

Enrolled
House Bill 3291

Sponsored by Representative RAYFIELD, Senator WAGNER; Representatives ALONSO LEON, CAMPOS, DEXTER, FAHEY, GRAYBER, HUDSON, MARSH, NERON, PHAM, REYNOLDS, RUIZ, SOLLMAN, WILLIAMS

CHAPTER

AN ACT

Relating to elections; creating new provisions; amending ORS 171.185, 203.085, 221.230, 253.065, 253.070, 253.080, 253.585, 253.690, 254.095, 254.103, 254.408, 254.431, 254.458, 254.470, 254.478, 254.485, 254.529, 254.545, 254.546, 254.548, 254.555, 255.085, 255.295, 255.345, 258.075, 260.695, 294.474 and 450.905; and repealing ORS 251.358.

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

SECTION 1. ORS 254.470 is amended to read:

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

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

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

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

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

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

(b) The county clerk shall mail the official ballot of a major political party to an elector not affiliated with any political party if the elector has applied for the ballot as provided in this sub-

section and that party has provided under ORS 254.365 for a primary election that admits electors not affiliated with any political party.

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

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

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

(5) The ballot shall contain the following warning:

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

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

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

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

(d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector, the person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later than two days after receiving the ballot.

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

(A) The ballot must be received at the office of the county clerk not later than the end of the period determined under subsection (1) of this section on the date of the election; or

(B) The ballot must:

(i) Have a postal indicator showing that the ballot was mailed not later than the date of the election; and

(ii) Be received at the office of the county clerk not later than seven calendar days after the date of the election.

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

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

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

(b) A notice designed by rule by the Secretary of State, in consultation with the county clerks, explaining that by signing the ballot the elector is attesting under penalty of perjury that the ballot was mailed no later than the date of the election.

(c) A summary of the applicable penalties for knowingly making a false statement, oath or affidavit under the election laws.

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

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

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

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

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

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

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

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

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

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

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

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

(14) As used in this section, "postal indicator" means a postmark or other indicator on a mailed ballot, identified by the Secretary of State by rule, that demonstrates the date or time at which a ballot was mailed.

SECTION 2. ORS 253.065 is amended to read:

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

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

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

(2) The clerk shall deliver with the ballot instructions for marking and returning the ballot, a return identification envelope and a secrecy envelope. [*The back of the envelope shall include a*

statement to be signed by the absent elector, stating that the elector:] **Except as provided in subsection (3) of this section, the return identification envelope must contain:**

[(a) Is qualified to vote;]

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

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

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

(b) A notice designed by rule by the Secretary of State, in consultation with the county clerks, explaining that by signing the ballot the elector is attesting under penalty of perjury that the ballot was mailed no later than the date of the election.

(c) A summary of the applicable penalties for knowingly making a false statement, oath or affidavit under the election laws.

(3) For a military or overseas elector as defined in ORS 253.501, the return identification envelope provided under subsection (2) of this section must contain:

(a) Any information that a military or overseas elector is required to sign under the federal Help America Vote Act of 2002 (P.L. 107-252) or other federal law;

(b) Space for the elector to sign; and

(c) To the extent not required under paragraph (a) of this subsection, a notice designed by rule by the Secretary of State that ensures that any military or overseas elector who returns a ballot by mail makes a legally binding assertion that the ballot was mailed no later than the date of the election.

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

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

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

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

(b) The county clerk issued a supplemental ballot that is not a complete replacement of the original ballot.

SECTION 3. ORS 253.070 is amended to read:

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

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

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

(3) If the absent elector returns the marked ballot by mail:

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

(b) The ballot must:

(A) Have a postal indicator showing that the ballot was mailed not later than the date of the election; and

(B) Be received at the office of the county clerk not later than seven calendar days after the date of the election.

(4) If the elector returns the ballot by mail, and a postal indicator is not present or legible, the ballot shall be considered to be mailed on the date of the election and may be counted if the ballot is received no later than seven calendar days after the election.

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

(6) As used in this section, "postal indicator" has the meaning given that term in ORS 254.470.

SECTION 4. ORS 254.485 is amended to read:

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

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

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

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

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

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

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

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

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

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

(8) The Secretary of State shall by rule establish a procedure for announcing the status of the tally of the ballots received after the date of the election. Rules adopted under this subsection must:

(a) Consider the number of ballots being released in relation to the size of the district;

(b) Prioritize voter anonymity; and

(c) After prioritizing voter anonymity under paragraph (b) of this subsection, prioritize the importance of timely reporting election results.

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, **section 4, of the 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, **section 18, of the 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] **37th** 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] **37th** 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.

