

House Bill 2226

Sponsored by Representative WILDE (Presession 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**.

Requires ballots returned by mail to be postmarked not later than date of election. Requires county clerks to announce status of tally of ballots received after election date on third and eighth calendar days after date of election.

Prohibits individual from collecting and returning ballot of other individual except on date of election.

Applies to elections held on or after January 1, 2022.

A BILL FOR AN ACT

1
2 Relating to election deadlines for returning ballots; creating new provisions; and amending ORS
3 253.065, 253.070, 253.690, 254.408, 254.458, 254.470, 254.485, 254.529, 254.545, 254.546, 254.548,
4 254.555, 255.295 and 260.695.

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

6 **SECTION 1.** ORS 254.470 is amended to read:

7 254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the
8 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
9 dates and times the places of deposit must be open and the security requirements for the places of
10 deposit. At a minimum, the places designated under this section shall be open on the date of the
11 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place
12 of deposit designated under this section, the county clerk shall prominently display a sign stating
13 that the location is an official ballot drop site.

14 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, the county clerk shall mail
15 by nonforwardable mail an official ballot with a return identification envelope and a secrecy envel-
16 ope not sooner than the 20th day before the date of an election and not later than the 14th day
17 before the date of the election, to each active elector of the electoral district as of the 21st day
18 before the date of the election.

19 (b) If the county clerk determines that an active elector of the electoral district as of the 21st
20 day before the date of the election does not receive daily mail service from the United States Postal
21 Service, the county clerk shall mail by nonforwardable mail an official ballot with a return iden-
22 tification envelope and a secrecy envelope to the elector not sooner than the 20th day before the
23 date of an election and not later than the 18th day before the date of the election.

24 (c) In the case of ballots to be mailed to addresses outside this state to electors who are not
25 military or overseas electors, the county clerk may mail the ballots not sooner than the 29th day
26 before the date of the election.

27 (3) For an election held on the date of a primary election:

28 (a) The county clerk shall mail the official ballot of a major political party to each elector who
29 is registered as being affiliated with the major political party as of the 21st day before the date of

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 the election.

2 (b) The county clerk shall mail the official ballot of a major political party to an elector not
 3 affiliated with any political party if the elector has applied for the ballot as provided in this sub-
 4 section and that party has provided under ORS 254.365 for a primary election that admits electors
 5 not affiliated with any political party.

6 (c) An elector not affiliated with any political party who wishes to vote in the primary election
 7 of a major political party shall apply to the county clerk in writing. The application must be com-
 8 pleted, signed and submitted by the elector electronically, in person or by mail, in a manner deter-
 9 mined by the secretary by rule and must indicate which major political party ballot the elector
 10 wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS
 11 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day
 12 before the date of the election.

13 (d) If the primary election ballot includes city, county or nonpartisan offices or measures, the
 14 county clerk shall mail to each elector who is not eligible to vote for party candidates a ballot
 15 limited to those offices and measures for which the elector is eligible to vote.

16 (4) For each elector who updates a voter registration after the deadline in ORS 247.025, the
 17 county clerk shall make the official ballot, the return identification envelope and the secrecy en-
 18 velope available either by mail or at the county clerk's office or at another place designated by the
 19 county clerk. An elector to whom this subsection applies must request a ballot from the county
 20 clerk.

21 (5) The ballot shall contain the following warning:

22
 23
 24 Any person who, by use of force or other means, unduly influences an elector to vote in any
 25 particular manner or to refrain from voting is subject to a fine.

26
 27
 28 (6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign
 29 the return identification envelope supplied with the ballot and comply with the instructions provided
 30 with the ballot.

31 (b) The elector may return the marked ballot to the county clerk by United States mail or by
 32 depositing the ballot at the office of the county clerk, at any place of deposit designated by the
 33 county clerk or at any location described in ORS 254.472 or 254.474.

34 (c) The ballot must be returned in the return identification envelope.

35 (d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector **in the**
 36 **manner permitted under section 16 of this 2021 Act**, the person shall deposit the ballot in a
 37 manner described in paragraph (b) of this subsection not later than **8 p.m. on the date of the**
 38 **election** [*two days after receiving the ballot*].

