

**SB 1538 B STAFF MEASURE SUMMARY****Carrier:** Rep. Fahey**House Committee On Rules****Action Date:** 03/04/24**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 6-0-1-0**Yeas:** 6 - Fahey, Kropf, Nosse, Scharf, Valderrama, Wallan**Exc:** 1 - Helfrich**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Melissa Leoni, LPRO Analyst**Meeting Dates:** 2/27, 3/4**WHAT THE MEASURE DOES:**

The measure makes several changes to current election laws, including to the information statements and certain translations in the voters' pamphlets; the repeat public certification tests of vote tally systems; the number of voter registration cards that can be requested; the thresholds for certain expenses that require a candidate to file statement of organization, establish a campaign account, or file required campaign finance statements; the allowable uses of candidate expenditures; and the ability for the Secretary of State to issue a certificate of ascertainment of presidential electors as required by federal law. It also creates a joint legislative committee to prepare the ballot title and explanatory statement for any amendment to the Oregon Constitution or Act referred to the ballot by the Legislative Assembly during the 2024 regular session. The measure sets an operative date for certain provisions. It declares an emergency and is effective on passage.

Detailed Summary**Voters' pamphlets**

Changes the type of letter to be included in the voters' pamphlets, from that of the Secretary of State, to the county clerk, filing office, or other public election official. Allows an agent of a candidate to file a translation of a candidate statement with the Secretary of State, instead of the principal campaign committee of a candidate. Allows translations of candidate and certain measure statements to be submitted in the most commonly spoken languages of the state or of any county the office represents or in which the measure will be voted on, instead of only the five most commonly spoken languages in the state.

**Campaign Finance**

Increases the thresholds for aggregate contributions or expenditures that require a candidate to file a statement of organization, establish a campaign account, file the required campaign finance statements, or file a certificate with the Secretary of State. Makes these provisions operative on January 1, 2025. Allows contributions made to a candidate, principal campaign committee of a candidate or public office holder, other political committee, or chief petitioner or treasurer of a petition committee to be used to pay civil penalties and legal expenses related to campaign finance violation provisions in county charters and ordinances and city charters and ordinances. Prohibits contributions received from being used to pay a civil penalty imposed by a county charter or city ordinance provision equivalent to those found in ORS 260.409 prohibiting the use of campaign funds for professional services by the candidate.

**Elections Administration**

Removes the requirement for a repeat public certification test of a vote tally system immediately before ballots scanning begins. Reduces the number of voter registration cards that may be requested, from 5,000 per person to 500 per person, and requires the card to be provided in electronic form for the printing of additional cards. Allows the Secretary of State to issue a certificate of ascertainment of presidential electors to conform with federal law.

*This summary has not been adopted or officially endorsed by action of the committee.*

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### **Ballot Title and Explanatory Statement**

Creates a joint legislative committee to prepare the ballot title and explanatory statement for any amendment to the Oregon Constitution or Act referred to the ballot by the Eighty-second Legislative Assembly during the 2024 regular session. Permits any elector who is unsatisfied with the ballot title or explanatory statement to petition the Oregon Supreme Court (Court) seeking a different title or statement. Authorizes the Court to review the ballot title and explanatory statement and allows the Court to modify the title or statement or refer it to the Attorney General.

Declares emergency, effective on passage.

### **ISSUES DISCUSSED:**

- Public certification test timeline, the requirement being removed, and the tally tabulation system alternative
- January informational hearing and changes to the measure through Senate amendments
- Amendment provision to add the process for drafting the ballot title and explanatory statement for any referrals

### **EFFECT OF AMENDMENT:**

The amendment creates a joint legislative committee to prepare the ballot title and explanatory statement for any amendment to the Oregon Constitution or Act referred to the ballot by the Eighty-second Legislative Assembly during 2024 regular session. It permits any elector who is unsatisfied with the ballot title or explanatory statement to petition the Oregon Supreme Court (Court) seeking a different title or statement. It authorizes the Court to review the ballot title and explanatory statement and allows the Court to modify the title or statement or refer it to the Attorney General. The amendment adds an emergency clause and is effective on passage.

