

House Bill 3384

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act allows local elections chiefs not to act on IM petitions that are filed during a specified time. (Flesch Readability Score: 67.3).

Permits local elections officials not to take certain actions on a petition or prospective petition for an initiative or referendum if the petition is filed between the 75th day prior to and the 35th day following an election in either May or November.

A BILL FOR AN ACT

1
2 Relating to filing petitions for initiatives and referenda; amending ORS 250.168, 250.175, 250.215,
3 250.270, 250.275, 250.315, 255.140, 255.145 and 255.175.

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

5 **SECTION 1.** ORS 250.168 is amended to read:

6 250.168. (1)(a) **Except as provided in paragraph (b) of this subsection**, not later than the fifth
7 business day after receiving a prospective petition for an initiative measure, the county clerk shall
8 determine in writing whether the initiative measure meets the requirements of section 1 (2)(d), Ar-
9 ticle IV, and section 10, Article VI of the Oregon Constitution.

10 **(b) For any prospective petition that is received by the county clerk between the 75th day**
11 **prior to and the 35th day following an election in either May or November, the county clerk**
12 **shall make the determination described under paragraph (a) of this subsection not later than**
13 **the 40th day following the election.**

14 (2) If the county clerk determines that the initiative measure meets the requirements of section
15 1 (2)(d), Article IV, and section 10, Article VI of the Oregon Constitution, the clerk shall proceed
16 as required in ORS 250.175. The clerk shall include in the publication required under ORS 250.175
17 (5) a statement that the initiative measure has been determined to meet the requirements of section
18 1 (2)(d), Article IV, and section 10, Article VI of the Oregon Constitution.

19 (3) If the county clerk determines that the initiative measure does not meet the requirements
20 of section 1 (2)(d), Article IV, and section 10, Article VI of the Oregon Constitution, the clerk shall
21 immediately notify the petitioner, in writing by certified mail, return receipt requested, of the de-
22 termination.

23 (4) Any elector dissatisfied with a determination of the county clerk under subsection (1) of this
24 section may petition the circuit court of the judicial district in which the county is located seeking
25 to overturn the determination of the clerk. If the elector is dissatisfied with a determination that
26 the initiative measure meets the requirements of section 1 (2)(d), Article IV, and section 10, Article
27 VI of the Oregon Constitution, the petition must be filed not later than the seventh business day
28 after the ballot title is filed with the clerk. If the elector is dissatisfied with a determination that
29 the initiative measure does not meet the requirements of section 1 (2)(d), Article IV, and section 10,

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 Article VI of the Oregon Constitution, the petition must be filed not later than the seventh business
2 day after the written determination is made by the clerk.

3 (5) The review by the circuit court shall be the first and final review, and shall be conducted
4 expeditiously to ensure the orderly and timely circulation of the petition.

5 **SECTION 2.** ORS 250.175 is amended to read:

6 250.175. (1)(a) When a prospective petition for a county measure to be referred is filed with the
7 county clerk, the clerk shall authorize the circulation of the petition containing the title of the
8 measure as enacted by the county governing body or, if there is no title, the title supplied by the
9 petitioner filing the prospective petition. **Except as provided in paragraph (b) of this subsection,**
10 the county clerk immediately shall send one copy of the prospective petition to the district attorney.

11 **(b) For any prospective petition that is filed with the county clerk between the 75th day**
12 **prior to and the 35th day following an election in either May or November, the county clerk**
13 **immediately shall send one copy of the prospective petition to the district attorney following**
14 **the period described in this paragraph.**

15 (2)(a) **Except as provided in paragraph (b) of this subsection,** not later than the sixth busi-
16 ness day after a prospective petition for a county measure to be initiated is filed with the county
17 clerk, the clerk shall send one copy of [it] **the prospective petition** to the district attorney if the
18 measure to be initiated has been determined to be in compliance with section 1 (2)(d), Article IV,
19 and section 10, Article VI of the Oregon Constitution, as provided in ORS 250.168.

20 **(b) For any prospective petition that is filed with the county clerk between the 75th day**
21 **prior to and the 35th day following an election in either May or November, the county clerk**
22 **shall send one copy of the prospective petition to the district attorney not later than the**
23 **sixth business day following the period described in this paragraph if the county clerk de-**
24 **termines that the measure to be initiated is in compliance with the requirements set forth**
25 **in paragraph (a) of this subsection.**

26 (3)(a) Not later than the fifth business day after receiving the copy of the prospective petition,
27 and notwithstanding ORS 203.145 (3), the district attorney shall prepare a ballot title for the county
28 measure to be initiated or referred and certify the ballot title to the county clerk.