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

SECTION 8. ORS 254.529 is amended to read:

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

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

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

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

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

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

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

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

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

(b) If selecting batches, the number of ballots contained in the batches selected must in the aggregate be equal to or greater than:

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

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

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

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

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

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

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

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

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

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

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

(d) If the second hand count conducted under this subsection results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference in any race is greater than one-half of one percent, the county clerk shall conduct a hand count of all ballots counted by that vote tally system. The hand count is the official tally of votes for that vote tally system. If the hand count is the official

tally of votes, not later than the [30th] **37th** day after the election, the county clerk shall certify amended abstracts of votes to appropriate elections officials.

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

(a) Retain custody of the ballots; and

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

(9) This section does not apply:

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

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

SECTION 9. ORS 254.548 is amended to read:

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

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

(a) Not later than the [31st] **39th** day after the election, the filing officer shall:

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

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

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

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

SECTION 10. ORS 255.295 is amended to read:

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

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

SECTION 11. ORS 253.690 is amended to read:

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

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

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

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

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

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

(b) A waiver in substantially the following form:

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

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

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

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

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

(4) The county clerk shall verify the signature of each elector on the return identification envelope transmitted by facsimile machine or electronic mail under this section with the signature on the elector's registration record, according to the procedure provided by rules adopted by the Secretary of State.

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

SECTION 12. ORS 260.695 is amended to read:

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

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

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

(b) For purposes of this subsection, an imitation of the ballot or sample ballot includes an imitation of a portion of the ballot or sample ballot.

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

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

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

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

(6) A person, except an elections official in performance of duties or another person providing assistance to an elector as described in ORS 254.445, may not ask a person at any place designated for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472 or 254.474 for whom that person intends to vote, or examine or attempt to examine the person's ballot.

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

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

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

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

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

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

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

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

(a) The person prominently displays at the location a sign stating: "NOT AN OFFICIAL BALLOT DROP SITE"; and

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

SECTION 13. ORS 254.408 is amended to read:

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

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

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

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

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

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

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

SECTION 14. ORS 254.458 is amended to read:

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

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

(b) Upon receiving an application under paragraph (a) of this subsection, the secretary may approve a procedure to be used in lieu of the **return identification** envelope procedures described in ORS 254.470 if the secretary determines that the procedure will provide substantially the same degree of secrecy as ORS 254.470.

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

SECTION 15. ORS 253.585 is amended to read:

253.585. (1) The Secretary of State may receive ballots from military or overseas electors.

(2) If the Secretary of State receives a ballot cast by a military or overseas elector, the Secretary of State shall deliver the ballot to the county clerk or elections officer of the county in which the elector who cast the ballot is registered.

(3) A ballot received by the Secretary of State under this section [*not later than 8 p.m. of the day of the election*] shall be considered to have been received by the county clerk as described in ORS 253.070[.] **if:**

(a) **The Secretary of State receives the ballot not later than 8 p.m. on the day of the election; or**

(b) **The ballot:**

(A) **Has a postal indicator showing that the ballot was mailed not later than the date of the election; and**

(B) **Is received by the Secretary of State not later than seven calendar days after the date of the election.**

(4) **If a military or overseas elector returns the ballot by mail, and a postal indicator is not present or legible, the ballot shall be considered to be mailed on the date of the election and may be counted if the ballot is received no later than seven calendar days after the election.**

(5) **As used in this section “postal indicator” has the meaning given that term in ORS 254.470.**

SECTION 16. ORS 254.431 is amended to read:

254.431. (1) If a ballot is challenged because it is returned in an unsigned return identification envelope or because the signature of an elector on a return identification envelope does not match the signature in the voter registration record for the elector, the county clerk shall mail to the elector a notice that describes the nature of the challenge. The Secretary of State shall design a standard form to be used in all notifications sent by county clerks under this subsection.

(2)(a) In order for the vote of the elector to be counted, the elector must provide evidence sufficient to disprove the challenge not later than the [14th] **21st** calendar day after the date of the election. In the case of an unsigned return identification envelope, providing sufficient evidence may include completing a certified statement on a form provided by the county clerk. The Secretary of State shall design a standard form to be used for certified statements made under this paragraph.

(b) If the elector does not provide evidence sufficient to disprove a challenge alleging that the signature of the elector on a return identification envelope does not match the signature in the voter registration record for the elector by the [14th] **21st** calendar day after the date of the election, the registration of the elector shall be considered inactive.

(3)(a) The filing officer may not release as a public record any information that could be used to identify an elector whose ballot has been challenged under this section until the [eighth] **15th** calendar day after the date of an election.