39 (e) [A] **If the elector deposits the ballot at the office of the county clerk, at any place of**
 40 **deposit designated by the county clerk or at any location described in ORS 254.472 or 254.474,**
 41 **the ballot must be received at the office of the county clerk, at the designated place of deposit or**
 42 **at any location described in ORS 254.472 or 254.474 not later than the end of the period determined**
 43 **under subsection (1) of this section on the date of the election. If the elector returns the ballot**
 44 **by mail:**

45 **(A) The ballot must be received at the office of the county clerk not later than the end**

1 of the period determined under subsection (1) of this section on the date of the election; or

2 (B) The ballot must be postmarked not later than the date of the election and received
 3 at the office of the county clerk not later than seven calendar days after the date of the
 4 election.

5 (7) The following shall appear on the return identification envelope:

6 (a) Space for the elector to sign the envelope.

7 (b) A notice stating: "IF YOU MAIL YOUR BALLOT, IT MUST BE POSTMARKED NO
 8 LATER THAN ELECTION DAY. BY SIGNING THIS BALLOT, YOU ATTEST UNDER PEN-
 9 ALTY OF PERJURY THAT THE BALLOT WAS MAILED NO LATER THAN ELECTION
 10 DAY" The statement shall be printed on the front of the envelope and may be altered to the
 11 degree the Secretary of State determines by rule is necessary to provide clarity.

12 (c) A summary of the applicable penalties for knowingly making a false statement, oath
 13 or affidavit under the election laws. The summary shall be printed immediately adjacent to
 14 the space for the elector's signature.

15 (8) If the elector returns the ballot by mail, and the postmark is not present or legible,
 16 the ballot shall be considered to be postmarked on the date of the election and may be
 17 counted if the ballot is received no later than seven calendar days after the election.

18 [(7)] (9) An elector may obtain a replacement ballot if the ballot is destroyed, spoiled, lost or
 19 not received by the elector. Replacement ballots shall be issued and processed as described in this
 20 section and ORS 254.480. The county clerk shall keep a record of each replacement ballot provided
 21 under this subsection. Notwithstanding any deadline for mailing ballots in subsection (2) of this
 22 section, a replacement ballot may be mailed, made available in the office of the county clerk or made
 23 available at one central location in the electoral district in which the election is conducted. The
 24 county clerk shall designate the central location. A replacement ballot need not be mailed after the
 25 fifth day before the date of the election.

26 [(8)] (10) A ballot shall be counted only if:

27 (a) It is returned in the return identification envelope;

28 (b) The envelope is signed by the elector to whom the ballot is issued, unless a certified state-
 29 ment is submitted under ORS 254.431; and

30 (c) The signature is verified as provided in subsection [(9)] (11) of this section.

31 [(9)] (11) The county clerk shall verify the signature of each elector on the return identification
 32 envelope with the signature on the elector's registration record, according to the procedure provided
 33 by rules adopted by the Secretary of State. If the county clerk determines that an elector to whom
 34 a replacement ballot has been issued has voted more than once, the county clerk shall count only
 35 one ballot cast by that elector.

36 [(10)] (12) At 8 p.m. on election day, electors who are at the county clerk's office, a place of
 37 deposit designated under subsection (1) of this section or any location described in ORS 254.472 or
 38 254.474 and who are in line waiting to vote or deposit a voted ballot shall be considered to have
 39 begun the act of voting.

40 [(11)(a)(A)] (13)(a)(A) Except as provided in subparagraph (B) of this paragraph, the name of the
 41 Secretary of State may not appear in the secretary's official capacity on the return identification
 42 envelope, secrecy envelope or on any instructions or materials included with the ballot if the sec-
 43 retary is a candidate in the election for which the ballot is printed.

44 (B) This paragraph does not prohibit the name of the Secretary of State from appearing in the
 45 secretary's official capacity in the voters' pamphlet.

1 (b) The name of the county clerk or other filing officer may not appear in the official capacity
 2 of the county clerk or filing officer on the return identification envelope, secrecy envelope or on any
 3 instructions or materials included with the ballot if the county clerk or filing officer is a candidate
 4 in the election for which the ballot is printed.

5 (c) As used in this subsection, “filing officer” has the meaning given that term in ORS 254.165.