29 (b) If the district attorney determines that a ballot title certified under this subsection contains
30 a clerical error, the district attorney may correct the error and certify to the county clerk a cor-
31 rected ballot title not later than the 10th business day after the date the ballot title was certified.

32 (c) A copy of the ballot title shall be furnished to the chief petitioner.

33 (4) Unless the circuit court certifies a different ballot title, the latest ballot title certified by the
34 district attorney under subsection (3) of this section is the title to be printed on the ballot.

35 (5)(a) The county clerk, upon receiving a ballot title for a county measure to be referred or in-
36 itiated from the district attorney or the county governing body, shall publish in the next available
37 edition of a newspaper of general circulation in the county a notice of receipt of the ballot title
38 including notice that an elector may file a petition for review of the ballot title not later than the
39 date referred to in ORS 250.195.

40 (b) In addition to publishing a notice as described in paragraph (a) of this subsection, the county
41 clerk may publish a notice on the county's website for a minimum of seven days.

42 (6) As used in this section, "clerical error" means a typographical, arithmetical or grammatical
43 error or omission that is evident from the text of the certified ballot title or by comparison of the
44 text of the ballot title with a written explanation that was provided by the district attorney and
45 issued concurrently with the certified ballot title.

SECTION 3. ORS 250.215 is amended to read:

250.215. (1) An initiative or referendum petition relating to a county measure shall be filed with the county clerk for signature verification. The filed petition shall contain only original signatures.

(2) An initiative or referendum petition relating to a county measure *[shall]* **may** not be accepted for filing if *[it]* **the petition:**

(a) Contains less than 100 percent of the required number of signatures; **or**

(b) Is filed between the 75th day prior to and the 35th day following an election in either May or November.

(3) For any petition requiring a number of signatures exceeding 4,500, the Secretary of State by rule shall designate a statistical sampling technique to verify whether a petition contains the required number of signatures of electors. A petition may not be rejected for the reason that it contains less than the required number of signatures unless two separate sampling processes both establish that the petition lacks the required number of signatures. The second sampling must contain a larger number of signatures than the first sampling.

(4) The Secretary of State may employ professional assistance to determine the sampling technique referred to in subsection (3) of this section.

SECTION 4. ORS 250.270 is amended to read:

250.270. (1)(a) **Except as provided in paragraph (b) of this subsection,** not later than the fifth business day after receiving a prospective petition for an initiative measure, the city elections officer shall determine in writing whether the initiative measure meets the requirements of section 1 (2)(d) and (5), Article IV of the Oregon Constitution.

(b) For any prospective petition that is received by the city elections officer between the 75th day prior to and the 35th day following an election in either May or November, the city elections officer shall make the determination described under paragraph (a) of this subsection not later than the 40th day following the election.

(2) If the city elections officer determines that the initiative measure meets the requirements of section 1 (2)(d) and (5), Article IV of the Oregon Constitution, the city elections officer shall proceed as required in ORS 250.275. The city elections officer shall include in the publication required under ORS 250.275 (5) a statement that the initiative measure has been determined to meet the requirements of section 1 (2)(d) and (5), Article IV of the Oregon Constitution.

(3) If the city elections officer determines that the initiative measure does not meet the requirements of section 1 (2)(d) and (5), Article IV of the Oregon Constitution, the city elections officer shall immediately notify the petitioner, in writing by certified mail, return receipt requested, of the determination.

(4) Any elector dissatisfied with a determination of the city elections officer under subsection (1) of this section may petition the circuit court of the judicial district in which the city is located seeking to overturn the determination of the city elections officer. If the elector is dissatisfied with a determination that the initiative measure meets the requirements of section 1 (2)(d) and (5), Article IV of the Oregon Constitution, the petition must be filed not later than the seventh business day after the ballot title is filed with the city elections officer. If the elector is dissatisfied with a determination that the initiative measure does not meet the requirements of section 1 (2)(d) and (5), Article IV of the Oregon Constitution, the petition must be filed not later than the seventh business day after the written determination is made by the city elections officer.

(5) The review by the circuit court shall be the first and final review, and shall be conducted expeditiously to ensure the orderly and timely circulation of the petition.

SECTION 5. ORS 250.275 is amended to read:

250.275. (1)(a) When a prospective petition for a city measure to be referred is filed with the city elections officer, the officer shall authorize the circulation of the petition containing the title of the measure as enacted by the city governing body or, if there is no title, the title supplied by the petitioner filing the prospective petition. **Except as provided in paragraph (b) of this subsection,** the city elections officer immediately shall send one copy of the prospective petition to the city attorney.