(b) Following the [seventh] **14th** calendar day after the date of an election, the filing officer may disclose as a public record under ORS 192.311 to 192.478 the following information about each elector whose ballot was challenged under this section:

(A) The name of the elector;

(B) The residence addresses of the elector; and

(C) The reason the elector's ballot is being challenged.

(4) As used in this section, “filing officer” means:

(a) The Secretary of State, for federal or statewide elections and for elections to the office of state Senator or Representative; or

(b) The county clerk, for county, city or district elections.

SECTION 17. ORS 171.185 is amended to read:

171.185. (1) Except as provided in subsection (2) of this section, an election called by the Legislative Assembly shall be held only on:

(a) The second Tuesday in March;

(b) The third Tuesday in May;

(c) The *[third]* **fourth** Tuesday in *[September]* **August**; or

(d) The first Tuesday after the first Monday in November.

(2) An election may be held on a date other than that provided in subsection (1) of this section, if the Legislative Assembly by resolution or Act finds that an election sooner than the next available election date is required on a measure to finance repairs to property damaged by fire, vandalism or a natural disaster.

SECTION 18. ORS 203.085 is amended to read:

203.085. (1) Except as provided in subsection (3) of this section, no election on a county measure referred by the county governing body or for a county office shall be held on any date other than:

(a) The second Tuesday in March;

(b) The third Tuesday in May;

(c) The *[third]* **fourth** Tuesday in *[September]* **August**; or

(d) The first Tuesday after the first Monday in November.

(2) Except as provided in subsection (3) of this section, no election on a county measure other than a county measure referred by the county governing body shall be held on any date other than:

(a) The third Tuesday in May; or

(b) The first Tuesday after the first Monday in November.

(3) An emergency election may be held on a date other than those provided in subsection (1) or (2) of this section if the county governing body by resolution finds that an emergency exists that will require an election sooner than the next available election date to avoid extraordinary hardship to the community. A determination under this subsection as to whether an emergency exists is within the sole discretion of the county governing body.

(4) A county governing body, with adequate notice, shall hold a public hearing, on a date other than a regularly scheduled meeting, for the purpose of making findings substantiating the fact that an emergency exists before scheduling an election on a date other than those specified in subsection (1) or (2) of this section.

(5) Notice of a county's intent to hold an emergency election shall be filed with the county elections authority no later than 47 days preceding the desired election date. At the time the notice of election is given to the county elections authority, the county shall also file with the elections authority a certified copy of the ballot title and a copy of the resolution and findings adopted by the county governing body to authorize the emergency election as required under subsection (4) of this section.

SECTION 19. ORS 221.230 is amended to read:

221.230. (1) Except as provided in subsection (3) of this section, no election on a city measure referred by the city governing body or for a city office shall be held on any date other than:

(a) The second Tuesday in March;

(b) The third Tuesday in May;

(c) The *[third]* **fourth** Tuesday in *[September]* **August**; or

(d) The first Tuesday after the first Monday in November.

(2) Except as provided in subsection (3) of this section, no election on a city measure other than a city measure referred by the city governing body shall be held on any date other than:

(a) The third Tuesday in May; or

(b) The first Tuesday after the first Monday in November.

(3) An emergency election may be held on a date other than those provided in subsection (1) or (2) of this section if the city governing body by resolution finds that an emergency exists that will require an election sooner than the next available election date to avoid extraordinary hardship to the community. A determination under this subsection as to whether an emergency exists is within the sole discretion of the city governing body.

(4) A city governing body, with adequate notice, shall hold a public hearing, on a date other than a regularly scheduled council meeting, for the purpose of making findings substantiating the fact that an emergency exists before scheduling an election on a date other than those specified in subsection (1) or (2) of this section.

(5) Notice of a city's intent to hold an emergency election shall be filed with the county elections authority no later than 47 days preceding the desired election date. At the time the notice of election is given to the county elections authority, the city shall also file with the elections authority a certified copy of the ballot title and a copy of the resolution and findings adopted by the city governing body to authorize the emergency election as required under subsection (4) of this section.

SECTION 20. ORS 255.345 is amended to read:

255.345. (1) Except as provided in subsection (2) of this section, a special election called by a district elections authority shall not be held on any date other than:

- (a) The second Tuesday in March;
- (b) The third Tuesday in May;
- (c) The *[third]* **fourth** Tuesday in *[September]* **August**; or
- (d) The first Tuesday after the first Monday in November.

(2) A special election may be held on a date other than that provided in subsection (1) of this section, if the district elections authority by resolution finds that an election sooner than the next available election date is required on a measure to finance repairs to property damaged by fire, vandalism or a natural disaster.

