

House Bill 3109

Sponsored by COMMITTEE ON RULES (at the request of Oregon Association of County Clerks)

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**.

Allows county clerk to, upon request, permit elector who is absent from electoral district during election period to obtain ballot at office of county clerk or receive ballot by mail no earlier than 43 days before date of election.

Limits requirement to list place of residence to when two or more candidates for same nomination have same first and last name, as provided in official election documents. Exempts candidates for precinct committee person.

A BILL FOR AN ACT

1
2 Relating to ballots; amending ORS 254.115 and 254.470.

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

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

5 254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the
6 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
7 dates and times the places of deposit must be open and the security requirements for the places of
8 deposit. At a minimum, the places designated under this section shall be open on the date of the
9 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place
10 of deposit designated under this section, the county clerk shall prominently display a sign stating
11 that the location is an official ballot drop site.

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

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

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

25 **(d) If an active elector of the electoral district requests an absentee ballot because the**
26 **elector will be absent from the electoral district during the period of time described in par-**
27 **agraph (a) of this subsection, the county clerk may, if the elector's ballot is available:**

28 **(A) Allow the elector to receive the elector's ballot in person at the office of the county**
29 **clerk not sooner than the 43rd day before the date of the election; or**

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 **(B) Mail by nonforwardable mail an official ballot with a return identification envelope**
 2 **and a secrecy envelope to the elector not sooner than the 43rd day before the date of the**
 3 **election.**

4 [(d)] (e) The county clerk is not required to mail a secrecy envelope under this subsection if the
 5 Secretary of State has approved a different procedure under ORS 254.458 that provides substantially
 6 the same degree of secrecy.

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

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

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

15 (c) An elector not affiliated with any political party who wishes to vote in the primary election
 16 of a major political party shall apply to the county clerk in writing. The application must be com-
 17 pleted, signed and submitted by the elector electronically, in person or by mail, in a manner deter-
 18 mined by the secretary by rule and must indicate which major political party ballot the elector
 19 wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS
 20 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day
 21 before the date of the election.

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

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

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

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

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

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

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

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

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

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

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

12 (B) The ballot must:

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (11) The county clerk shall verify the signature of each elector on the return identification en-
 44 velope with the signature on the elector's registration record, according to the procedure provided
 45 by rules adopted by the Secretary of State. If the county clerk determines that an elector to whom

1 a replacement ballot has been issued has voted more than once, the county clerk shall count only
 2 one ballot cast by that elector.

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

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

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

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

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

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

21 **SECTION 2.** ORS 254.115 is amended to read:

22 254.115. (1) The official primary election ballot shall be styled “Official Primary Nominating
 23 Ballot for the _____ Party.” and shall state:

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

25 (b) The date of the primary election.

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

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

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

32 (2) The primary election ballot may include any city, county or nonpartisan office or the number,
 33 ballot title and financial estimates under ORS 250.125 of any measure.

34 (3)(a) The ballot may not contain the name of any person other than those referred to in sub-
 35 sections (1) and (2) of this section.

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

39 (c) In the event that two or more candidates for the same nomination or office have the same
 40 [or similar surnames] **first name and last name, as indicated on the declarations of candidacy**
 41 **or nominating petitions of the candidates**, the location of their places of residence shall be
 42 printed with their names to distinguish one from another. **This paragraph does not apply to can-**
 43 **didates for precinct committeeperson.**