

A-Engrossed
House Bill 2084

Ordered by the House April 3
Including House Amendments dated April 3

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Secretary of State Bill Bradbury)

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.

[Allows Secretary of State by rule to set date for presidential primary election that is different from date of May primary election.]

Sets first Tuesday in February 2008 as date of Oregon presidential primary election. Establishes same date as date of election otherwise held on second Tuesday in March for other candidates or measures. Sunsets January 1, 2009.

Allows Secretary of State to participate in discussions regarding regional presidential primary elections.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to a presidential primary election; creating new provisions; amending ORS 246.270, 246.560,
3 247.203, 247.296, 247.410, 247.435, 247.940, 247.945, 248.315, 249.037, 249.170, 251.026, 251.065,
4 251.165, 253.030, 253.540, 253.565, 254.016, 254.025, 254.069, 254.076, 254.115, 254.195, 254.205,
5 254.365, 254.370, 254.465, 254.470, 254.474, 254.555, 260.532 and 316.102; and declaring an emer-
6 gency.

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

8 **SECTION 1. Sections 1a to 3 of this 2007 Act are added to and made a part of ORS**
9 **chapter 254.**

10 **SECTION 1a. (1) Notwithstanding ORS 254.056, for the calendar year 2008, a presidential**
11 **primary election shall be held in this state on the first Tuesday in February. At the election**
12 **held on the first Tuesday in February, electors may vote for candidates for nomination for**
13 **President of the United States and for any other candidates or measures listed on the ballot**
14 **under subsection (2) of this section.**

15 **(2) Notwithstanding ORS 171.185, 203.085, 221.230, 255.345 and 258.075, for the calendar**
16 **year 2008, an election that would otherwise be held on the second Tuesday in March shall**
17 **be held on the first Tuesday in February. The ballot at the election shall include the names**
18 **of candidates for the party nomination for President of the United States who qualified for**
19 **the ballot under ORS 249.078, the names of candidates to be nominated or elected to other**
20 **offices at the election and the number, ballot title and financial estimates of any measures.**

21 **(3) The Secretary of State may adopt rules governing the procedures for conducting an**
22 **election under this section.**

23 **(4) This section is repealed January 1, 2009.**

24 **SECTION 2. The Secretary of State may participate and represent this state in dis-**

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 **cussions among the states or with any unit of the federal government in setting a schedule**
2 **of rotating regional presidential primary elections.**

3 **SECTION 3. Except as otherwise provided, as used in ORS chapters 246 to 260:**

4 (1) **“Primary election” means the primary election held on the third Tuesday in May of**
5 **each even-numbered year as described in ORS 254.056.**

6 (2) **“Presidential primary election” means an election:**

7 (a) **Held in each year in which electors of the President and Vice President of the United**
8 **States are to be elected;**

9 (b) **At which electors may vote for candidates for nomination for President of the United**
10 **States; and**

11 (c) **Held on a date that is different from the date of the primary election.**

12 **SECTION 4.** ORS 246.270 is amended to read:

13 246.270. On the day of any primary election, **presidential primary election**, general election
14 or special election held throughout the county, the county clerk’s office shall remain open for busi-
15 ness pertaining to the election from 7 a.m. to 8 p.m. of the same day.

16 **SECTION 5.** ORS 246.560 is amended to read:

17 246.560. (1) A voting machine may not be approved by the Secretary of State unless the voting
18 machine is constructed so that it:

19 (a) Secures to the elector secrecy of voting.

20 (b) Provides facilities for voting for the candidates of as many political parties or organizations
21 as may make nominations and for or against as many measures as may be submitted.

22 (c) Permits the elector to vote for any person and as many persons for an office and upon any
23 measure for which the elector has the right to vote.

24 (d) Permits the elector, except at a primary election **or presidential primary election**, to vote
25 for all the candidates of one party or in part for the candidates of one party and in part for the
26 candidates of one or more other parties.

27 (e) Correctly records on a separate ballot the votes cast by each elector for any person and for
28 or against any measure.

