

House Bill 2227

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**.

Prohibits portraits of candidates from being included in voters' pamphlets.

A BILL FOR AN ACT

1
2 Relating to material contained in voters' pamphlets; creating new provisions; amending ORS 246.021,
3 251.014, 251.055, 251.065, 251.067, 251.087, 251.095, 251.125, 251.165, 251.315, 251.325, 251.335 and
4 251.365; and repealing ORS 251.075.

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

6 **SECTION 1.** ORS 251.055 is amended to read:

7 251.055. (1) The Secretary of State shall reject any statement, argument or other matter offered
8 for filing and printing in a voters' pamphlet which:

9 (a) Contains any obscene, profane or defamatory language;

10 (b) Incites or advocates hatred, abuse or violence toward any person or group; [*or*]

11 (c) Contains any language which may not legally be circulated through the mails; **or**

12 **(d) Contains the portrait or photograph of any candidate.**

13 (2) Nothing in this chapter shall make the author of any statement or argument exempt from
14 any civil or criminal action because of any defamatory statements offered for printing or contained
15 in the voters' pamphlet. The persons writing, signing or offering a statement or argument for filing
16 shall be deemed its authors and publishers.

17 (3) The Secretary of State by rule shall establish a procedure to notify a person who offered a
18 statement, argument or other matter that was rejected pursuant to this section. Subject to voters'
19 pamphlet deadlines, the procedure shall require the Secretary of State to:

20 (a) Make reasonable attempts to notify the person of the rejection; and

21 (b) Allow the person, if notified pursuant to paragraph (a) of this subsection, to revise the
22 statement so that it does not violate the provisions of this section.

23 **SECTION 2.** ORS 251.014 is amended to read:

24 251.014. (1) The Secretary of State by rule shall adopt an electronic filing system to allow esti-
25 mates, [*portraits,*] statements or arguments to be filed electronically using the Internet.

26 (2) The Secretary of State may adopt rules to administer this section.

27 **SECTION 3.** ORS 251.065 is amended to read:

28 251.065. (1)(a) Except as provided in paragraph (b) of this subsection, not sooner than the 120th
29 day and not later than the 68th day before the primary election, a candidate or agent on behalf of
30 the candidate for nomination or election at the primary election to the office of President or Vice
31 President of the United States, United States Senator, Representative in Congress or a state office
32 as defined in ORS 249.002 may file with the Secretary of State [*a portrait of the candidate and*] a

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 statement of the reasons the candidate should be nominated or elected. A candidate or agent on
 2 behalf of the candidate for nomination or election to a county or city office, or to an elected office
 3 of a metropolitan service district organized under ORS chapter 268, may file a [*portrait and*] state-
 4 ment under this subsection if permitted under ORS 251.067.

5 (b) A [*portrait and*] statement may be filed not later than the 63rd day before the primary
 6 election in the event of a vacancy described in ORS 249.037 (2).

7 (2) Not sooner than the 120th day and not later than the 70th day before the general election,
 8 a candidate or agent on behalf of the candidate for election at the general election to the office of
 9 President or Vice President of the United States, United States Senator, Representative in Congress
 10 or a state office as defined in ORS 249.002 may file with the Secretary of State [*a portrait of the*
 11 *candidate and*] a statement of the reasons the candidate should be elected. A candidate or agent on
 12 behalf of the candidate for election to a county or city office, or to an elected office of a metropol-
 13 itan service district organized under ORS chapter 268, may file a [*portrait and*] statement under this
 14 subsection if permitted under ORS 251.067.

15 (3) In the case of a special election to fill a vacancy as described in ORS 251.022, the Secretary
 16 of State by rule shall set the deadline for filing with the secretary [*a portrait of the candidate and*]
 17 a statement of the reasons the candidate should be nominated or elected.

18 (4) All [*portraits and*] statements described in this section must be filed using the electronic fil-
 19 ing system adopted by the Secretary of State under ORS 251.014.

20 (5) Subject to the requirements of this section, the Secretary of State by rule shall establish the
 21 format of the statements permitted under this section.

22 (6) A [*portrait or*] statement filed under this section must be accompanied by a telephone or
 23 electronic facsimile transmission machine number where the candidate may be contacted for pur-
 24 poses of ORS 251.087.