(b) For any prospective petition that is filed with the city elections officer between the 75th day prior to and the 35th day following an election in either May or November, the city elections officer immediately shall send one copy of the prospective petition to the city attorney following the period described in this paragraph.

(2)(a) **Except as provided in paragraph (b) of this subsection,** not later than the sixth business day after a prospective petition for a city measure to be initiated is filed with the city elections officer, the officer shall send one copy of [it] **the prospective petition** to the city attorney if the measure to be initiated has been determined to be in compliance with section 1 (2)(d) and (5), Article IV of the Oregon Constitution, as provided in ORS 250.270.

(b) For any prospective petition that is filed with the city elections officer between the 75th day prior to and the 35th day following an election in either May or November, the city elections officer shall send one copy of the prospective petition to the city attorney not later than the sixth business day following the period described in this paragraph if the officer determines that the measure to be initiated is in compliance with the requirements set forth in paragraph (a) of this subsection.

(3)(a) Not later than the fifth business day after receiving the copy of the prospective petition, the city attorney shall provide a ballot title for the city measure to be initiated or referred and certify the ballot title to the city elections officer.

(b) If the city attorney determines that a ballot title certified under this subsection contains a clerical error, the city attorney may correct the error and certify to the city elections officer a corrected ballot title not later than the 10th business day after the date the ballot title was certified.

(c) A copy of the ballot title shall be furnished to the chief petitioner.

(4) Unless the circuit court certifies a different ballot title, the latest ballot title certified by the city attorney under subsection (3) of this section is the title to be printed on the ballot.

(5)(a) The city elections officer, upon receiving a ballot title for a city measure to be referred or initiated from the city attorney or city governing body, shall publish in the next available edition of a newspaper of general distribution in the city a notice of receipt of the ballot title including notice that an elector may file a petition for review of the ballot title not later than the date referred to in ORS 250.296.

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

(6) As used in this section, "clerical error" means a typographical, arithmetical or grammatical error or omission that is evident from the text of the certified ballot title or by comparison of the text of the ballot title with a written explanation that was provided by the city attorney and issued concurrently with the certified ballot title.

SECTION 6. ORS 250.315 is amended to read:

250.315. (1) An initiative or referendum petition relating to a city measure shall be filed with the city elections officer for signature verification. The filed petition shall contain only original

1 signatures.

2 (2) An initiative or referendum petition relating to a city measure shall not be accepted for filing
 3 if *it* **the petition:**

4 (a) Contains less than 100 percent of the required number of signatures; **or**

5 (b) **Is filed between the 75th day prior to and the 35th day following an election in either**
 6 **May or November.**

7 (3) For any petition requiring a number of signatures exceeding 4,500, the Secretary of State by
 8 rule shall designate a statistical sampling technique to verify whether a petition contains the re-
 9 quired number of signatures of electors. A petition may not be rejected for the reason that it con-
 10 tains less than the required number of signatures unless two separate sampling processes both
 11 establish that the petition lacks the required number of signatures. The second sampling must con-
 12 tain a larger number of signatures than the first sampling.

13 (4) The Secretary of State may employ professional assistance to determine the sampling tech-
 14 nique referred to in subsection (3) of this section.

15 **SECTION 7.** ORS 255.140 is amended to read:

16 255.140. (1)(a) **Except as provided in paragraph (b) of this subsection,** not later than the fifth
 17 business day after receiving a prospective petition for an initiative measure, the elections officer
 18 shall determine in writing whether the initiative measure meets the requirements of section 1 (2)(d)
 19 and (5), Article IV of the Oregon Constitution.

20 (b) **For any prospective petition that is received by the elections officer between the 75th**
 21 **day prior to and the 35th day following an election in either May or November, the elections**
 22 **officer shall make the determination described under paragraph (a) of this subsection not**
 23 **later than the 40th day following the election.**

24 (2) If the elections officer determines that the initiative measure meets the requirements of
 25 section 1 (2)(d) and (5), Article IV of the Oregon Constitution, the elections officer shall proceed as
 26 required in ORS 255.145. The elections officer shall include in the publication required under ORS
 27 255.145 (5) a statement that the initiative measure has been determined to meet the requirements
 28 of section 1 (2)(d) and (5), Article IV of the Oregon Constitution.

29 (3) If the elections officer determines that the initiative measure does not meet the requirements
 30 of section 1 (2)(d) and (5), Article IV of the Oregon Constitution, the elections officer shall imme-
 31 diately notify the petitioner, in writing by certified mail, return receipt requested, of the determi-
 32 nation.