29 (f) Provides that a vote for more than one candidate cannot be cast by one single operation of
30 the voting machine or vote tally system except for President and Vice President and electors for
31 those offices.

32 (g) Provides that straight party pointers shall be disconnected from all candidate pointers.

33 (h) Contains a device that will duplicate the votes cast by each elector onto a paper record
34 copy.

35 (i) Contains a device that will allow each elector to view the elector’s paper record copy while
36 preventing the elector from directly handling the paper record copy.

37 (2) A vote tally system shall be:

38 (a) Capable of correctly counting votes on ballots on which the proper number of votes have
39 been marked for any office or measure that has been voted.

40 (b) Capable of ignoring the votes marked for any office or measure if more than the allowable
41 number of votes have been marked, but shall correctly count the properly voted portions of the
42 ballot.

43 (c) Capable of accumulating a count of the specific number of ballots tallied for a precinct, ac-
44 cumulating total votes by candidate for each office, and accumulating total votes for and against
45 each measure of the ballots tallied for a precinct.

1 (d) Capable of tallying votes from ballots of different political parties, from the same precinct,
2 in a primary **or presidential primary** election.

3 (e) Capable of accommodating the procedure established under ORS 254.155.

4 (f) Capable of automatically producing precinct totals in either printed, marked, or punched
5 form, or combinations thereof.

6 **SECTION 6.** ORS 247.203 is amended to read:

7 247.203. An elector who updates a registration during the period extending from the 20th day
8 before a primary **or presidential primary** election to the date of the primary **or presidential pri-**
9 **mary** election may not, during that period:

10 (1) Change the elector's political party affiliation if the elector's immediate past registration
11 record shows the elector was or is registered as affiliated with a political party.

12 (2) Terminate affiliation with a political party if the elector's immediate past registration record
13 shows the elector was or is registered as affiliated with a political party.

14 (3) Adopt a political party affiliation if the elector's immediate past registration shows that the
15 elector was not or is not registered as affiliated with a political party.

16 **SECTION 7.** ORS 247.296 is amended to read:

17 247.296. (1) The county clerk shall use records of the United States Postal Service relating to
18 ballots issued by mail to verify the accuracy of addresses of electors contained in the registration
19 file of the county clerk.

20 (2) Based on information obtained under subsection (1) of this section, the county clerk shall
21 automatically update the registration of an elector under ORS 247.292 or mail a notice described in
22 ORS 247.563.

23 (3) The registration of an elector [*shall*] **may** not be canceled during the 90-day period prior to
24 any primary, **presidential primary** or general election based on information obtained under this
25 section.

26 **SECTION 8.** ORS 247.410 is amended to read:

27 247.410. A person who is qualified to register, except that the person will have resided in this
28 state less than 20 days before the election, may vote in the election for candidates for nomination
29 or election for President or Vice President of the United States or elector of President and Vice
30 President of the United States if the person:

31 (1) Did not vote for the nomination of such candidates in another state during the six months
32 immediately preceding the person's request for registration to vote for the nomination of such can-
33 didates in the **presidential** primary election in this state; or

34 (2) Did not vote for the election of such candidates in another state during the six months im-
35 mediately preceding the person's request for registration to vote for the election of such candidates
36 in the general election in this state.

37 **SECTION 9.** ORS 247.435 is amended to read:

38 247.435. An elector of this state who moves to another state after the 31st day before a **presi-**
39 **dential** primary or general election for President or for electors of President and Vice President,
40 and who does not qualify to vote in the state of the elector's present residence, may vote for these
41 offices in the **presidential** primary or general election in this state. The ballot for a person voting
42 under this section shall be marked "Presidential only."

43 **SECTION 10.** ORS 247.940 is amended to read:

44 247.940. (1) Not later than the 21st day before any primary election, **presidential primary**
45 **election**, general election or special congressional election, a major political party qualified under

1 ORS 248.006 or its affiliate within the county or a minor political party qualified under ORS 248.008
2 may request from the county clerk a list of active electors, as described in ORS 247.013, of the
3 county. The list shall contain the name, party affiliation, residence or mailing address and precinct
4 name or number of each active elector and shall be arranged in groups by election precinct. A major
5 political party or its affiliate within the county or a minor political party may make no more than
6 two separate requests under this subsection.

