

House Bill 2234

Sponsored by Representatives MARSH, NOSSE; Representatives LIVELY, WILDE, Senator BOQUIST (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes centralized candidate filing system to permit candidates for public office in county, city or district to file for nomination or election by using electronic filing system adopted by Secretary of State.

A BILL FOR AN ACT

1
2 Relating to candidate filing; creating new provisions; and amending ORS 221.050, 221.180, 236.325,
3 249.006, 249.035, 249.200, 249.722, 249.830, 249.850 and 255.235.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 249.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Filing officer" has the meaning given that term in ORS 254.165.**

8 (b) **"Participating jurisdiction" means a county, city or district that, no later than 90**
9 **days before the beginning of the candidate filing period, has informed the Secretary of State**
10 **that the county, city or district will participate in the centralized candidate filing system**
11 **established under this section.**

12 (2) **The Secretary of State shall adopt a centralized candidate filing system that allows**
13 **candidates for public office in a participating jurisdiction to file for nomination or election**
14 **to a county, city or district office.**

15 (3)(a) **The filing officer is responsible for determining whether a candidate who files for**
16 **nomination or election to a public office under this section qualifies for the public office.**

17 (b) **All fees associated with filing for nomination or election to a public office under this**
18 **section shall be collected by the filing officer at the time the filing officer certifies the can-**
19 **didate as meeting the qualifications for the public office.**

20 (4) **The Secretary of State shall adopt all rules necessary for the operation of a central-**
21 **ized candidate filing system under this section.**

22 **SECTION 3. ORS 249.035 is amended to read:**

23 249.035. **Except as provided in section 2 of this 2019 Act,** a nominating petition or declaration
24 of candidacy relating to a candidate for:

25 (1) State office, United States Senator or Representative in Congress shall be filed with the
26 Secretary of State.

27 (2) County office or precinct committeeperson shall be filed with the county clerk.

28 (3) City office shall be filed with the chief city elections officer.

29 (4) Any elected office of a metropolitan service district under ORS chapter 268 shall be filed
30 with the county clerk of the county in which the administrative office of the district is located.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (5) Any other office shall be filed under ORS chapter 255.

2 **SECTION 4.** ORS 249.722 is amended to read:

3 249.722. (1) Except as provided in subsection (3) of this section, a certificate of nomination of a
4 candidate for public office shall be filed not sooner than the 15th day after the date of the primary
5 election and not later than the 70th day before the date of the general election.

6 (2) **Except as provided in section 2 of this 2019 Act**, a certificate of nomination of a candidate
7 for:

8 (a) State office, United States Senator or Representative in Congress shall be filed with the
9 Secretary of State.

10 (b) County office shall be filed with the county clerk.

11 (c) City office shall be filed with the chief city elections officer.

12 (3) For a special election, including an election to fill a vacancy that occurs after the 70th day
13 before the general election, the Secretary of State by rule may adopt a schedule specifying the pe-
14 riod within which a certificate of nomination must be filed. If the Secretary of State does not adopt
15 a rule under this subsection, a certificate of nomination must be filed before the 61st day preceding
16 the election.

17 **SECTION 5.** ORS 249.850 is amended to read:

18 249.850. (1) The certificate of nomination to fill the vacancy under ORS 249.842[,] may be filed
19 **in the manner set forth in section 2 of this 2019 Act, may be filed** directly with the officer with
20 whom the certificate of nomination of the original candidate was filed[, *or it*] **or** may be presented
21 in duplicate to any county clerk who shall file one of the certificates in the clerk's office, imme-
22 diately notify the appropriate filing officer of the nomination and send the duplicate certificate to
23 the officer by the most expeditious method practicable.

24 (2) Upon receipt of notification that a vacancy has been filled, the filing officer shall certify the
25 name of the person selected to fill the vacancy to be included on the ballot. If the certification of
26 candidates has already been sent to the county clerk, the Secretary of State or city filing officer
27 immediately shall give written certification of the new candidate to each county clerk responsible
28 for preparing ballots on which the office will appear. The certification shall state the name and
29 residence of the candidate nominated to fill the vacancy, the office for which the nomination was
30 made, the name of the minor political party the candidate represents or the name of the chairperson
31 of the assembly nominating the candidate, and the name of the person for whom the candidate is
32 substituted. Upon receipt of the certification, the county clerk shall place the new candidate's name
33 on the ballot.

34 **SECTION 6.** ORS 255.235 is amended to read:

35 255.235. (1) **Except as provided in section 2 of this 2019 Act**, a candidate for election as a
36 member of a district board shall be nominated by filing with the elections officer either:

37 (a) A petition for nomination signed by at least 25 electors, or 10 percent of the electors, re-
38 siding in the election district for the office, whichever number is less; or

39 (b) A declaration of candidacy accompanied by a filing fee of \$10.

