORS 250.035.

"(10) Upon the filing of a petition under subsection (9) of this section
objecting to a modified ballot title:

5 "(a) If the Supreme Court determines that the modified ballot title sub-6 stantially complies with the requirements of ORS 250.035, the court shall 7 certify the modified ballot title to the Secretary of State; or

8 "(b) If the Supreme Court determines that the modified ballot title does 9 not substantially comply with the requirements of ORS 250.035, the court 10 shall modify the ballot title and certify the ballot title to the Secretary of 11 State or refer the modified ballot title to the [*Attorney General*] **commission** 12 for additional modification and further proceedings under subsection (9) of 13 this section.

14 "<u>SECTION 60.</u> ORS 250.143 is amended to read:

15 "250.143. (1) Not later than February 1 of an odd-numbered year, each 16 person who served as a moderator for a citizen panel or citizen committee 17 that evaluated or drafted a ballot title for a measure voted on at the most 18 recent general election shall:

"(a) Convene to evaluate procedures related to the citizen panels or cit izen committees and submit a written report to the Citizens' Initiative
 Review Commission summarizing the evaluation, along with any recommen dations; and

"(b) Appoint two moderators from among the moderators convened for the
evaluation to be members of the commission.

"(2) Not later than February 1 of an odd-numbered year, two electors from
each citizen panel and each citizen committee shall:

"(a) Convene to evaluate procedures related to the citizen panels or citizen committees and submit a written report to the commission summarizing the evaluation, along with any recommendations; and

30 "(b) Appoint two electors from among the former panelists or committee

1 members convened for the evaluation to be members of the commission.

2 "(3) Each year in which an evaluation is conducted by moderators, 3 committee members and panelists under this section, the commission shall 4 review the evaluations and make any findings and recommendations. The 5 commission shall make all evaluations, findings and recommendations made 6 under this section available to the public.

"SECTION 61. Section 56 of this 2017 Act and the amendments to ORS 250.045, 250.052, 250.062, 250.065, 250.067, 250.075, 250.085 and 250.143 by sections 14 to 17 and 57 to 60 of this 2017 Act apply to ballot titles for prospective petitions to initiate or refer a state measure that are filed on or after the effective date of this 2017 Act and to ballot titles for measures referred by the Legislative Assembly on or after the effective date of this 2017 Act.".

In line 40, delete "55" and insert "62".

In line 41, delete "56" and insert "63".

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