25 **SECTION 4.** ORS 251.067 is amended to read:

26 251.067. (1) A candidate or agent on behalf of the candidate for nomination or election to any
 27 county or city office, or to an elected office of a metropolitan service district organized under ORS
 28 chapter 268, may file a [*portrait or*] statement for inclusion in the state voters' pamphlet under ORS
 29 251.065 if a county voters' pamphlet described in ORS 251.305 to 251.435 is not prepared for the
 30 election in each county in which the electoral district of the candidate is located.

31 (2) A community college district measure relating to bonding, a county measure or a measure
 32 of a metropolitan service district organized under ORS chapter 268, and the ballot title, explanatory
 33 statement and arguments relating to the measure, shall be included in the state voters' pamphlet
 34 as provided in ORS 251.285, if a county voters' pamphlet described in ORS 251.305 to 251.435 is not
 35 prepared:

36 (a) For the election on the county measure; or

37 (b) In each county in which the community college district or metropolitan service district is
 38 located, for the election on the community college district measure relating to bonding or metro-
 39 politan service district measure.

40 (3) If a county voters' pamphlet described in ORS 251.305 to 251.435 is prepared for an election
 41 at which a candidate for nomination or election to any county or city office, or to an elected office
 42 of a metropolitan service district organized under ORS chapter 268, is listed on the ballot, or at
 43 which a community college district measure relating to bonding, a county measure or a measure of
 44 a metropolitan service district organized under ORS chapter 268 is listed on the ballot, the county
 45 voters' pamphlet shall include the county or city office, the office of the metropolitan service district

1 or the community college district measure relating to bonding, county measure or measure of the
 2 metropolitan service district. Such offices and measures shall not be included in any state voters'
 3 pamphlet prepared for the election and distributed in the county for which the county voters' pam-
 4 phlet is prepared.

5 (4) If a city, metropolitan service district organized under ORS chapter 268 or community col-
 6 lege district is located in more than one county, and a county in which the city, metropolitan service
 7 district or community college district is located does not prepare a county voters' pamphlet de-
 8 scribed in ORS 251.305 to 251.435 for the election, candidates for nomination or election to any city
 9 office or an elected office of the metropolitan service district, and any community college district
 10 measure relating to bonding or measure of the metropolitan service district, shall be included in the
 11 state voters' pamphlet to be distributed to the county that does not prepare a county voters' pam-
 12 phlet. The Secretary of State shall designate the candidates and measures that may be included in
 13 the state voters' pamphlet under this subsection.

14 (5) As used in this section, "community college district" has the meaning given that term in ORS
 15 341.005.

16 **SECTION 5.** ORS 251.087 is amended to read:

17 251.087. (1) If a candidate files a [*portrait and*] statement under ORS 251.065 for inclusion in the
 18 voters' pamphlet, the Secretary of State shall review the [*portrait and*] statement to ensure [*that the*
 19 *portrait complies with the requirements of ORS 251.075 and*] that the statement complies with the
 20 requirements of ORS 251.049 and 251.085.

21 (2) Review by the Secretary of State under this section shall be limited to determining whether
 22 the [*portrait and*] statement [*comply*] **complies** with the requirements of ORS 251.049[, 251.075] and
 23 251.085 and shall not include any determination relating to the accuracy or truthfulness of materials
 24 filed.

25 (3) The Secretary of State shall review each [*portrait and*] statement not later than three busi-
 26 ness days following the deadline for filing a [*portrait and*] statement under ORS 251.065. If the
 27 Secretary of State determines that the [*portrait or*] statement of a candidate must be revised in order
 28 to comply with the requirements of ORS 251.049[, 251.075] or 251.085, the Secretary of State shall
 29 attempt to contact the candidate not later than the fifth business day following the deadline for fil-
 30 ing a [*portrait and*] statement under ORS 251.065. A candidate contacted by the Secretary of State
 31 under this section may file a revised [*portrait or*] statement not later than the seventh business day
 32 following the deadline for filing a [*portrait and*] statement under ORS 251.065.

33 (4) If the Secretary of State is required to attempt to contact a candidate under subsection (3)
 34 of this section, the Secretary of State shall attempt to contact the candidate by telephone or by
 35 using an electronic transmission facsimile machine.

36 (5) If the Secretary of State is unable to contact a candidate or if the candidate does not file a
 37 revised [*portrait or*] statement, the following rules apply:

38 [*If a portrait does not comply with ORS 251.075, the Secretary of State may modify the portrait.*
 39 *The candidate shall pay the expense of any modification prior to publication of the portrait in the*
 40 *voters' pamphlet. If the portrait cannot be modified to comply with ORS 251.075, the portrait shall not*
 41 *be printed in the voters' pamphlet.*]

42 [(b)] (a) If a statement does not comply with ORS 251.085 the statement shall not be printed in
 43 the voters' pamphlet.