7 (2) If the county clerk receives a request under subsection (1) of this section, the clerk shall
8 deliver the list not later than:

9 (a) Ten days after receiving the request; or

10 (b) The date requested, provided that the date requested is more than 10 days after the request
11 was made and at least 10 days before the date of any primary election, **presidential primary**
12 **election**, general election or special congressional election.

13 (3) The county clerk shall not charge for preparation or delivery of the list supplied under this
14 section.

15 **SECTION 11.** ORS 247.945 is amended to read:

16 247.945. (1) The county clerk, upon request before the 45th day before a primary, **presidential**
17 **primary**, general or special election, shall deliver to any person a list of electors. The lists shall
18 be prepared in the manner requested, limited only to the capabilities of the Secretary of State or
19 the county clerk.

20 (2) The county clerk shall collect and pay into the county treasury a charge for the actual cost
21 of supplying lists under subsection (1) of this section.

22 (3) The county clerk shall keep a record of all persons to whom a list of electors is delivered
23 under this section.

24 **SECTION 12.** ORS 248.315 is amended to read:

25 248.315. (1) After a presidential [*preference*] primary election, each major political party whose
26 national affiliate holds a convention to select its nominee for President of the United States shall
27 select delegates to the national convention of that party.

28 (2) Delegates to the national convention of a party shall be selected in the manner provided by
29 party rules, which shall provide all electors registered as members of the party equal opportunity
30 to participate in the selection of delegates.

31 (3) Delegates to the national convention of the party shall be selected so that the number of
32 delegates who favor a certain candidate shall represent the proportion of votes received by the
33 candidate in relation to the other candidates of that party at the presidential [*preference*] primary
34 election. Each person selected as a delegate shall sign a pledge that the person will continue to
35 support at the national convention the candidate for President of the United States the person is
36 selected as favoring until:

37 (a) The candidate is nominated at the convention;

38 (b) The candidate receives less than 35 percent of the votes for nomination at the convention;

39 (c) The candidate releases the delegate from the pledge; or

40 (d) Two convention nominating ballots have been taken.

41 **SECTION 13.** ORS 249.037 is amended to read:

42 249.037. (1) A nominating petition or declaration of candidacy shall be filed not sooner than the
43 250th day and not later than the 70th day before the date of the primary **or presidential primary**
44 election.

45 (2) Notwithstanding subsection (1) of this section, a declaration of candidacy for the office of

1 precinct committeeperson may not be filed before February 1 immediately preceding the primary
2 election.

3 **SECTION 14.** ORS 249.170 is amended to read:

4 249.170. (1) A candidate who has filed a declaration of candidacy or a nominating petition may
5 withdraw not later than the 67th day before the date of the primary **or presidential primary**
6 election by filing a statement of withdrawal with the filing officer with whom the declaration or
7 petition was filed. The statement shall be made under oath and state the reasons for withdrawal.

8 (2) The official with whom a declaration of candidacy is filed, upon request received not later
9 than the 67th day before the date of the primary **or presidential primary** election, shall refund the
10 filing fee of a candidate who dies, withdraws or becomes ineligible for the nomination.

11 **SECTION 15.** ORS 251.026 is amended to read:

12 251.026. (1) The Secretary of State shall prepare and have printed in the voters' pamphlet for
13 the [state] **biennial** primary election, the general election and any special election described in ORS
14 251.022 a statement containing, if applicable:

15 (a) Requirements for a citizen to qualify as an elector.

16 (b) When an elector is required to register or update a registration.

17 (c) In the voters' pamphlet for the primary election, a statement of the duties and responsibil-
18 ities of a precinct committeeperson to be elected at the primary election.

19 (d) Any other information the Secretary of State considers relevant to the conduct of the
20 election.

21 (2) The Secretary of State shall include a statement on the cover of the voters' pamphlet that
22 the pamphlet may be used to assist electors in voting.