33 (4) Any elector dissatisfied with a determination of the elections officer under subsection (1) of
 34 this section may petition the circuit court of the judicial district in which the administrative office
 35 of the district is located seeking to overturn the determination of the elections officer. If the elector
 36 is dissatisfied with a determination that the initiative measure meets the requirements of section 1
 37 (2)(d) and (5), Article IV of the Oregon Constitution, the petition must be filed not later than the
 38 seventh business day after the ballot title is filed with the elections officer. If the elector is dissat-
 39 isfied with a determination that the initiative measure does not meet the requirements of section 1
 40 (2)(d) and (5), Article IV of the Oregon Constitution, the petition must be filed not later than the
 41 seventh business day after the written determination is made by the elections officer.

42 (5) The review by the circuit court shall be the first and final review, and shall be conducted
 43 expeditiously to ensure the orderly and timely circulation of the petition.

44 **SECTION 8.** ORS 255.145 is amended to read:

45 255.145. (1)(a) When a prospective petition for a district measure to be referred is filed with the

1 elections officer, the officer shall authorize the circulation of the petition containing the title of the
 2 measure as enacted by the district elections authority or, if there is no title, the title supplied by
 3 the petitioner filing the prospective petition. **Except as provided in paragraph (b) of this sub-**
 4 **section,** the elections officer immediately shall send one copy of the prospective petition to the
 5 district attorney of the county in which the administrative office of the district is located.

6 **(b) For any prospective petition that is filed with the elections officer between the 75th**
 7 **day prior to and the 35th day following an election in either May or November, the elections**
 8 **officer immediately shall send one copy of the prospective petition to the district attorney**
 9 **in accordance with paragraph (a) of this subsection following the period described in this**
 10 **paragraph.**

11 (2)(a) **Except as provided in paragraph (b) of this subsection,** not later than the sixth busi-
 12 ness day after a prospective petition for a district measure to be initiated is filed with the elections
 13 officer, the officer shall send one copy of it to the district attorney of the county in which the ad-
 14 ministrative office of the district is located if the measure to be initiated has been determined to
 15 be in compliance with section 1 (2)(d) and (5), Article IV of the Oregon Constitution, as provided in
 16 ORS 255.140.

17 **(b) For any prospective petition that is filed with the elections officer between the 75th**
 18 **day prior to and the 35th day following an election in either May or November, the elections**
 19 **officer shall send one copy of the prospective petition to the district attorney not later than**
 20 **the sixth business day following the period described in this paragraph if the officer deter-**
 21 **mines that the measure to be initiated is in compliance with the requirements set forth in**
 22 **paragraph (a) of this subsection.**

23 (3)(a) Not later than the fifth business day after receiving the copy of the prospective petition,
 24 the district attorney shall provide a ballot title for the district measure to be initiated or referred
 25 and send one copy of the ballot title to the elections officer. Unless the circuit court certifies a
 26 different title, or the district attorney determines that a clerical correction is necessary, this ballot
 27 title shall be the title printed on the ballot.

28 (b) As used in this subsection, “clerical correction” means a typographical, arithmetical or
 29 grammatical correction that is evident from the text of the draft or certified ballot title.

30 (4) A copy of the ballot title shall be furnished to the chief petitioner.

31 (5)(a) The elections officer, upon receiving a ballot title for a district measure to be referred or
 32 initiated from the district attorney, shall publish in the next available edition of a newspaper of
 33 general circulation in the district a notice of receipt of the ballot title including notice that an
 34 elector may file a petition for review of the ballot title not later than the date referred to in ORS
 35 255.155.

36 (b) In addition to publishing a notice as described in paragraph (a) of this subsection, the
 37 elections officer may publish a notice on the county’s website for a minimum of seven days.

38 **SECTION 9.** ORS 255.175 is amended to read:

39 255.175. (1) An initiative or referendum petition relating to a district measure shall be filed with
 40 the elections officer for signature verification. The filed petition shall contain only original signa-
 41 tures.

42 (2) An initiative or referendum petition relating to a district measure shall not be accepted for
 43 filing if *[it]* **the petition:**

44 (a) Contains less than 100 percent of the required number of signatures; **or**

45 (b) **Is filed between the 75th day prior to and the 35th day following an election in either**

1 **May or November.**

2 (3) For any petition requiring a number of signatures exceeding 4,500, the Secretary of State by
3 rule shall designate a statistical sampling technique to verify whether a petition contains the re-
4 quired number of signatures of electors. A petition may not be rejected for the reason that it con-
5 tains less than the required number of signatures unless two separate sampling processes both
6 establish that the petition lacks the required number of signatures. The second sampling must con-
7 tain a larger number of signatures than the first sampling.

8 (4) The Secretary of State may employ professional assistance to determine the sampling tech-
9 nique referred to in subsection (3) of this section.

10