### **BACKGROUND:**

#### **Voters' pamphlets**

The Oregon voters' pamphlet is a publication produced and distributed by the Secretary of State (SOS) Elections Division and produced for each election. It includes information about candidates, measures, recognized political parties, and any assembly of electors. It also includes instructions for marking the ballot, a complete list of federal and state candidates, and other information on the voting process. A county may publish a county voters' pamphlet and distribute it themselves; publish a county voters' pamphlet and have it inserted into the state voters' pamphlet for elections that the SOS is required to publish; or not publish a county voters' pamphlet and have certain local candidates and measures be eligible for inclusion in the state voters' pamphlet.

[House Bill 3021 \(2021\)](#) requires the SOS to create and make publicly available a list of the top five most commonly spoken languages in the state and each county and to ensure that each pamphlet mailed to county residents is translated into the most common languages spoken in the state and in each county, other than English. Certain sections of the voters' pamphlet are required to be professionally translated by the SOS. Translations of certain candidate and measure statements may be submitted to the SOS in one of the five most commonly spoken languages in the state.

#### **Campaign Finance**

ORS Chapter 260 exempts candidates who serve as their own treasurer, and who expect neither the aggregate contributions nor the aggregate expenditures to exceed \$750 during a calendar year, from filing a statement of organization, establishing a single exclusive campaign account, or filing other statements under ORS 260.057. Fees paid for space in a voters' pamphlet are exempt from these calculations, as are costs associated with printing and circulating a petition in lieu of paying a fee to be included in a voters' pamphlet.

ORS Chapter 260 also exempts several items from the definition of "contribution" and "expenditure," including, but not limited to: any written news story, commentary, or editorial distributed through a broadcasting station, newspaper or magazine; a vendor's sale of food and beverage for use in a campaign sold at a charge less than the

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normal charge; and nonpartisan activity designed to encourage individuals to vote.

### **Elections Administration**

Under current law, the county clerk must conduct a public certification test, not later than seven days before an election, for the vote tally system used in an election using a selection of precincts, ballot formats, and electoral districts (ORS 254.235). The county clerk must repeat the public certification test immediately prior to scanning any ballots (ORS 254.485). After all of the ballots are tallied, but before the final results are certified, the county clerk must repeat the public certification test for the vote tally system used to conduct the election (ORS 254.525).

The SOS is required to design, prepare, and distribute state voter registration cards and to distribute federal registration cards. Current law allows any person to request up to 5,000 voter registration cards from the SOS and gives the SOS the authority to adopt rules for honoring requests exceeding that number.

No later than the 37th day after any election, current law requires the SOS to prepare and deliver a certification of nomination or election to each candidate having the most votes for nomination for, or election to, the office. The SOS is required to sign the certificate under the seal of the state. The federal Electoral Count Reform and Presidential Transition Improvement Act of 2022 (ECRA) revised the process of casting and counting electoral votes for presidential elections. ECRA specifies that the choice of electors must occur in accordance with state law enacted prior to election day and that the Governor, unless otherwise provided in state law, must submit a certificate of ascertainment identifying the state's electors not later than six days before the time fixed for the meeting of the electors, which is the first Tuesday after the second Wednesday in December.

### **Ballot Titles and Explanatory Statements**

A referral is a resolution by a governing body to place a question on the ballot for its electors to decide. At the state level, the referral process gives voters the opportunity to decide on constitutional or statutory changes proposed by the Legislative Assembly. When the Legislative Assembly refers a measure to voters, it may exercise its authority to either write the ballot title and summary or provide an alternative process for drafting the ballot title and summary and establishing the explanatory statement and joint argument in support committees. This is accomplished through the passage of a separate legislative measure specifying that content or process.