6 **SECTION 2.** ORS 253.065 is amended to read:

7 253.065. (1) For electors with mailing addresses outside this state, the county clerk shall deliver
 8 a ballot:

9 (a) Not later than the 45th day before the election to each military or overseas elector; and

10 (b) Not sooner than the 29th day before the election to each absent elector with a mailing ad-
 11 dress outside this state who is not a military or overseas elector.

12 (2) The clerk shall deliver with the ballot instructions for marking and returning the ballot, a
 13 return identification envelope and a secrecy envelope. The *[back of the envelope shall include]* **return**
 14 **identification envelope must contain:**

15 (a) **Space for the elector to sign the envelope.**

16 (b) **A notice stating: “IF YOU MAIL YOUR BALLOT, IT MUST BE POSTMARKED NO**
 17 **LATER THAN ELECTION DAY. BY SIGNING THIS BALLOT, YOU ATTEST UNDER PEN-**
 18 **ALTY OF PERJURY THAT THE BALLOT WAS MAILED NO LATER THAN ELECTION**
 19 **DAY” The statement shall be printed on the front of the envelope and may be altered to the**
 20 **degree the Secretary of State determines by rule is necessary to provide clarity. This para-**
 21 **graph does not apply to ballots mailed to military or overseas electors as defined in ORS**
 22 **253.510.**

23 (c) **A summary of the applicable penalties for knowingly making a false statement, oath**
 24 **or affidavit under the election laws. The summary shall be printed immediately adjacent to**
 25 **the space for the elector’s signature.**

26 (d) A statement to be signed by the absent elector, stating that the elector:

27 [(a)] (A) Is qualified to vote;

28 [(b)] (B) Unless prevented by physical disability, has personally marked the ballot; and

29 [(c)] (C) Has not unnecessarily exhibited the marked ballot to any other person.

30 (3) An absent elector may obtain a replacement ballot if the ballot delivered under this section
 31 is destroyed, spoiled, lost or not received by the elector. The county clerk shall keep a record of
 32 each replacement ballot provided under this subsection.

33 (4) A replacement ballot provided under subsection (3) of this section may be mailed or shall be
 34 made available in the office of the county clerk.

35 (5) If the county clerk determines that an absent elector to whom a replacement ballot has been
 36 issued at the request of the elector has voted more than once, the county clerk shall count only the
 37 first ballot received by the clerk and provide the elector’s name to the Secretary of State for further
 38 review. If the county clerk is required to reissue ballots due to a change on the ballot for any rea-
 39 son, that ballot shall be counted in lieu of any previous ballot issued unless:

40 (a) Only the original ballot was voted and returned; or

41 (b) The county clerk issued a supplemental ballot that is not a complete replacement of the or-
 42 iginal ballot.

43 **SECTION 3.** ORS 253.070 is amended to read:

44 253.070. *[A ballot from an absent elector must be received by a county clerk not later than 8 p.m.*
 45 *of the day of the election.]*

1 **(1) Upon receipt of a ballot the absent elector shall mark it and comply with the in-**
 2 **structions provided with the ballot. The absent elector may return the marked ballot to the**
 3 **office of the clerk, by any appropriate means.**

4 **(2) If the absent elector returns the marked ballot by any means other than by mail, the**
 5 **ballot must be received by a county clerk not later than 8 p.m. of the day of the election.**

6 **(3) If the absent elector returns the marked ballot by mail, the absent elector must**
 7 **provide the postage and:**

8 **(a) The ballot must be received by a county clerk not later than 8 p.m. of the day of the**
 9 **election; or**

10 **(b) The ballot must be postmarked not later than the date of the election and received**
 11 **by a county clerk not later than seven calendar days after the date of the election. The**
 12 **postmark requirement of this paragraph does not apply to ballots returned by military or**
 13 **overseas electors as defined in ORS 253.510.**

14 **(4) If the elector returns the marked ballot by mail, and the postmark is not present or**
 15 **legible, the ballot shall be considered to be postmarked on the date of the election and may**
 16 **be counted if the ballot is received no later than seven calendar days after the election.**

17 **(5) If a county clerk receives a marked ballot for an elector who does not reside in the**
 18 **clerk's county, the ballot shall be forwarded to the county clerk of the county in which the**
 19 **elector resides not later than the eighth day after the election.**

20 **SECTION 4.** ORS 254.485 is amended to read:

21 254.485. (1) Ballots may be tallied by a vote tally system or by a counting board. A counting
 22 board may tally ballots at the precinct or in the office of the county clerk. In any event, the ballots
 23 shall be tallied and returned by precinct.

