

House Bill 2022

Sponsored by Representative OWENS (at the request of Dag Robinson) (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**.

Makes district attorney, rather than county clerk, responsible for determining whether prospective petition for initiative ballot measure for county complies with requirements of Oregon Constitution.

A BILL FOR AN ACT

1
2 Relating to constitutional requirements for ballot measures; amending ORS 250.165, 250.168 and
3 250.175.

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

5 **SECTION 1.** ORS 250.168 is amended to read:

6 250.168. (1) Not later than *[the fifth]* **one** business day after receiving a prospective petition for
7 an initiative measure, the county clerk shall **deliver the prospective petition to the district at-**
8 **torney. No later than four business days after receiving the prospective petition for an ini-**
9 **tiative measure, the district attorney shall** determine in writing whether the initiative measure
10 meets the requirements of **Article IV**, section 1 (2)(d), *[Article IV,]* and **Article VI**, section 10,
11 *[Article VI]* of the Oregon Constitution.

12 (2) If the *[county clerk]* **district attorney** determines that the initiative measure meets the re-
13 quirements of **Article IV**, section 1 (2)(d), *[Article IV,]* and **Article VI**, section 10, *[Article VI]* of
14 the Oregon Constitution, the **county** clerk shall proceed as required in ORS 250.175. The clerk shall
15 include in the publication required under ORS 250.175 *[(5)]* **(4)** a statement that the initiative
16 measure has been determined to meet the requirements of **Article IV**, section 1 (2)(d), *[Article IV,]*
17 and **Article VI**, section 10, *[Article VI]* of the Oregon Constitution.

18 (3) If the *[county clerk]* **district attorney** determines that the initiative measure does not meet
19 the requirements of **Article IV**, section 1 (2)(d), *[Article IV,]* and **Article VI**, section 10, *[Article*
20 *VI]* of the Oregon Constitution, the *[clerk]* **district attorney** shall immediately notify the petitioner,
21 in writing by certified mail, return receipt requested, of the determination.

22 (4) Any elector dissatisfied with a determination of the *[county clerk]* **district attorney** under
23 subsection (1) of this section may petition the circuit court of the judicial district in which the
24 county is located seeking to overturn the determination of the *[clerk]* **district attorney**. If the
25 elector is dissatisfied with a determination that the initiative measure meets the requirements of
26 **Article IV**, section 1 (2)(d), *[Article IV,]* and **Article VI**, section 10, *[Article VI]* of the Oregon
27 Constitution, the petition must be filed not later than the seventh business day after the ballot title
28 is filed with the clerk. If the elector is dissatisfied with a determination that the initiative measure
29 does not meet the requirements of **Article IV**, section 1 (2)(d), *[Article IV,]* and **Article VI**, section
30 10, *[Article VI]* of the Oregon Constitution, the petition must be filed not later than the seventh
31 business day after the written determination is made by the *[clerk]* **district attorney**.

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) The review by the circuit court shall be the first and final review, and shall be conducted
 2 expeditiously to ensure the orderly and timely circulation of the petition.

3 **SECTION 2.** ORS 250.175 is amended to read:

4 250.175. (1) When a prospective petition for a county measure to be referred is filed with the
 5 county clerk, the clerk shall authorize the circulation of the petition containing the title of the
 6 measure as enacted by the county governing body or, if there is no title, the title supplied by the
 7 petitioner filing the prospective petition. The county clerk immediately shall send one copy of the
 8 prospective petition to the district attorney.

9 *[(2) Not later than the sixth business day after a prospective petition for a county measure to be*
 10 *initiated is filed with the county clerk, the clerk shall send one copy of it to the district attorney if the*
 11 *measure to be initiated has been determined to be in compliance with section 1 (2)(d), Article IV, and*
 12 *section 10, Article VI of the Oregon Constitution, as provided in ORS 250.168.]*

13 *[(3)(a)]* **(2)(a) If the district attorney determines under ORS 250.168 that the measure to**
 14 **be initiated complies with Article IV, section 1 (2)(d), and Article VI, section 10, of the**
 15 **Oregon Constitution,** not later than the *[fifth]* **10th** business day after receiving the copy of the
 16 prospective petition **under ORS 250.168,** and notwithstanding ORS 203.145 (3), the district attorney
 17 shall prepare a ballot title for the county measure to be initiated or referred and certify the ballot
 18 title to the county clerk.