44 [(c)] (b) If a statement does not comply with ORS 251.049, the Secretary of State shall edit the
 45 statement to remove language that does not comply with ORS 251.049.

1 (6) If the [*portrait or*] statement of a candidate filed under ORS 251.065 does not comply with a
 2 requirement of ORS 251.049[, 251.075] or 251.085 and the Secretary of State does not attempt to
 3 contact the candidate by the deadline specified in subsection (3) of this section, for purposes of ORS
 4 251.049[, 251.075] and 251.085 only, the [*portrait or*] statement shall be printed as filed.

5 (7) A candidate revising a [*portrait or*] statement under this section shall make only those re-
 6 visions necessary to comply with ORS 251.049[, 251.075] and 251.085.

7 (8) The Secretary of State by rule may define the term “contact” as used in this section.

8 **SECTION 6.** ORS 251.095 is amended to read:

9 251.095. (1) For space in the voters’ pamphlet:

10 (a) Each candidate for nomination or election to the office of President or Vice President of the
 11 United States shall, at the time materials are filed under ORS 251.065, pay a fee of \$3,500 to the
 12 Secretary of State or may submit a petition in a form prescribed by the secretary containing the
 13 signatures of 500 active electors of the state.

14 (b) Each candidate for nomination or election to the office of United States Senator or any state
 15 office to be voted for in the state at large shall, at the time materials are filed under ORS 251.065,
 16 pay a fee of \$3,000 to the Secretary of State or may submit a petition in a form prescribed by the
 17 secretary containing the signatures of 500 active electors of the state.

18 (c) Each candidate for nomination or election to the office of Representative in Congress shall,
 19 at the time materials are filed under ORS 251.065, pay a fee of \$2,500 to the Secretary of State or
 20 may submit a petition in a form prescribed by the secretary containing the signatures of 300 active
 21 electors of the candidate’s electoral district.

22 (d) Each candidate for nomination or election to the office of state Senator or state Represen-
 23 tative shall, at the time materials are filed under ORS 251.065, pay a fee of \$750 to the Secretary
 24 of State or may submit a petition in a form prescribed by the secretary containing the signatures
 25 of 200 active electors of the candidate’s electoral district.

26 (e) Each candidate for nomination or election to any other office shall, at the time materials are
 27 filed under ORS 251.065, pay a fee of \$600 to the Secretary of State or may submit a petition in a
 28 form prescribed by the secretary containing the signatures of 200 active electors of the candidate’s
 29 electoral district.

30 (2)(a) The signatures on a petition submitted under subsection (1) of this section shall be verified
 31 by the county clerk or the Secretary of State.

32 (b) The Secretary of State by rule shall establish procedures for verifying whether a petition
 33 submitted under subsection (1) of this section contains the required number of signatures of active
 34 electors.

35 (3) The space allotted to each candidate shall be used for materials filed under ORS 251.065,
 36 including the [*portrait and*] statement of reasons the candidate should be nominated or elected and
 37 the information required under ORS 251.085. The length of the statement may not exceed 325 words.
 38 All candidates shall be allowed the same amount of space. The Secretary of State by rule shall
 39 prescribe the size of the space allotted to each candidate, except that the space may not be smaller
 40 than 30 square inches.

41 **SECTION 7.** ORS 251.125 is amended to read:

42 251.125. (1) In a section of the voters’ pamphlet that provides general information, the Secretary
 43 of State shall include a disclaimer in boldfaced type in substantially the following form:
 44 _____
 45

1 Information provided in statements or arguments submitted by a candidate, a political party, an as-
 2 sembly of electors or a person supporting or opposing a measure have not been verified for accuracy
 3 by the State of Oregon.

4
 5
 6 (2) At the bottom of each allotted space of the voters' pamphlet containing a *[portrait or]*
 7 statement filed by a candidate, political party or assembly of electors, the Secretary of State shall
 8 include a statement identifying the person who furnished the *[portrait or]* statement.

