

House Bill 2694

Sponsored by Representative RAYFIELD (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**.

Permits person who will be 17 years old on date of primary election and 18 years old on date of general election to vote at primary election for candidates of major political party with which person is affiliated if major political party has adopted rule to this effect.

Appropriates moneys from General Fund to Secretary of State for purpose of printing and counting additional ballots.

A BILL FOR AN ACT

1
2 Relating to voting at primary elections; creating new provisions; and amending ORS 247.016, 253.540,
3 253.565, 254.115, 254.365, 254.370 and 254.470.

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

5 **SECTION 1.** ORS 247.016 is amended to read:

6 247.016. (1) Subject to this section, an otherwise qualified person who is at least 16 years of age
7 may register to vote.

8 (2) **Except as provided in subsection (3) of this section**, a person who registers to vote under
9 subsection (1) of this section may not vote in an election until the person attains the age of 18 years.

10 (3) **A person who registers to vote under subsection (1) of this section not later than 21**
11 **days before the date of the primary election and who will attain the age of 18 years after the**
12 **primary election but on or before the date of the general election may participate in the**
13 **primary election for the purpose of selecting the nominees of a major political party:**

14 (a) **With which the person who registered to vote under subsection (1) of this section is**
15 **affiliated; and**

16 (b) **That has provided under ORS 254.365 for a primary election that includes persons**
17 **affiliated with the party who will attain the age of 18 years after the primary election but**
18 **on or before the date of the general election.**

19 [(3)] (4) If a person who registers to vote under subsection (1) of this section will be under 18
20 years of age on the date of the next election held on a date listed in ORS 171.185 or the next special
21 election, the person's voter registration information, including but not limited to the person's name
22 and any identifying information, may not be disclosed as a public record under ORS 192.311 to
23 192.478.

24 **SECTION 2.** ORS 254.365 is amended to read:

25 254.365. (1) An elector is not qualified or permitted to vote at any primary election for any
26 candidate of a major political party, and it is unlawful for the elector to offer to do so, unless:

27 (a) The elector is registered as being affiliated with one of the major political parties nominating
28 or electing its candidates for public office at the primary election; or

29 (b) The elector is registered as not being affiliated with any political party and wishes to vote
30 in the primary election of a major political party that has provided under subsection (3) of this

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 section for a primary election that admits electors not affiliated with any political party.

2 (2) Except as provided in ORS 254.470 (3), any elector offering to vote at the primary election
 3 shall be given a ballot of the major political party with which the elector is registered as being af-
 4 filiated. The elector may not be given a ballot of any other political party at that primary election.
 5 An elector not affiliated with any political party and offering to vote at the primary election shall
 6 be given the ballot of the major political party in whose primary election the elector wishes to vote
 7 if that party has provided under subsection (3) of this section for a primary election that admits
 8 electors not affiliated with any political party. An elector not affiliated with any political party who
 9 is given a ballot of the major political party associates with the party for the purpose of voting in
 10 that primary election.

11 (3)(a) Not later than the 90th day before the date of the primary election, a major political party
 12 may file with the Secretary of State a certified copy of the current party rule allowing:

13 (A) An elector not affiliated with any political party to vote in the party’s primary election;
 14 or

15 (B) **A person who is registered to vote and affiliated with the major political party and**
 16 **who will attain the age of 18 years after the primary election but on or before the date of**
 17 **the general election to participate in the primary election for the purpose of selecting the**
 18 **nominees of the party.**

19 (b) The party may not repeal the rule as filed during the 90 days before the primary election.
 20 The rule shall continue to be effective after the date of the primary election until the party gives
 21 written notice to the Secretary of State that the rule has been repealed. Except as provided in
 22 paragraph [(b)] (c) of this subsection, a party rule under this subsection may limit the candidates for
 23 whom an elector who is not affiliated with any political party may vote.

24 [(b)] (c) The party rule shall allow any elector who is permitted to vote for the most numerous
 25 branch of the Legislative Assembly also to vote in federal legislative elections, consistent with sec-
 26 tion 2, Article I, and the Seventeenth Amendment to the United States Constitution.

27 (4) If the primary election ballot includes city, county or nonpartisan offices or measures, and
 28 it is given to an elector who is not eligible to vote for party candidates, the ballot shall be marked
 29 “non-affiliated.”

30 **SECTION 3.** ORS 254.115 is amended to read:

31 254.115. (1) The official primary election ballot shall be styled “Official Primary Nominating
 32 Ballot for the _____ Party.” and shall state:

33 (a) The name of the county for which it is intended.

34 (b) The date of the primary election.

35 (c) The names of all candidates for nomination at the primary election whose nominating pe-
 36 titions or declarations of candidacy have been made and filed, and who have not died, withdrawn
 37 or become disqualified.

38 (d) The names of candidates for election as precinct committeeperson.

39 (e) The names of candidates for the party nomination for President of the United States who
 40 qualified for the ballot under ORS 249.078.