23 (3) The Secretary of State may include in the voters' pamphlet the following information:

24 (a) Maps showing the boundaries of senatorial and representative districts.

25 (b) Voter registration forms.

26 (c) Elector instructions, including the right of an elector to request a second ballot if the first
27 ballot is spoiled and the right of an elector to seek assistance in marking the ballot.

28 **SECTION 16.** ORS 251.065 is amended to read:

29 251.065. (1) Not later than the 68th day before the **biennial** primary election, any candidate or
30 agent on behalf of the candidate for nomination or election at the primary election to the office of
31 President or Vice President of the United States, **if candidates for the office of President of the**
32 **United States will be nominated at the biennial primary election**, United States Senator, Rep-
33 resentative in Congress or any state office as defined in ORS 249.002 may file with the Secretary
34 of State a portrait of the candidate and a printed or typewritten statement of the reasons the candi-
35 dicate should be nominated or elected. A candidate or agent on behalf of the candidate for nomi-
36 nation or election to any county or city office, or to an elected office of a metropolitan service
37 district organized under ORS chapter 268, may file a portrait and statement under this subsection
38 if permitted under ORS 251.067.

39 (2) Not later than the 70th day before the general election, any candidate or agent on behalf
40 of the candidate for election at the general election to the office of President or Vice President of
41 the United States, United States Senator, Representative in Congress or any state office as defined
42 in ORS 249.002 may file with the Secretary of State a portrait of the candidate and a printed or
43 typewritten statement of the reasons the candidate should be elected. A candidate or agent on behalf
44 of the candidate for election to any county or city office, or to an elected office of a metropolitan
45 service district organized under ORS chapter 268, may file a portrait and statement under this sub-

1 section if permitted under ORS 251.067.

2 (3) In the case of a special election to fill a vacancy as described in ORS 251.022, the Secretary
3 of State by rule shall set the deadline for filing with the secretary a portrait of the candidate and
4 a printed or typewritten statement of the reasons the candidate should be nominated or elected.

5 (4) Subject to subsections (1) to (3) of this section, the Secretary of State by rule shall establish
6 the format of the statements permitted under this section.

7 (5) A portrait or statement filed under this section shall be accompanied by a telephone or
8 electronic facsimile transmission machine number where the candidate may be contacted for pur-
9 poses of ORS 251.087.

10 **SECTION 17.** ORS 251.165 is amended to read:

11 251.165. (1) The Secretary of State shall prepare:

12 (a) A list of the names of candidates for nomination or election at the **biennial** primary election
13 to the offices of President or Vice President of the United States, **if candidates for the office of**
14 **President of the United States will be nominated at the biennial primary election**, United
15 States Senator, Representative in Congress, any state office other than justice of the peace and any
16 county or city office or elected office of a metropolitan service district required to be included under
17 ORS 251.067, or a list of names of candidates for election at the general election to the offices of
18 President or Vice President of the United States, United States Senator, Representative in Congress,
19 any state office other than justice of the peace and any county or city office or elected office of a
20 metropolitan service district required to be included under ORS 251.067, along with a designation
21 of the offices for which the candidates are competing;

22 (b) All portraits and statements filed under ORS 251.065 and 251.115; and

23 (c) The information specified in ORS 251.185 relating to measures to be voted upon at the
24 election for which the pamphlet is prepared.

25 (2) For a special election described in ORS 251.022, the Secretary of State shall prepare a list
26 of the names of candidates for nomination or election to the offices of United States Senator or
27 Representative in Congress along with all portraits and statements filed for the special election
28 under ORS 251.065.

29 (3) The items specified in subsections (1) and (2) of this section shall be properly compiled, ed-
30 ited, prepared and indexed for printing by the Secretary of State before delivery to the printer.

31 **SECTION 18.** ORS 253.030 is amended to read:

32 253.030. (1) Before an election any elector may apply to the clerk for the absentee ballot of the
33 election.