(3) As used in this section, "district elections authority" means the body or officer authorized or required to call an election for a public corporation formed under, and deriving its powers solely from, the statutes of this state, but does not include a city or county.

SECTION 21. ORS 258.075 is amended to read:

258.075. (1) Except as provided in subsection (4) of this section, after the contest hearing, the circuit court shall render a judgment affirming or setting aside the approval or rejection of the measure.

(2) If the judgment sets aside the approval or rejection of a measure, the circuit court shall direct the measure to be resubmitted at a special election held on one of the dates specified in this subsection, as set by the court. In setting the election date, the court shall provide sufficient time for adequate notice to be given. The special election may be held on any of the following dates:

- (a) The second Tuesday in March;
- (b) The third Tuesday in May;
- (c) The *[third]* **fourth** Tuesday in *[September]* **August**; or
- (d) The first Tuesday after the first Monday in November.

(3) The county of the county clerk or the local elections official who committed the error in the distribution of the official ballots shall bear the cost of the special election.

(4) In a contest under ORS 258.016 (7), the court shall determine whether the challenge to the determination of the number of electors who were eligible on election day to participate in the election on a measure conducted under *[section 11 (8),]* Article XI, **section 11 (8)**, of the Oregon Constitution, is valid. In making the determination, the court shall rely on the provisions of ORS chapter 247 and shall receive testimony from the county clerk regarding the clerk's administration of ORS chapter 247. If, after a contest hearing, the court determines that the challenge to the determination of the number of electors who were eligible to participate is valid and that the change in the number of electors eligible to participate is sufficient to change the outcome of the election

on the measure, the court shall order the county clerk to make a new determination of the number of eligible electors and to certify the results of the election based on the new determination.

SECTION 22. ORS 254.478 is amended to read:

254.478. (1) Subject to ORS 260.705 [*and not sooner than the seventh day before the date of an election*], **upon receipt of ballots**, the county clerk may:

(a) Begin opening return identification **envelopes of ballots** and **any used** secrecy envelopes of ballots [*delivered by mail and received by the county clerk*]; and

(b) In accordance with a security plan approved by the Secretary of State under ORS 254.074, begin scanning ballots into a vote tally system.

(2) The county clerk may take any other actions that are necessary to count ballots [*delivered by mail*].

SECTION 23. ORS 253.080 is amended to read:

253.080. (1) Upon receipt of an envelope containing a marked ballot from an absent elector, the clerk shall keep it safely in the office and, before delivering the ballot for counting, shall compare the signature of the absent elector that appears on [*the back of*] the ballot envelope with that upon the elector's registration record.

(2) Except as otherwise provided in this chapter, ballots for absent electors shall be counted and returns shall be made, as nearly as possible, in the same manner as for other ballots cast at the election.

SECTION 24. ORS 254.095 is amended to read:

254.095. (1) The chief elections officer of any city shall file with the county clerk of the county in which the city hall of the city is located, a statement of the city offices to be filled or for which candidates are to be nominated at the election and information concerning all candidates for the offices not later than the 61st day before the date of the election.

(2)(a) [*Except as provided in subsection (3) of this section,*] The chief elections officer of any city shall file with the county clerk of the county in which the city hall is located, a statement of the city measures to be voted on, including the ballot title for each measure, not later than the 61st day before the date of the election.

(b) For each local option tax measure or general obligation bond measure placed on the ballot by a municipal corporation, the county clerk shall file a copy of the statement filed under paragraph (a) of this subsection with the Secretary of State in the manner set forth in ORS 294.474.

[(3) *If a measure to be submitted to the electors of a city at an election held on the first Tuesday after the first Monday in November was submitted on the election date in ORS 221.230 (1) immediately preceding the first Tuesday after the first Monday in November, the chief elections officer of the city shall file the statement required for that measure in subsection (2) of this section on the 47th day before an election held on the first Tuesday after the first Monday in November.*]

[(4)] (3) The chief elections officer of the city shall keep a copy of each statement filed under this section.

[(5)] (4) If a city is located in more than one county, the county clerk under subsection (1) of this section shall immediately file the statement and information required under subsection (1) of this section with the county clerk of any other county in which the city is located.

SECTION 25. ORS 254.103 is amended to read:

254.103. [(1)(a)] (1) [*Except as provided in subsection (2) of this section,*] The governing body of a county shall file with the county clerk each measure referred by the county governing body, including the ballot title for each measure, not later than the 61st day before the date of the election.

[(b)] (2) For each local option tax measure or general obligation bond measure placed on the ballot by a municipal corporation, the county clerk shall file a copy of each measure filed under [*paragraph (a) of this subsection*] **subsection (1) of this section** with the Secretary of State in the manner set forth in ORS 294.474.