19 (b) If the district attorney determines that a ballot title certified under this subsection contains
 20 a clerical error, the district attorney may correct the error and certify to the county clerk a cor-
 21 rected ballot title not later than the 10th business day after the date the ballot title was certified.

22 (c) A copy of the ballot title shall be furnished to the chief petitioner.

23 *[(4)]* **(3)** Unless the circuit court certifies a different ballot title, the latest ballot title certified
 24 by the district attorney under subsection *[(3)]* **(2)** of this section is the title to be printed on the
 25 ballot.

26 *[(5)(a)]* **(4)(a)** The county clerk, upon receiving a ballot title for a county measure to be referred
 27 or initiated from the district attorney or the county governing body, shall publish in the next
 28 available edition of a newspaper of general circulation in the county a notice of receipt of the ballot
 29 title including notice that an elector may file a petition for review of the ballot title not later than
 30 the date referred to in ORS 250.195.

31 (b) In addition to publishing a notice as described in paragraph (a) of this subsection, the county
 32 clerk may publish a notice on the county’s website for a minimum of seven days.

33 *[(6)]* **(5)** As used in this section, “clerical error” means a typographical, arithmetical or gram-
 34 matical error or omission that is evident from the text of the certified ballot title or by comparison
 35 of the text of the ballot title with a written explanation that was provided by the district attorney
 36 and issued concurrently with the certified ballot title.

37 **SECTION 3.** ORS 250.165 is amended to read:

38 250.165. (1) Before circulating a petition to initiate or refer a county measure, the petitioner
 39 shall file with the county clerk a prospective petition. The county clerk immediately shall date and
 40 time stamp the prospective petition, and specify the form on which the petition shall be printed for
 41 circulation. The clerk shall retain the prospective petition.

42 (2) The cover of an initiative or referendum petition shall designate the name and residence
 43 address of not more than three persons as chief petitioners and shall contain instructions for per-
 44 sons obtaining signatures of electors on the petition. The instructions shall be adopted by the Sec-
 45 retary of State by rule. The cover of a referendum petition shall contain the title described in ORS

1 250.175 (1). If the circuit court has not reviewed the ballot title under ORS 250.195, the cover of an
2 initiative petition shall contain the ballot title described in ORS 250.175 [(3)] (2). If the circuit court
3 has reviewed the ballot title, the cover of the initiative petition shall contain the title certified by
4 the court.

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

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

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

14 (4)(a) Each sheet of signatures on an initiative petition shall contain the caption of the ballot
15 title. Each sheet of signatures on a referendum petition shall contain the number of the ordinance
16 or resolution to be referred, if any, and the date it was adopted by the county governing body.

17 (b) Each sheet of signatures on an initiative or referendum petition shall, if one or more persons
18 will be paid for obtaining signatures of electors on the petition, contain a notice stating: "Some
19 Circulators For This Petition Are Being Paid."

20 (5) The reverse side of the cover of an initiative or referendum petition shall be used for ob-
21 taining signatures on an initiative or referendum petition.

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

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

26 (b) Believes each individual is an elector registered in the county.

27 (7) Unless otherwise provided by a county ordinance, the gathering of signatures on a petition
28 to initiate a county measure may not exceed a period of two years from the time the petition is
29 approved for circulation.

30 (8) A county clerk may not accept for filing any petition which has not met the provisions of
31 subsection (7) of this section.

32 (9) A petition to initiate a county measure must be filed not less than 90 days before the election
33 at which the proposed law is to be voted on.

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

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