40 (2) A petition for nomination or a declaration of candidacy shall be filed [*with the elections offi-*
41 *cer*] not sooner than the 40th day before the deadline specified in paragraph (a) or (b) of this sub-
42 section and:

43 (a) Not later than the 61st day before the date of the district election if the election is a regular
44 district election or the first election at which members of the district board are elected.

45 (b) Not later than the 70th day before the date of the district election if the election is held on

1 the date of a primary election or general election.

2 (3) A nominating petition or declaration of candidacy shall contain the information specified in
 3 ORS 249.031.

4 (4) In a district in which a position or zone number is assigned to each office on the district
 5 board, each petition for nomination or declaration of candidacy for election to the district board
 6 shall state the position or zone number of the office to which the candidate seeks election.

7 (5) The provisions of ORS 249.009 (1)(b) and 249.061 do not apply to nominating petitions filed
 8 under this section.

9 (6) A nominee for election to the district board may withdraw the nomination not later than 5
 10 p.m. of the last day specified for filing a petition or declaration under this section by filing with the
 11 elections officer a written withdrawal of candidacy. The withdrawal shall be signed by the nominee
 12 and state the reasons for withdrawal.

13 **SECTION 7.** ORS 221.180 is amended to read:

14 221.180. (1) This section and ORS chapters 249 and 254 govern the manner of nominating and
 15 electing candidates for municipal offices in all cities.

16 (2) Notwithstanding ORS 249.037, if a city does not hold a nominating election for municipal
 17 offices, a nominating petition or declaration of candidacy shall be filed not sooner than the 15th day
 18 after the date of the primary election and not later than the 70th day before the date of the general
 19 election. A candidate who is nominated under this subsection may withdraw candidacy under ORS
 20 249.830.

21 (3) **Except as provided in section 2 of this 2019 Act**, all nominating petitions and declarations
 22 of candidacy shall be filed with the city elections officer. If the city charter or ordinance provides
 23 a manner of filing for nomination, a candidate for any office of that city shall file in that manner.

24 **SECTION 8.** ORS 236.325 is amended to read:

25 236.325. Notwithstanding any other provision of law:

26 (1) The holder of a public office may resign the office effective at a future date that is prior to
 27 the expiration of the term of the office.

28 (2) Any person who receives a certificate of election as a holder of a public office, even though
 29 the person may not have entered upon the execution of its duties or taken the requisite oath of of-
 30 fice, may resign the office effective at a future date that is:

- 31 (a) Prior to the beginning of the term of the office; or
- 32 (b) After the beginning of the term of the office.

33 (3) Except where an election is required by law, if the holder of a public office or a person who
 34 receives a certificate of election as a holder of a public office resigns the office effective at a future
 35 date, the appointing authority required by law to fill a vacancy in the public office may begin the
 36 process to fill the vacancy and may select a successor prior to the effective date of any resignation
 37 under this section.

38 (4) The appointing authority may appoint a successor to fill a vacancy in the public office at
 39 any time after the effective date of a resignation described in this section. This subsection does not
 40 apply where a person who receives a certificate of election as a holder of a public office resigns
 41 prior to the beginning of the term of office and an incumbent still holds the public office.

42 (5) A resignation is binding unless withdrawn in writing by the end of the third business day
 43 after the resignation is made.

44 (6) Where the effective date of a resignation is 21 or more calendar days before the deadline for
 45 filing a nominating petition, declaration of candidacy or certificate of nomination necessary to fill

1 the office at the general election next following the effective date of the resignation, and the dead-
 2 line for withdrawing the resignation has passed, the filing officer for the office, **and the Secretary**
 3 **of State under section 2 of this 2019 Act**, shall accept filings of nominating petitions, declarations
 4 of candidacy and certificates of nomination and the vacancy shall be filled at the general election
 5 next following the effective date of the vacancy.

6 (7) This section does not apply to the office of Governor.

7 **SECTION 9.** ORS 249.006 is amended to read:

8 249.006. **Except as provided in section 2 of this 2019 Act**, immediately upon filing, a nomi-
 9 nating petition, declaration of candidacy, withdrawal, certificate of nomination or other document
 10 required to be filed under this chapter shall be dated and time stamped by the filing officer.

11 **SECTION 10.** ORS 249.200, as amended by section 7, chapter 70, Oregon Laws 2018, is amended
 12 to read:

13 249.200. (1) A major political party may nominate a candidate to fill a vacancy in a partisan
 14 elective office in the following manner:

15 (a) If the vacancy occurs on or before the 70th day before a nominating election, by selecting
 16 a nominee at the next nominating election; or

17 (b) If the vacancy occurs after the 70th day before the nominating election and on or before the
 18 62nd day before the general election, by selecting a nominee as provided by party rule.

19 (2) The procedure under subsection (1) of this section shall not apply in any case in which one
 20 of the following specific procedures for filling a vacancy applies:

21 (a) The procedure specified in ORS 188.120 for the offices of Representative in Congress and
 22 United States Senator.