[(2) *If a measure to be submitted to the electors of a county at an election held on the first Tuesday after the first Monday in November was submitted on the election date in ORS 203.085 (1) immediately preceding the first Tuesday after the first Monday in November, the county governing body shall file*

the measure with the county clerk not later than the 47th day before an election held on the first Tuesday after the first Monday in November.]

SECTION 26. ORS 255.085 is amended to read:

255.085. (1)(a) Not later than the 61st day before a district election on a measure, the district elections authority shall deliver to the elections officer a notice stating the date of the election and a ballot title. The district elections authority shall prepare the ballot title for a measure referred by the authority with the assistance of the district attorney for the county of the elections officer or an attorney employed by the district elections authority. The district elections authority shall include the ballot title for the measure at the time the measure is submitted to the elections officer.

(b) For each local option tax measure or general obligation bond measure placed on the ballot by a municipal corporation, the elections officer shall file a copy of the notice delivered under paragraph (a) of this subsection with the Secretary of State in the manner set forth in ORS 294.474.

[(2) If a district submits a measure to the electors of the district at an election held on the first Tuesday after the first Monday in November and the district submitted a measure on the election date in ORS 255.345 (1) immediately preceding the date of an election held on the first Tuesday after the first Monday in November, the district elections authority shall file the measure, including the ballot title for the measure, for the election held on the first Tuesday after the first Monday in November with the elections officer not later than the 47th day before an election held on the first Tuesday after the first Monday in November.]

[(3)] **(2)** A notice of election called to approve the issuance of bonds shall include:

(a) The purpose for which the bonds are to be used;

(b) The amount and the term of the bonds;

(c) The kind of bonds proposed to be issued; and

(d) If the bond election is authorized by ORS 450.900, the additional notice requirements in ORS 450.905.

[(4)(a)] **(3)(a)** In the case of a measure submitted by initiative or referendum petition, the elections officer shall publish the notice in the next available edition of a newspaper of general circulation in the district after the deadline for filing the notice.

(b) In the case of a measure referred by the district elections authority, the elections officer shall publish the notice of election in the next available edition of a newspaper of general circulation in the district after the notice of election is filed. The notice shall also state that an elector may file a petition for review of the ballot title not later than the date referred to in ORS 255.155. If the circuit court certifies a different ballot title, the elections officer shall publish an amended notice of election in the next available edition of the newspaper referred to in this subsection after the new title is certified to the elections officer.

(c) In addition to publishing the notice as described in paragraphs (a) and (b) of this subsection, the elections officer may publish the notice on the county's website for a minimum of seven days.

SECTION 27. ORS 294.474 is amended to read:

294.474. If a municipal corporation places a local option tax measure or a general obligation bond measure on the ballot to be voted on by the electors of the corporation, the chief elections officer of a city, governing body of a county or district elections authority responsible for filing materials relating to the measure under ORS 254.095 (2), 254.103 *[(1)]* or 255.085 (1) shall file the materials with the appropriate county elections officer. The county elections official shall file a copy of the materials with the Secretary of State for publication on the electronic filing system adopted under ORS 260.057.

SECTION 28. ORS 450.905 is amended to read:

450.905. Notice of a bond election shall contain:

(1) The information required by ORS 255.085 *[(3)]* **(2)**.

(2) If general obligation bonds, which are to be paid by particular areas in the authority, are to be issued, a statement that the bonds will be the general obligation of the entire authority but will be the primary obligation of the areas in the authority which will be directly benefited by the sewage treatment plants or trunk or lateral sewers or drains constructed with the proceeds of the

bonds and paid through assessment, annual levy, or sewer service charges, or combinations thereof, as determined by the board under ORS 450.855 and designating specifically the boundaries of such area or areas.

(3) If revenue bonds are to be issued, a statement that the bonds will be payable solely out of designated revenues of the authority and will not be a general obligation of the authority or a charge upon the tax revenues of the authority.

SECTION 29. ORS 251.358 is repealed.

SECTION 30. The amendments to ORS 171.185, 203.085, 221.230, 253.065, 253.070, 253.080, 253.585, 253.690, 254.095, 254.103, 254.408, 254.431, 254.458, 254.470, 254.478, 254.485, 254.529, 254.545, 254.546, 254.548, 254.555, 255.085, 255.295, 255.345, 258.075, 260.695, 294.474 and 450.905 by sections 1 to 28 of this 2021 Act and the repeal of ORS 251.358 by section 29 of this 2021 Act apply to elections held on or after January 1, 2022.

Passed by House May 24, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 24, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State