41 (2) **Except as provided in subsection (3) of this section,** the primary election ballot may in-
 42 clude any city, county or nonpartisan office or the number, ballot title and financial estimates under
 43 ORS 250.125 of any measure.

44 (3) **The primary election ballot provided pursuant to ORS 247.016 and 254.365 to a person**
 45 **who is under 18 years old shall be limited to stating the information set forth in subsection**

1 **(1) of this section.**

2 [(3)(a)] **(4)(a)** The ballot may not contain the name of any person other than those referred to
 3 in subsections (1) [and (2)] **to (3)** of this section.

4 (b) The name of each candidate for whom a nominating petition or declaration of candidacy has
 5 been filed shall be printed on the ballot in but one place, except in circumstances where a candidate
 6 may hold more than one office or nomination without violating ORS 249.013.

7 (c) In the event that two or more candidates for the same nomination or office have the same
 8 or similar surnames, the location of their places of residence shall be printed with their names to
 9 distinguish one from another.

10 **SECTION 4.** ORS 253.540 is amended to read:

11 253.540. (1) Any military or overseas elector may secure a ballot by submitting an application
 12 as specified in subsection (2) of this section to the clerk of the county of the military or overseas
 13 elector's residence, or to the Secretary of State. If the application is addressed to the Secretary of
 14 State, the secretary shall forward it to the appropriate county clerk.

15 (2) An application for a ballot by a military or overseas elector shall be made in the form of a
 16 written request and may be submitted by mail, electronic mail, a facsimile machine or other means
 17 identified by the Secretary of State by rule. The application shall be valid for every subsequent
 18 election until the elector otherwise notifies the clerk or is no longer an elector of the county. The
 19 application shall be signed by the applicant and contain:

20 (a) The name and current mailing address of the applicant;

21 (b) A statement that the applicant is a citizen of the United States;

22 (c) A statement that the applicant will be 18 years of age or older on the date of the **general**
 23 election;

24 (d) A statement that for more than 20 days preceding the election the applicant's home residence
 25 has been in this state, and giving the address of the last home residence;

26 (e) A statement of the facts that qualify the applicant as a military or overseas elector or as the
 27 spouse or a dependent of a military or overseas elector;

28 (f) A statement that the applicant is not requesting a ballot from any other state and is not
 29 voting in any other manner in the election except by the requested ballot; and

30 (g) If the applicant desires to vote in a primary election, a designation of the applicant's political
 31 party affiliation or a statement that the applicant is not affiliated with any political party. An ap-
 32 plicant not affiliated with any political party may request a ballot for a major political party. The
 33 applicant shall be sent the ballot for the political party that the applicant requested if that political
 34 party has provided under ORS 254.365 for a primary election that admits electors not affiliated with
 35 any political party.

36 **(3) The primary election ballot provided pursuant to ORS 247.016 and 254.365 to a military**
 37 **or overseas elector under this section who is under 18 years of age shall be limited to stating**
 38 **the information set forth in ORS 254.115 (1).**

39 **SECTION 5.** ORS 253.565 is amended to read:

40 253.565. (1) Any military or overseas elector may secure a special ballot for a primary election
 41 or general election by making an application under this section if the elector believes that:

42 (a) The elector will be residing, stationed or working outside the territorial limits of the United
 43 States and the District of Columbia; and

44 (b) The elector will be unable to vote and return a regular ballot by normal mail delivery within
 45 the period provided for regular absent electors.

1 (2) A military or overseas elector shall make the application for a special ballot in the form of
 2 a written request, which may be submitted by mail, electronic mail, a facsimile machine or other
 3 means identified by the Secretary of State by rule. The elector shall submit the application before
 4 the date of the applicable election to the clerk of the county of the military or overseas elector's
 5 residence or to the Secretary of State. If the application is addressed to the Secretary of State, the
 6 secretary shall forward it to the appropriate county clerk. The application shall be signed by the
 7 applicant and contain:

8 (a) The name and current mailing address of the applicant;

9 (b) A designation of the election for which the applicant requests a special ballot;

10 (c) A statement that the applicant is a citizen of the United States;

11 (d) A statement that the applicant will be 18 years of age or older on the date of the **general**
 12 election;

13 (e) A statement that for more than 20 days preceding the election the applicant's home residence
 14 has been in this state, and giving the address of the last home residence;

15 (f) A statement of the facts that qualify the applicant as a military or overseas elector or as the
 16 spouse or a dependent of a military or overseas elector;

17 (g) A statement of the facts that qualify the applicant to vote by means of a special ballot;

18 (h) A statement that the applicant is not requesting a ballot from any other state and is not
 19 voting in any other manner in the election except by the requested special ballot; and

20 (i) If the applicant requests a ballot for a primary election, a designation of the applicant's pol-
 21 itical party affiliation or a statement that the applicant is not affiliated with any political party.
 22 An applicant not affiliated with any political party may request a ballot for a major political party.
 23 The applicant shall be sent the ballot for the political party that the applicant requested if that
 24 political party has provided under ORS 254.365 for a primary election that admits electors not af-
 25 filiated with any political party.