9 **SECTION 8.** ORS 251.165 is amended to read:

10 251.165. (1) The Secretary of State shall prepare:

11 (a) A list of the names of candidates for nomination or election at the primary election to the
 12 offices of President or Vice President of the United States, United States Senator, Representative
 13 in Congress, any state office other than justice of the peace and any county or city office or elected
 14 office of a metropolitan service district required to be included under ORS 251.067, or a list of names
 15 of candidates for election at the general election to the offices of President or Vice President of the
 16 United States, United States Senator, Representative in Congress, any state office other than justice
 17 of the peace and any county or city office or elected office of a metropolitan service district re-
 18 quired to be included under ORS 251.067, along with a designation of the offices for which the can-
 19 didates are competing;

20 (b) All *[portraits and]* statements filed under ORS 251.065 and 251.115; and

21 (c) The information specified in ORS 251.185 relating to measures to be voted upon at the
 22 election for which the pamphlet is prepared.

23 (2) For a special election described in ORS 251.022, the Secretary of State shall prepare a list
 24 of the names of candidates for nomination or election to the offices of United States Senator or
 25 Representative in Congress along with all *[portraits and]* statements filed for the special election
 26 under ORS 251.065.

27 (3) The items specified in subsections (1) and (2) of this section shall be properly compiled, ed-
 28 ited, prepared and indexed for printing by the Secretary of State before delivery to the printer.

29 **SECTION 9.** ORS 251.315 is amended to read:

30 251.315. (1) If a county produces a county voters' pamphlet, the county voters' pamphlet shall
 31 include, when applicable, at least the following information:

32 (a) Requirements for a citizen to qualify as an elector.

33 (b) Requirements for registration and updates of registration.

34 (c) Elector instructions, including the right of an elector to request a second ballot if the first
 35 ballot is spoiled and the right of an elector to seek assistance in marking the ballot.

36 (d) The hours and locations of places designated under ORS 254.470 for deposit of official ballots.

37 (e) Any *[portraits and]* statements relating to candidates submitted in accordance with the pro-
 38 visions of ORS 251.305 to 251.435.

39 (f) Any ballot titles, explanatory statements and arguments submitted in accordance with the
 40 provisions of ORS 251.305 to 251.435.

41 (g) Such other information as the county clerk considers to be appropriate or necessary to in-
 42 form the voters.

43 (2) The county clerk shall mail or otherwise distribute the county voters' pamphlet not later
 44 than the last day for mailing ballots to electors as provided in ORS 254.470.

45 (3)(a) The name of the county clerk or other filing officer may not appear in the county voters'

1 pamphlet in the county clerk's or filing officer's official capacity if the county clerk or filing officer
 2 is a candidate in the election for which the voters' pamphlet is printed.

3 (b) As used in this subsection, "filing officer" has the meaning given that term in ORS 254.165.

4 **SECTION 10.** ORS 251.325 is amended to read:

5 251.325. (1) The Secretary of State by rule shall adopt a schedule and procedures for preparing,
 6 printing and distributing county voters' pamphlets. The schedule and procedures shall include but
 7 not be limited to deadlines for filing material for the voters' pamphlet, and except as otherwise
 8 provided by law, the format of material to be submitted [*and the size and other requirements appli-*
 9 *cable to candidate portraits*].

10 (2) Except as provided in subsection (3) of this section, at the time materials are filed under ORS
 11 251.335, each candidate for nomination or election to the following offices shall pay to the county
 12 clerk the following fee for space in the county voters' pamphlet:

13 (a) An office to which a salary or other compensation beyond expenses is attached, \$100.

14 (b) An office to which a salary or other compensation beyond expenses is not attached, \$25.

15 (3) At the time materials are filed under ORS 251.335, each candidate for nomination or election
 16 to a city or county office at the primary or general election shall pay to the county clerk the fol-
 17 lowing fee for space in the county voters' pamphlet:

18 (a) If the number of active electors in the electoral district is less than 1,000, \$25.

19 (b) If the number of active electors in the electoral district is 1,000 or more and less than 10,000,
 20 \$50.

21 (c) If the number of active electors in the electoral district is 10,000 or more and less than
 22 50,000, \$100.

23 (d) If the number of active electors in the electoral district is 50,000 or more, \$300.

24 (4) The Secretary of State by rule shall adopt a schedule of fees to be charged by the county
 25 clerks for including arguments in the voters' pamphlet. The fees need not reflect the actual cost of
 26 producing the voters' pamphlet.

27 (5) The county clerk shall refund a filing fee described in this section to any person who applies
 28 for the refund not later than the last day for filing material for inclusion in the voters' pamphlet.
 29 When a refund is made, the material for which the fee was paid may not be included in the pam-
 30 phlet.

31 (6) As used in this section, "electoral district" means a county, the part of a city located within
 32 the county or, if a candidate is elected by zone or subdistrict of the county or city, the zone or
 33 subdistrict in which the candidate is nominated or elected.