24 (2) If a vote tally system is used, the county clerk shall repeat the public certification test de-
 25 scribed under ORS 254.235 (1). The test shall be conducted immediately prior to scanning any bal-
 26 lots. The test may be observed by persons described in ORS 254.235 (2). The county clerk shall
 27 certify the results of the test.

28 (3) If a counting board has been appointed, the tally of ballots may begin on the date of the
 29 election.

30 (4)(a) If ballots are tallied by a counting board, after the tally has begun it shall continue until
 31 completed. Except as provided in paragraph (b) of this subsection, a counting board shall tally
 32 without adjournment and in the presence of the clerks and persons authorized to attend.

33 (b) A counting board may be relieved by another board if the tally is not completed after 12
 34 hours.

35 (5) A counting board shall audibly announce the tally as it proceeds. The board shall use only
 36 pen and ink to tally.

37 (6) For ballots cast using a voting machine, the county clerk shall:

38 (a) Enter the ballots cast using the machine into the vote tally system; and

39 (b) In the event of a recount, provide the paper record copy recorded by the machine to the
 40 counting board.

41 (7) A person other than the county clerk, a member of a counting board or any other elections
 42 official designated by the county clerk may not tally ballots under this chapter.

43 **(8) If ballots are received after the date of the election, the county clerk shall announce**
 44 **the status of the tally of the ballots received after the date of the election on the third and**
 45 **eighth calendar days after the date of the election.**

SECTION 5. ORS 254.545 is amended to read:

254.545. Subject to ORS 254.548, the county clerk:

(1) As soon as possible after any election, shall prepare abstracts of votes. The abstract for election of Governor shall be on a sheet separate from the abstracts for other offices and measures.

(2) On completion of the abstracts, shall record a complete summary of votes cast in the county for each office, candidate for office and measure. The county clerk shall sign and certify this record.

(3) Not later than the [20th] **27th** day after the election, shall deliver a copy of the abstracts for other than county offices to the appropriate elections officials. The abstract for election of Governor shall be delivered separately to the Secretary of State as provided in section 4, Article V, Oregon Constitution.

(4) Not later than the [30th] **35th** day after the election, shall proclaim which county measure is paramount, if two or more approved county measures contain conflicting provisions.

(5) Shall prepare and deliver a certificate of nomination or election to each candidate having the most votes for nomination for or election to county or precinct offices.

(6) Shall prepare, and file with the county governing body, a certificate stating the compensation to which the board clerks are entitled. The county governing body shall order the compensation paid by county funds.

(7) As soon as possible after any election, shall send electronically the results of the election in each precinct to the Secretary of State.

SECTION 6. ORS 254.546 is amended to read:

254.546. (1) In the case of a recall election held on a date other than the date of the primary election or general election, the county clerk shall prepare an abstract of the votes and deliver it to the elections official authorized to order the recall election not later than the [20th] **27th** day after the election.

(2) Except as provided in subsection (3) of this section, for purposes of section 18, Article II, Oregon Constitution, the result of the recall election referred to in subsection (1) of this section shall be considered officially declared on the date the abstract of the votes is delivered.

(3) If the elections official authorized to order the recall election is the Secretary of State, the Secretary of State shall officially declare the result of the election not later than the [30th] **35th** day after the election.

SECTION 7. ORS 254.555 is amended to read:

254.555. (1) Except as provided in ORS 254.548, not later than the [30th] **35th** day after any election, the Secretary of State, regarding offices for which the secretary receives filings for nomination, shall:

(a) Canvass the votes for the offices, except the office of Governor after the general election.

(b) Enter in a register of nominations after the primary election the name and, if applicable, major political party of each candidate nominated, the office for which the candidate is nominated and the date of entry.

(c) Prepare and deliver a certificate of nomination or election to each candidate having the most votes for nomination for or election to the office. The Secretary of State shall sign the certificate under the seal of the state.

(d) Issue a proclamation declaring the election of candidates to the offices.