34 (2) An application for an absentee ballot must:

35 (a) Be in writing and signed by the applicant; and

36 (b) Be received by the clerk not later than 8 p.m. the day of the election.

37 (3) If an applicant not affiliated with any political party desires to vote in any major political
38 party primary **or presidential primary** election, the applicant may request and shall be sent a
39 ballot for a major political party if that political party has provided under ORS 254.365 for a primary
40 **or presidential primary** election that admits electors not affiliated with any political party.

41 (4) Application for an absentee ballot may be made by using a facsimile machine. As used in this
42 subsection, "facsimile machine" means a machine that electronically transmits or receives facsimiles
43 of documents through connection with a telephone network.

44 (5) If an elector desires, the elector's application shall be valid for every subsequent election
45 until the elector otherwise notifies the clerk or is no longer an elector of the county.

1 **SECTION 19.** ORS 253.540 is amended to read:

2 253.540. (1) Any long term absent elector may secure an absentee ballot by submitting an ap-
3 plication as specified in subsection (2) of this section to the clerk of the county of the long term
4 absent elector's residence, or to the Secretary of State. If the application is addressed to the Sec-
5 retary of State, the secretary shall forward it to the appropriate county clerk.

6 (2) An application for an absentee ballot by a long term absent elector shall be made in the form
7 of a written request. The application shall be valid for every subsequent election until the elector
8 otherwise notifies the clerk or is no longer an elector of the county. The application shall be signed
9 by the applicant and contain:

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

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

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

13 (d) 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 (e) A statement of the facts that qualify the applicant as a long term absent elector or as the
16 spouse or a dependent of a long term absent elector;

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

19 (g) If the applicant desires to vote in a primary **or presidential primary** election, a designation
20 of the applicant's political party affiliation or a statement that the applicant is not affiliated with
21 any political party. An applicant not affiliated with any political party may request a ballot for a
22 major political party. The applicant shall be sent the ballot for the political party that the applicant
23 requested if that political party has provided under ORS 254.365 for a primary **or presidential**
24 **primary** election that admits electors not affiliated with any political party.

25 **SECTION 20.** ORS 253.565 is amended to read:

26 253.565. (1) Any long term absent elector may secure a special absentee ballot for a primary
27 election, **presidential primary election** or general election by making an application under this
28 section if the elector believes that:

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

31 (b) The elector will be unable to vote and return a regular absentee ballot by normal mail de-
32 livery within the period provided for regular absentee ballots.

33 (2) A long term absent elector shall make the application for a special absentee ballot in the
34 form of a written request. The elector shall submit the application before the date of the applicable
35 election to the clerk of the county of the long term absent elector's residence or to the Secretary
36 of State. If the application is addressed to the Secretary of State, the secretary shall forward it to
37 the appropriate county clerk. The application shall be signed by the applicant and contain:

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

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

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

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

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

44 (f) A statement of the facts that qualify the applicant as a long term absent elector or as the
45 spouse or a dependent of a long term absent elector;

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

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

5 (i) If the applicant requests a ballot for a primary **or presidential primary** election, a desig-
6 nation of the applicant's political party affiliation or a statement that the applicant is not affiliated
7 with any political party. An applicant not affiliated with any political party may request a ballot for
8 a major political party. The applicant shall be sent the ballot for the political party that the appli-
9 cant requested if that political party has provided under ORS 254.365 for a primary **or presidential**
10 **primary** election that admits electors not affiliated with any political party.

11 (3) An application for a special absentee ballot shall be valid only for the election specified in
12 the application.

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

16 (5) The elector may write in the name of any eligible candidate for each office to be filled or for
17 which nominations will be made at the election, and may vote on any measure submitted at the
18 election.

19 **SECTION 21.** ORS 254.016 is amended to read:

20 254.016. Any primary election, **presidential primary election**, general election or special
21 election held in this state shall be conducted under the provisions of this chapter, unless specifically
22 provided otherwise in the statute laws of this state.

23 **SECTION 22.** ORS 254.025 is amended to read:

24 254.025. (1) Statutes applicable to primary **and presidential primary** elections shall be con-
25 strued as though the [*primary*] elections are separate elections for each major political party nomi-
26 nating candidates.

