

House Bill 3062

Sponsored by Representative RESCHKE

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 individual from collecting and returning ballot of another individual, subject to specified exceptions.

Imposes fine of \$2,500 per ballot for person other than individual that illegally collects and returns ballot of individual and fine of \$500 per ballot for individual who illegally collects and returns ballot of different individual.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to ballots; creating new provisions; amending ORS 254.470 and 260.995; and prescribing an
3 effective date.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 254.**

6 **SECTION 2. (1) Each elector must return the elector's own ballot in the manner provided**
7 **in ORS 254.470. Except as provided in subsection (2) of this section, an individual may not**
8 **collect or return another individual's ballot.**

9 **(2) An individual may collect and return the ballot of a different individual:**

10 **(a) Who is an elector; and**

11 **(b)(A) Who is a relative of the individual who collects and returns the ballot;**

12 **(B) For whom the individual who collects and returns the ballot exercises a power of**
13 **attorney for the individual whose ballot is collected and returned; or**

14 **(C) For whom the individual who collects and returns the ballot serves as a paid**
15 **caregiver and provides ongoing care for the individual whose ballot is collected and returned.**

16 **(3) An individual who collects and returns the ballot of a different individual under sub-**
17 **section (2) of this section must deposit the ballot in the manner described in ORS 254.470 not**
18 **later than two days after collecting the ballot.**

19 **(4) As used in this section, "relative" means:**

20 **(a) The spouse of the individual whose ballot is collected and returned;**

21 **(b) A parent of the individual whose ballot is collected and returned;**

22 **(c) Any individual for whom the individual whose ballot is collected and returned has a**
23 **legal support obligation;**

24 **(d) Any individual for whom the individual whose ballot is collected and returned provides**
25 **benefits; or**

26 **(e) Any individual for whom the individual whose ballot is collected and returned receives**
27 **benefits arising from that individual's employment.**

28 **SECTION 3. ORS 254.470 is amended to read:**

29 254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the

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

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

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

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

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

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

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

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

31 (c) An elector not affiliated with any political party who wishes to vote in the primary election
32 of a major political party shall apply to the county clerk in writing. The application must be com-
33 pleted, signed and submitted by the elector electronically, in person or by mail, in a manner deter-
34 mined by the secretary by rule and must indicate which major political party ballot the elector
35 wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS
36 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day
37 before the date of the election.

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

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

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

4 (5) The ballot shall contain the following warning:
5 _____
6

7 Any person who, by use of force or other means, unduly influences an elector to vote in any
8 particular manner or to refrain from voting is subject to a fine.
9 _____
10

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

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

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

18 (d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector **in the**
19 **manner permitted under section 2 of this 2023 Act**, the person shall deposit the ballot in a
20 manner described in paragraph (b) of this subsection not later than two days after receiving the
21 ballot.

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

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

29 (B) The ballot must:

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

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

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

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

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

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

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

44 (8) If the elector returns the ballot by mail, and a postal indicator is not present or legible, the
45 ballot shall be considered to be mailed on the date of the election and may be counted if the ballot

1 is received no later than seven calendar days after the election.

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

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

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

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

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

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

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

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

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

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

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

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

38 **SECTION 4.** ORS 260.995 is amended to read:

39 260.995. (1) Except as provided in subsection (2) of this section, following an investigation under
 40 ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed
 41 \$1,000 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any
 42 election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter
 43 preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

44 (2) The secretary or the Attorney General may impose a civil penalty not to exceed:

45 (a)(A) Except as provided in subparagraph (B) of this paragraph, \$1,000 plus the amount con-

1 verted to personal use for each violation of ORS 260.407;

2 (B) Two times the amount of the penalty provision for violating a nondisclosure agreement that
 3 is contained within each nondisclosure agreement entered into in violation of ORS 260.407 or
 4 260.413;

5 (b) 150 percent of the total cost of printing, transmitting or distributing a communication in
 6 support of or in opposition to a clearly identified candidate if the disclosure requirements set forth
 7 in ORS 260.266 are not met; *[or]*

8 **(c)(A) \$2,500 for each ballot that a person other than an individual returns for an indi-**
 9 **vidual in violation of section 2 of this 2023 Act;**

10 **(B) \$500 for each ballot that an individual returns for a different individual in violation**
 11 **of section 2 of this 2023 Act; or**

12 *[(c)]* (d) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1) or (2) or 260.715
 13 (1) or Article IV, section 1b, of the Oregon Constitution.

14 (3) Except as otherwise provided by this section, civil penalties under this section shall be im-
 15 posed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall
 16 include:

17 (a) A statement of the authority and jurisdiction under which the hearing is to be held; and

18 (b) If the person is an agency, corporation or an unincorporated association, a statement that
 19 such person must be represented by an attorney licensed in Oregon, unless the person is a political
 20 committee which may be represented by any officer identified in the most recent statement of or-
 21 ganization filed with the filing officer.

22 (4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
 23 shall be held by the secretary or Attorney General:

24 (a) Upon request of the person against whom the penalty may be assessed, if the request is made
 25 not later than the 20th day after the service date on the notice sent under subsection (3) of this
 26 section; or

27 (b) Upon the secretary's or Attorney General's own motion.

28 (5) The person against whom a penalty may be assessed need not appear in person at a hearing
 29 held under this section, but instead may submit written testimony or other evidence, sworn to before
 30 a notary public, to the secretary or Attorney General for entry in the hearing record. The testimony
 31 or other evidence must be received by the secretary or Attorney General not later than three
 32 business days before the day of the hearing and may be submitted electronically.

33 (6) All hearings under this section shall be held not later than 45 days after the deadline for the
 34 person against whom the penalty may be assessed to request a hearing. However, if requested by
 35 the person against whom the penalty may be assessed, a hearing under subsection (4) of this section
 36 shall be held not later than 60 days after the deadline for the person against whom the penalty may
 37 be assessed to request a hearing.

38 (7) The secretary or Attorney General shall issue an order not later than 90 days after a hearing
 39 or after the deadline for requesting a hearing if no hearing is held.

40 (8) All penalties recovered under this section shall be paid into the State Treasury and credited
 41 to the General Fund.

42 (9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the
 43 person against whom the penalty is assessed:

44 (a) Is personally responsible for the payment of the civil penalty;

45 (b) Shall pay the civil penalty from personal funds of the person; and

1 (c) May not pay the civil penalty from contributions received by a candidate, a candidate's
2 principal campaign committee, a political committee or a petition committee.

3 **SECTION 5. This 2023 Act takes effect on the 91st day after the date on which the 2023**
4 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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