(2) Not later than the [30th] **35th** day after the election:

(a) The Secretary of State, regarding measures for which the secretary is the filing officer, shall canvass the votes for each measure.

1 (b) The Governor shall issue a proclamation giving the number of votes cast for or against each
 2 such measure, and declaring the approved measures as the law on the effective date of the measure.
 3 If two or more approved measures contain conflicting provisions, the Governor shall proclaim which
 4 is paramount.

5 **SECTION 8.** ORS 254.529 is amended to read:

6 254.529. (1) At each primary election, general election and special election, the county clerk
 7 shall make a determination on whether to conduct:

8 (a) A hand count of ballots as described in this section and compare the tally of votes for those
 9 ballots produced by a vote tally system with the tally of votes for those ballots produced by the hand
 10 count; or

11 (b) A risk-limiting audit in the manner described in ORS 254.532.

12 (2) If the county clerk determines that a hand count will be conducted:

13 (a) In the event that the unofficial tally of ballots produced by a vote tally system reveals that
 14 the margin of victory between the two candidates receiving the largest number of votes in the
 15 county is less than one percent of the total votes cast in that election in the county, the county
 16 clerk shall conduct a hand count of ballots in at least 10 percent of all precincts or of ballots in
 17 at least 10 percent of all batches of ballots collected by the county clerk.

18 (b) In the event that the unofficial tally of ballots reveals that the margin of victory between
 19 the two candidates receiving the largest number of votes in the county is greater than or equal to
 20 one percent but less than two percent of the total votes cast in the county, the county clerk shall
 21 conduct a hand count of ballots in at least five percent of all precincts or of ballots in at least five
 22 percent of all batches of ballots collected by the county clerk.

23 (c) In the event that the unofficial tally of ballots reveals that the margin of victory between
 24 the two candidates receiving the largest number of votes in the county is greater than or equal to
 25 two percent of the total votes cast in the county, the county clerk shall conduct a hand count of
 26 ballots in at least three percent of all precincts or of ballots in at least three percent of all batches
 27 of ballots collected by the county clerk.

28 (3) If the county clerk determines that a hand count will be conducted, the county clerk shall
 29 conduct a hand count of ballots cast in the election contest between the two candidates receiving
 30 the largest number of votes in the county, an election contest for an office to be voted on in the
 31 state at large and, if possible, an election contest for a state measure. The Secretary of State shall
 32 select the precincts or batches at random. At the election:

33 (a) If selecting precincts, no fewer than 150 ballots must have been cast in at least one of the
 34 precincts selected.

35 (b) If selecting batches, the number of ballots contained in the batches selected must in the ag-
 36 gregate be equal to or greater than:

37 (A) Ten percent of the total number of ballots cast in the election for a hand count required
 38 under subsection (2)(a) of this section.

39 (B) Five percent of the total number of ballots cast in the election for a hand count required
 40 under subsection (2)(b) of this section.

41 (C) Three percent of the total number of ballots cast in the election for a hand count required
 42 under subsection (2)(c) of this section.

43 (4) Not later than 5 p.m. of the 15th business day after the date of the election, the Secretary
 44 of State shall in writing advise the county clerks who made a determination that a hand count will
 45 be conducted of:

1 (a) The election contests for which ballots are to be hand counted; and

2 (b) The precincts or batches in which ballots are to be hand counted.

3 (5) A county clerk shall begin the hand counts under this section not later than the [23rd] **27th**
 4 day after the election and complete the hand counts not later than the [30th] **35th** day after the
 5 election. The results of the hand counts shall be provided to the Secretary of State, who shall make
 6 the results publicly available on the Secretary of State's website.

7 (6) A comparison of the tally of votes produced by a vote tally system with the tally of votes
 8 produced by the hand count under this section must show that the tally of votes produced by the
 9 vote tally system differs by no more than one-half of one percent from the tally of votes produced
 10 by the hand count.

11 (7)(a) If a hand count conducted under this section results in a tally of votes for a candidate or
 12 measure that is different from the tally of votes produced by the vote tally system for that candidate
 13 or measure, and the difference for each race is equal to or less than one-half of one percent, the
 14 tally of votes produced by the vote tally system is the official tally of votes for that vote tally sys-
 15 tem.