27 (2) The primary **and presidential primary** elections shall be conducted as nearly as possible
28 according to the theory expressed in the preamble to chapter 1, Oregon Laws 1905.

29 **SECTION 23.** ORS 254.069 is amended to read:

30 254.069. (1) An elector may not participate in more than one nominating process for each partisan
31 public office to be filled at the general election.

32 (2) An elector is considered to have participated in the nominating process for each partisan
33 public office listed on the ballot at a primary **or presidential primary** election if the elector re-
34 turned a ballot of a major political party at the primary **or presidential primary** election.

35 (3) An elector is considered to have participated in the nominating process for a partisan public
36 office listed on the ballot at the general election if:

37 (a) A minor political party nominated a candidate for that office in the manner specified by the
38 party in documents filed under ORS 248.009 and the elector participated in the nominating process;
39 or

40 (b) The elector participated in the nominating process for that office by signing the minutes of
41 an assembly of electors under ORS 249.735 or by signing a certificate of nomination made by indi-
42 vidual electors under ORS 249.740.

43 (4) If a filing officer described in ORS 249.722 determines that an elector who has signed the
44 minutes of an assembly of electors under ORS 249.735 or a certificate of nomination under ORS
45 249.740 has attempted to participate in more than one nominating process for the same office to be

1 filled at the general election, the signature of the elector may not be considered for purposes of ORS
2 249.735 or 249.740.

3 **SECTION 24.** ORS 254.076 is amended to read:

4 254.076. The chief elections officer shall keep a register of candidates for nomination at the
5 primary **or presidential primary** election. The register, if applicable, shall contain for each major
6 political party:

7 (1) The title of each office for which the major political party will nominate candidates at the
8 primary **or presidential primary** election.

9 (2) The name and mailing address of each candidate for nomination at the primary **or presi-**
10 **dential primary** election.

11 (3) The name of the major political party with which the candidate is registered as affiliated.

12 (4) The date of filing of the prospective petition for nomination of the candidate.

13 (5) The date of filing of the completed petition for nomination of the candidate, the number of
14 valid signatures contained and the number of signatures required.

15 (6) The date of filing of the declaration of candidacy of the candidate.

16 (7) Such other information as may aid the chief elections officer in arranging the official ballot
17 or ballot label for the primary **or presidential primary** election.

18 **SECTION 25.** ORS 254.115 is amended to read:

19 254.115. (1) The official primary election ballot or ballot label shall be styled "Official Primary
20 Nominating Ballot for the _____ Party." and shall state:

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

22 (b) The date of the primary election.

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

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

27 (e) The names of candidates for the party nomination for President of the United States who
28 qualified for the ballot under ORS 249.078, **if candidates for the office of President of the United**
29 **States will be nominated at the biennial primary election.**

30 (2) If the election is conducted at polling places as provided in this chapter, any ballot to be
31 issued at a polling place shall also state the number or name of the precinct for which it is intended.

32 (3) 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 (4) The ballot shall not contain the name of any person other than those referred to in sub-
35 sections (1) and (3) of this section. The name of each candidate for whom a nominating petition or
36 declaration of candidacy has been filed shall be printed on the ballot in but one place. In the event
37 that two or more candidates for the same nomination or office have the same or similar surnames,
38 the location of their places of residence shall be printed opposite their names to distinguish one from
39 another.

40 **SECTION 26.** Section 27 of this 2007 Act is added to and made a part of ORS chapter 254.