23 (b) The appointment procedure specified in ORS 171.051 to 171.064 for state legislative office.

24 (c) The procedure specified in ORS chapter 236 for county office.

25 (d) The procedure specified in ORS chapter 221 for city office.

26 (3) **Except as provided in section 2 of this 2019 Act**, a party that selects a nominee under
 27 subsection (1)(b) of this section, immediately after the nomination, shall notify the filing officer with
 28 whom a declaration of candidacy for the office is filed of the name of the nominee by the most ex-
 29 peditious means practicable.

30 (4) The Secretary of State by rule may adopt a schedule specifying the period following a va-
 31 cancy within which a major political party that selects a nominee under subsection (1)(b) of this
 32 section must [*notify the filing officer*] **provide notification** of the name of the nominee under sub-
 33 section (3) of this section.

34 **SECTION 11.** ORS 221.050 is amended to read:

35 221.050. (1) The county court shall submit the proposition for incorporation determined as pro-
 36 vided in ORS 221.040 to the electors registered in the area proposed to be incorporated. At the same
 37 election, five city council members for the proposed city shall be elected.

38 (2) ORS chapters 246 to 260 govern the conduct of an election under this section, including the
 39 nomination and election of the first city council, except as follows:

40 (a) A nominating or primary election for the purpose of nominating candidates for the city
 41 council shall not be held.

42 (b) Notwithstanding ORS 249.037 **and except as provided in section 2 of this 2019 Act**, a
 43 nominating petition or declaration of candidacy must be filed with the county clerk not sooner than
 44 the 100th day and not later than the 70th day before the date of the election.

45 (c) At the time of filing a declaration of candidacy, a candidate for the first city council shall

1 pay to the officer with whom the declaration is filed a fee of \$25.

2 (d) A nominating petition shall contain at least 25 signatures of electors in the area proposed
 3 to be incorporated or a number of signatures of electors equal to at least 10 percent of the number
 4 of electors in the area proposed to be incorporated as of the date the election is ordered under ORS
 5 221.040, whichever is less.

6 (3) The proposed ballot title for an election under this section shall be in compliance with ORS
 7 250.036.

8 (4) Not later than the 30th day after an election called under ORS 221.040 the county court
 9 calling the election shall proclaim whether the results of the election favor incorporation. The
 10 county court also shall proclaim which candidates for city council are elected, if the results of the
 11 election favor incorporation. The results of the election favor incorporation if a majority of the
 12 votes cast on the proposition favors incorporation and:

13 (a) At least 50 percent of registered electors eligible to vote in the election cast a ballot; or

14 (b) The election is held in May or November of any year.

15 (5) If the results of the election favor incorporation:

16 (a) The area described in the notice of election is incorporated as a city from the date of the
 17 election;

18 (b) The proposed rate limit for operating taxes submitted to and approved by the electors at the
 19 election shall be the permanent rate limit for operating taxes for the new city; and

20 (c) The five council members elected under subsection (2) of this section shall take office not
 21 later than the 10th day next following the proclamation on the proposition and council election.

22 **SECTION 12.** ORS 249.830 is amended to read:

23 249.830. (1) A person who has been nominated and has accepted the nomination under ORS
 24 249.712 may withdraw from the nomination by filing with the [*officer with whom the certificate of*
 25 *nomination was filed*] **filing officer, as defined in ORS 254.165**, a written statement declining the
 26 nomination and stating the reason for withdrawal.

27 (2) The statement must be:

28 (a) Signed by the person withdrawing from the nomination; and

29 (b) Filed not later than the 67th day before the general election.

30 (3) The statement may be sent to the Secretary of State through a county clerk, as provided by
 31 ORS 249.850.

32 **SECTION 13. (1) Except as provided in subsection (2) of this section, section 2 of this 2019**
 33 **Act and the amendments to ORS 221.050, 221.180, 236.325, 249.006, 249.035, 249.200, 249.722,**
 34 **249.830, 249.850 and 255.235 by sections 3 to 12 of this 2019 Act become operative and apply**
 35 **to all candidate filings made on or after September 1, 2021.**

36 (2) The Secretary of State may by rule establish an earlier operative date than the date
 37 set forth in subsection (1) of this section.

38 (3) The Secretary of State may take any action before the operative date specified in
 39 subsection (1) or (2) of this section that is necessary for the Secretary of State to exercise,
 40 on and after the operative date specified in subsection (1) or (2) of this section, all of the
 41 duties, functions and powers conferred on the Secretary of State by section 2 of this 2019
 42 Act and the amendments to ORS 221.050, 221.180, 236.325, 249.006, 249.035, 249.200, 249.722,
 43 249.830, 249.850 and 255.235 by sections 3 to 12 of this 2019 Act.