16 (b) If a hand count conducted under this section results in a tally of votes for a candidate or
 17 measure that is different from the tally of votes produced by the vote tally system for that candidate
 18 or measure, and the difference in any race is greater than one-half of one percent, the county clerk
 19 shall conduct a second hand count of the same ballots.

20 (c) If the second hand count conducted under this subsection results in a tally of votes for a
 21 candidate or measure that is different from the tally of votes produced by the vote tally system for
 22 that candidate or measure, and the difference for each race is equal to or less than one-half of one
 23 percent, the tally of votes produced by the vote tally system is the official tally of votes for that
 24 vote tally system.

25 (d) If the second hand count conducted under this subsection results in a tally of votes for a
 26 candidate or measure that is different from the tally of votes produced by the vote tally system for
 27 that candidate or measure, and the difference in any race is greater than one-half of one percent,
 28 the county clerk shall conduct a hand count of all ballots counted by that vote tally system. The
 29 hand count is the official tally of votes for that vote tally system. If the hand count is the official
 30 tally of votes, not later than the [30th] **35th** day after the election, the county clerk shall certify
 31 amended abstracts of votes to appropriate elections officials.

32 (8) For purposes of conducting the hand counts under this section, the county clerk shall:

33 (a) Retain custody of the ballots; and

34 (b) Provide for security for the ballots and the information required to be collected under this
 35 subsection.

36 (9) This section does not apply:

37 (a) To precincts that are subject to a recount under ORS 258.161, 258.280 or 258.290.

38 (b) If federal law requires a post-election hand count of ballots at the primary election, general
 39 election or special election to verify election results and the Secretary of State determines that the
 40 requirements of federal law are at least as stringent as the requirements of subsections (1) to (8)
 41 of this section.

42 **SECTION 9.** ORS 254.548 is amended to read:

43 254.548. (1) An individual nominated or elected to a public office by write-in votes shall sign and
 44 file a form indicating that the individual accepts the nomination or office before the filing officer
 45 may issue a certificate of nomination or election. The Secretary of State by rule shall prescribe the

1 form to be used under this section.

2 (2) In the case of an individual nominated or elected by write-in votes to a public office:

3 (a) Not later than the [31st] **35th** day after the election, the filing officer shall:

4 (A) Prepare and deliver by regular mail the form described in subsection (1) of this section to
5 the individual; and

6 (B) If the filing officer has the electronic mail address of the individual, prepare and deliver by
7 electronic mail the form described in subsection (1) of this section to the individual;

8 (b) Not later than the 41st day after the election, if the individual accepts the nomination or
9 office, the individual shall sign and file the form with the filing officer; and

10 (c) Not later than the 45th day after the election, if the individual files the form by the deadline
11 specified in paragraph (b) of this subsection, the filing officer shall prepare and deliver a certificate
12 of nomination or election to the individual and, if applicable, issue a proclamation declaring the
13 election of the candidate to the office.

14 **SECTION 10.** ORS 255.295 is amended to read:

15 255.295. (1) Not later than the [20th] **27th** day after the date of an election, the elections officer
16 shall prepare an abstract of the votes and deliver it to the district elections authority. Not later
17 than the 45th day after the date of an election, the district elections authority shall determine from
18 it the result of the election.

19 (2) Subject to ORS 254.548, the elections officer may issue a certificate of election only after the
20 district elections authority has notified the elections officer in writing of the result of the election.

21 **SECTION 11.** ORS 253.690 is amended to read:

22 253.690. (1) A military or overseas elector described in ORS 253.510 may cast a ballot using a
23 facsimile machine or by electronic mail as provided in this section. Notwithstanding ORS 254.470
24 [(8)] **(10)**, a ballot cast under this section shall be counted only if the ballot:

25 (a) Is received in the office of the county clerk not later than 8 p.m. on the day of the election;

26 (b) Is accompanied by a return identification envelope containing the signature of the elector
27 and a signed waiver described in subsection (2) of this section; and

28 (c) The signature is verified as provided in subsection (4) of this section.

29 (2) Each elector who casts a ballot under this section shall complete and submit a waiver de-
30 scribed in this subsection. The elector shall attest to the information supplied on the waiver by
31 signing the completed waiver. The Secretary of State by rule shall design the form of the waiver,
32 which shall include all of the following:

33 (a) Space for the elector to provide the elector's full name, residence or mailing address, an
34 electronic mail address, phone or facsimile number where the elector may be contacted and any
35 other necessary information.