34 **SECTION 11.** ORS 251.335 is amended to read:

35 251.335. (1) As used in this section, "district" has the meaning given that term in ORS 255.012.

36 (2) Not later than the date specified by the Secretary of State, any candidate for nomination or
 37 election to county, city or special district office within the county, or an agent of the candidate,
 38 may file with the county clerk of a county that prepares a county voters' pamphlet [*a portrait of the*
 39 *candidate and*] a typewritten statement of the reasons the candidate should be elected. The [*portrait*
 40 *and*] statement must comply with the applicable rules of the Secretary of State.

41 (3) The county clerk may not accept the filing of a statement [*or portrait*] of any candidate un-
 42 less the filing is accompanied by the appropriate fee described in ORS 251.325.

43 (4) At the bottom of each allotted space of the county voters' pamphlet containing a [*portrait*
 44 *and*] statement filed by a candidate, the county clerk shall include:

45 (a) A statement identifying the person who furnished the [*portrait and*] statement; and

1 (b) A disclaimer in boldfaced type in substantially the following form:
 2 _____
 3

4 The above information has not been verified for accuracy by the county.
 5 _____
 6

7 **SECTION 12.** ORS 251.365 is amended to read:

8 251.365. (1) Any county clerk preparing, printing and distributing a county voters' pamphlet may
 9 apportion the cost of preparing, printing and distributing the county voters' pamphlet as a cost of
 10 the election according to the formula established by the Secretary of State for the allocation of
 11 election costs. The apportioned election costs shall be reduced for each electoral district by the
 12 amount of any revenue received by the county clerk from the submission of candidate [*portraits*,]
 13 statements and arguments for that electoral district.

14 (2) Any revenue collected by the county clerk from the submission of candidate [*portraits*,]
 15 statements or arguments for any electoral district which may exceed the apportioned cost of the
 16 election for that electoral district shall be applied to reduce the shared costs of the election for all
 17 remaining electoral districts.

18 **SECTION 13.** ORS 246.021 is amended to read:

19 246.021. (1) Except as provided in ORS 247.012 and subsection (2) of this section, an election
 20 document and an accompanying payment of fees required to be filed with the Secretary of State,
 21 county clerk or other filing officer must be delivered to and actually received at the office of the
 22 designated officer not later than 5 p.m. of the day the document or fee is due or, if the day due is
 23 a Saturday, Sunday or holiday, on the next business day.

24 (2) If, at 5 p.m. of the day an election document is due, an individual is physically present in the
 25 office of the secretary, county clerk or other filing officer and in line waiting to deliver the docu-
 26 ment, the individual is considered to have begun the act of delivering the document and is permitted
 27 to file it.

28 (3) Except as provided in ORS 253.540, 253.565 and 253.690, any election document required to
 29 be filed with the filing officer other than ballots, voter registration cards or petitions requiring
 30 signatures of electors may also be filed by means of an electronic facsimile transmission machine
 31 or electronic mail. If an election document is required to be filed by a specified time, the entire
 32 document must be received at the office of the filing officer not later than 5 p.m. of the day the
 33 document is due or, if the day due is a Saturday, Sunday or holiday, on the next business day.

34 (4) Notwithstanding any provision of subsections (1) to (3) of this section, if a statement is re-
 35 quired to be filed electronically under ORS 260.057:

36 (a) The statement must be received electronically at the office of the Secretary of State not later
 37 than 11:59 p.m. of the day the statement is due or, if the day due is a Saturday, Sunday or holiday,
 38 on the next business day; and

39 (b) The Secretary of State may not accept the filing of the statement in any form other than an
 40 electronic format.

41 (5) As used in this section, "election document" includes, but is not limited to, a declaration of
 42 candidacy for nomination for public or political party office, completed nominating petitions, state-
 43 ments [*and portraits*] for voters' pamphlets, statements of election campaign contributions and
 44 expenditures, and initiative, referendum or recall petitions.

45 **SECTION 14.** ORS 251.075 is repealed.

1 **SECTION 15.** The amendments to ORS 246.021, 251.014, 251.055, 251.065, 251.067, 251.087,
2 251.095, 251.125, 251.165, 251.315, 251.325, 251.335 and 251.365 by sections 1 to 13 of this 2021
3 Act and the repeal of ORS 251.075 by section 14 of this 2021 Act apply to the filing of mate-
4 rials for inclusion in a voters' pamphlet on or after the effective date of this 2021 Act.

5