26 (3) An application for a special ballot shall be valid only for the election specified in the appli-
 27 cation.

28 (4) The county clerk shall list on the special ballot the offices and measures scheduled to appear
 29 on the regular ballot, if known when the ballot is prepared, and provide space in which the elector
 30 may write in the elector's preference.

31 **(5) The primary election ballot provided pursuant to ORS 247.016 and 254.365 to a military**
 32 **or overseas elector under this section who is under 18 years of age shall be limited to stating**
 33 **the information set forth in ORS 254.115 (1).**

34 [(5)] (6) The elector may write in the name of any eligible candidate for each office to be filled
 35 or for which nominations will be made at the election, and, **except as provided in subsection (5)**
 36 **of this section**, may vote on any measure submitted at the election.

37 **SECTION 6.** ORS 254.370 is amended to read:

38 254.370. The county clerk shall maintain:

39 (1) A monthly registration record of all electors registered as not being affiliated with any pol-
 40 itical party;

41 (2) At each primary election, a record of the number of electors who voted from each major
 42 political party;

43 **(3) A record of the number of all persons under the age of 18 who are registered as af-**
 44 **filiated with a major political party and who participate in selecting the nominees of the**
 45 **political party at a primary election pursuant to a rule adopted by the political party under**

1 **ORS 254.365;**

2 [(3)] (4) A record of all electors registered as not being affiliated with any political party who
 3 vote in a primary election of a major political party that has provided under ORS 254.365 for a
 4 primary election that admits electors not affiliated with any political party; and

5 [(4)] (5) A record of all electors registered as not being affiliated with any political party who
 6 vote in the general election.

7 **SECTION 7.** ORS 254.470 is amended to read:

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

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

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

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

28 (d) The county clerk is not required to mail a secrecy envelope under this subsection if the
 29 Secretary of State has approved a different procedure under ORS 254.458 that provides substantially
 30 the same degree of secrecy.

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

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

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

39 **(c) The county clerk shall mail the portion of the official ballot of a major political party**
 40 **stating the information set forth in ORS 254.115 (1) to a person who has not attained the age**
 41 **of 18 years, but who the party has provided under ORS 254.365 is eligible to participate in the**
 42 **primary election for the purpose of selecting the nominees of the party.**

43 [(c)] (d) An elector not affiliated with any political party who wishes to vote in the primary
 44 election of a major political party shall apply to the county clerk in writing. The application must
 45 be completed, signed and submitted by the elector electronically, in person or by mail, in a manner

1 determined by the secretary by rule and must indicate which major political party ballot the elector
 2 wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS
 3 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day
 4 before the date of the election.

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

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

13 (b) The county clerk is not required to make available a secrecy envelope under this subsection
 14 if the Secretary of State has approved a different procedure under ORS 254.458 that provides sub-
 15 stantially the same degree of secrecy.

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

17
 18
 19 Any person who, by use of force or other means, unduly influences an elector to vote in any
 20 particular manner or to refrain from voting is subject to a fine.

21
 22
 23 (6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign
 24 the return identification envelope supplied with the ballot and comply with the instructions provided
 25 with the ballot.

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

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

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

33 (e) If the elector deposits the ballot at the office of the county clerk, at any place of deposit
 34 designated by the county clerk or at any location described in ORS 254.472 or 254.474, the ballot
 35 must be received at the office of the county clerk, at the designated place of deposit or at any lo-
 36 cation described in ORS 254.472 or 254.474 not later than the end of the period determined under
 37 subsection (1) of this section on the date of the election. If the elector returns the ballot by mail:

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

40 (B) The ballot must:

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

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

45 (f) If a county clerk receives a marked ballot for an elector who does not reside in the clerk's

1 county, the ballot shall be forwarded to the county clerk of the county in which the elector resides
 2 not later than the eighth day after the election.

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

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

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

8 (c) A summary of the applicable penalties for knowingly making a false statement, oath or affi-
 9 davit under the election laws.

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

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

21 (10) A ballot shall be counted only if:

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

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

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

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

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

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

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

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

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

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

4 **SECTION 8. In addition to and not in lieu of any other appropriation, there is appropri-**
5 **ated to the Secretary of State, for the biennium beginning July 1, 2023, out of the General**
6 **Fund, the amount of \$_____, to be allocated to county clerks for the purpose of carrying**
7 **out the amendments to ORS 247.016, 254.115, 254.365, 254.370 and 254.470 by sections 1 to 3,**
8 **6 and 7 of this 2023 Act.**

9 **SECTION 9. The amendments to ORS 247.016, 253.540, 253.565, 254.115, 254.365, 254.370 and**
10 **254.470 by sections 1 to 7 of this 2023 Act apply to primary elections held on or after the ef-**
11 **fective date of this 2023 Act.**

12 _____