36 (b) A waiver in substantially the following form:

37 _____

38
39 I, _____, acknowledge that by casting my voted ballot using a facsimile machine or by
40 electronic mail I have waived my right to a secret ballot.

41 _____

42
43 (c) A statement to notify the elector that the elector's ballot will not be counted unless the
44 elector has complied with the provisions of this section.

45 (d) Space for the elector to provide the elector's signature to attest to the information supplied.

1 (3)(a) If a ballot is cast under this section using a facsimile machine, the return identification
 2 envelope and waiver shall also be submitted using a facsimile machine.

3 (b) If a ballot is cast under this section by electronic mail, the return identification envelope
 4 and waiver shall also be submitted by electronic mail.

5 (4) The county clerk shall verify the signature of each elector on the return identification en-
 6 velope transmitted by facsimile machine or electronic mail under this section with the signature on
 7 the elector's registration record, according to the procedure provided by rules adopted by the Sec-
 8 retary of State.

9 (5) The Secretary of State shall adopt rules to administer this section and to ensure the secrecy
 10 of ballots cast using a facsimile machine or by electronic mail to the greatest extent possible.

11 **SECTION 12.** ORS 260.695 is amended to read:

12 260.695. (1)(a) If a person prints or circulates an imitation of the ballot or sample ballot:

13 (A) The imitation ballot or sample ballot and the back of any return envelope enclosed with the
 14 ballot or sample ballot shall state the following: "THIS IS NOT A REAL BALLOT. DO NOT USE
 15 TO VOTE." The statement on the imitation ballot or sample ballot shall be in bold print that is at
 16 least two times as large as the majority of the text on the ballot or sample ballot or 20-point type,
 17 whichever is larger. The statement on the back of a return envelope shall be in bold print that is
 18 at least 36-point type.

19 (B) The word "UNOFFICIAL" must be superimposed on the imitation ballot or sample ballot so
 20 that the word extends diagonally across the ballot from one margin of the text to the other. The
 21 superimposed word may be printed in lighter ink than other text on the ballot or sample ballot.

22 (b) For purposes of this subsection, an imitation of the ballot or sample ballot includes an imi-
 23 tation of a portion of the ballot or sample ballot.

24 (2) A person may not do any electioneering, including circulating any cards or handbills, or so-
 25 liciting of signatures to any petition, within any building in which any state or local government
 26 elections office designated for the deposit of ballots under ORS 254.470 is located, or within 100 feet
 27 measured radially from any entrance to the building. A person may not do any electioneering by
 28 public address system located more than 100 feet from an entrance to the building if the person is
 29 capable of being understood within 100 feet of the building. The electioneering need not relate to
 30 the election being conducted. This subsection applies during the business hours of the building or,
 31 if the building is a county elections office, during the hours the office is open to the public, during
 32 the period beginning on the date that ballots are mailed to electors as provided in ORS 254.470 and
 33 ending on election day at 8 p.m. or when all persons waiting in line at the building who began the
 34 act of voting as described in ORS 254.470 [(10)] (12) by 8 p.m. have finished voting.

35 (3) A person may not obstruct an entrance of a building in which ballots are issued or a place
 36 designated for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS
 37 254.474 is located. This subsection applies during the period beginning on the date that ballots are
 38 mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all
 39 persons waiting in line at the building or location who began the act of voting as described in ORS
 40 254.470 [(10)] (12) by 8 p.m. have finished voting.

41 (4) A person may not vote or offer to vote in any election knowing the person is not entitled
 42 to vote.

43 (5) A person may not make a false statement about the person's inability to mark a ballot.

44 (6) A person, except an elections official in performance of duties or another person providing
 45 assistance to an elector as described in ORS 254.445, may not ask a person at any place designated

1 for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472 or 254.474
 2 for whom that person intends to vote, or examine or attempt to examine the person's ballot.

3 (7) An elections official, other than in the performance of duties, may not disclose to any person
 4 any information by which it can be ascertained for whom any elector has voted.

5 (8) A person, except an elections official in performance of duties, may not do anything to a
 6 ballot to permit identification of the person who voted.

7 (9) An elector may not willfully leave at any place designated for the deposit of ballots under
 8 ORS 254.470 or at any location described in ORS 254.472 or 254.474 anything that will show how the
 9 elector's ballot was marked.

10 (10) A person, except an elections official in performance of duties, may not remove a ballot
 11 from any place designated for the deposit of ballots under ORS 254.470 or any location described in
 12 ORS 254.472 or 254.474.

13 (11) A person, except an elections official in performance of duties or a person authorized by
 14 that official, may not willfully deface, remove, alter or destroy a posted election notice.

15 (12) A person, except an elections official in performance of duties, may not willfully remove,
 16 alter or destroy election equipment or supplies, or break the seal or open any sealed package con-
 17 taining election supplies.

18 (13) A person, except an elections official in performance of duties, may not provide elections
 19 advice or attempt to collect voted ballots within any building in which any state or local govern-
 20 ment elections office designated for the deposit of ballots under ORS 254.470 is located, or within
 21 100 feet measured radially from any entrance to the building.

22 (14) A person, except an elections official in performance of duties, may not establish a location
 23 to collect ballots voted by electors unless:

24 (a) The person prominently displays at the location a sign stating: "NOT AN OFFICIAL BAL-
 25 LOT DROP SITE"; and

26 (b) The sign is printed in all capital letters in bold 50-point type.

27 **SECTION 13.** ORS 254.408 is amended to read:

28 254.408. (1) A person offering to vote and who claims to be an elector, but for whom no evidence
 29 of active or inactive registration can be found, shall be granted the right to vote in the manner
 30 provided in this section.

31 (2) Whenever an elector updates a registration at a county clerk's office after the ballots have
 32 been mailed under ORS 254.470, the elector shall vote in that election in the manner provided in this
 33 section.

34 (3) An elector voting under this section shall complete and sign a registration card.

35 (4)(a) The elector shall insert the ballot into a small envelope provided by the county clerk and
 36 then insert the small envelope into a larger envelope. The larger envelope shall be delivered to the
 37 county clerk and shall be segregated and not counted until the registration of the elector is verified
 38 under this section.

39 (b) An envelope provided under this subsection must comply with the prohibitions set forth in
 40 ORS 254.470 [(11)] (13).

41 (5) The county clerk shall determine if the elector is validly registered to vote and if the vote
 42 was properly cast. The ballot shall be counted only if the county clerk determines the registration
 43 of the elector is considered active or inactive.

44 (6) A vote shall be counted only if the elector is qualified to vote for the particular office or
 45 on the measure.

1 **SECTION 14.** ORS 254.458 is amended to read:

2 254.458. (1) Notwithstanding any provision of ORS 254.470:

3 (a) A county clerk may apply to the Secretary of State for approval of any procedure to be used
4 in lieu of the envelope procedures described in ORS 254.470; and

5 (b) Upon receiving an application under paragraph (a) of this subsection, the secretary may ap-
6 prove a procedure to be used in lieu of the envelope procedures described in ORS 254.470 if the
7 secretary determines that the procedure will provide substantially the same degree of secrecy as
8 ORS 254.470.

9 (2) A procedure approved by the secretary under this section must comply with the prohibitions
10 set forth in ORS 254.470 [(11)] (13).

11 **SECTION 15.** Section 16 of this 2021 Act is added to and made a part of ORS chapter 254.

12 **SECTION 16.** (1) Each elector must return the elector's own ballot in the manner pro-
13 vided in ORS 254.470. Except as provided in subsection (2) of this section, an individual may
14 not collect or return another individual's ballot.

15 (2) On the date of an election, an individual may collect and return the ballot of a dif-
16 ferent individual provided that the individual who collects the ballot deposits the ballot at the
17 office of the county clerk, at any place of deposit designated by the county clerk or at any
18 location described in ORS 254.472 or 254.474 no later than 8 p.m. on the date of the election.

19 **SECTION 17.** Section 16 of this 2021 Act and the amendments to ORS 253.065, 253.070,
20 253.690, 254.408, 254.458, 254.470, 254.485, 254.529, 254.545, 254.546, 254.548, 254.555, 255.295 and
21 260.695 by sections 1 to 14 of this 2021 Act apply to elections held on or after January 1, 2022.

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