41 **SECTION 27.** (1) **If the presidential primary election is held on a date other than the date**
42 **of the biennial primary election, the official presidential primary election ballot or ballot label**
43 **shall be styled "Official Ballot" and shall state:**

44 (a) **The date of the presidential primary election.**

45 (b) **The names of candidates for the party nomination for President of the United States**

1 **who qualified for the ballot under ORS 249.078.**

2 **(2) If the presidential primary election is held on the second Tuesday in March, the ballot**
3 **may also include the names of candidates to be nominated or elected to other offices at the**
4 **election and the number, ballot title and financial estimates of any measures.**

5 **(3) The name of each candidate shall be printed on the ballot in but one place. In the**
6 **event that two or more candidates for the same nomination or office have the same or**
7 **similar surnames, the location of their places of residence shall be printed opposite their**
8 **names to distinguish one from another.**

9 **SECTION 28.** ORS 254.195 is amended to read:

10 254.195. (1) Official ballots and ballot labels shall be printed in black ink upon good quality
11 material. The primary **or presidential primary** election ballots or ballot labels shall be of different
12 colors for the major political parties.

13 (2) If the election is conducted at polling places, sample ballots shall be prepared for the infor-
14 mation of the elector. The sample ballot shall contain the offices, candidates, measures and other
15 information on the ballots or ballot labels of the precincts for which the sample ballot is issued. The
16 sample ballot need not contain the office of, or candidates for, precinct committeeperson. The sample
17 ballots shall be identified as such, and printed on cheaper, colored paper to distinguish them from
18 official ballots. A sample ballot shall not be voted or counted.

19 (3) The governing body of a city, county or district may mail sample ballots to all electors
20 within the city, county or district to assist the electors' preparation for voting.

21 **SECTION 29.** ORS 254.205 is amended to read:

22 254.205. (1) For any election conducted at polling places, the county clerk shall produce a fac-
23 simile, except as to size, of the ballot in a manner described in this section. For any primary **or**
24 **presidential primary** election, a facsimile of the ballot shall include the ballot of each major poli-
25 tical party.

26 (2) The facsimile shall be:

27 (a) Published or inserted in one or more newspapers as described in subsection (3) of this sec-
28 tion; or

29 (b) Distributed to each residential postal mailing address within the electoral district for which
30 the election is being held.

31 (3) If the facsimile is published or inserted in a newspaper:

32 (a) The facsimile shall be published or inserted not later than the fourth day nor earlier than
33 the 15th day before the election.

34 (b) The facsimile shall be published or inserted in at least one issue of one newspaper in each
35 county with a population of less than 10,000, or in each county in which no more than one news-
36 paper is published. The facsimile shall be published or inserted in at least one issue of two news-
37 papers in each county with a population of 10,000 or more in which more than one newspaper is
38 published. The county governing body, at the first regular meeting each year, shall select the
39 newspaper or newspapers of general circulation in the county in which the facsimile shall be pub-
40 lished or inserted and shall notify the county clerk of the selection.

41 (c) The county governing body may require publication or insertion of the facsimile in additional
42 newspapers and shall select the newspapers at the same time as provided in paragraph (b) of this
43 subsection. The county governing body shall notify the county clerk of any additional selections.

44 (d) The facsimile shall not be published in any newspaper unless the newspaper agrees that no
45 paid political advertisement shall be placed on the same page as the facsimile or on the page facing

1 the facsimile. If a newspaper selected under paragraph (b) or (c) of this subsection does not so agree,
 2 the county governing body shall select another newspaper in the county with as nearly as possible
 3 the same qualifications for the publication of the facsimile.

4 (4) A facsimile distributed to each residential post office mailing address within the electoral
 5 district for which the election is being held shall have postage prepaid and shall be considered to
 6 give notice when mailed. Facsimile ballots mailed under this subsection shall be mailed not sooner
 7 than the 15th day nor later than the 10th day before the election. Proof of mailing shall be by affi-
 8 davit of the county clerk.

9 (5) A facsimile printed in a county voters' pamphlet prepared and distributed in accordance with
 10 ORS chapter 251 shall be considered to satisfy the requirements of this section.

11 (6) As used in this section, "electoral district" means a county, city or district.

12 **SECTION 30.** ORS 254.365 is amended to read:

13 254.365. (1) An elector [*shall not be*] **is not** qualified or permitted to vote at any primary **or**
 14 **presidential primary** election for any candidate of a major political party, and it [*shall be*] **is** un-
 15 lawful for the elector to offer to do so, unless:

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

18 (b) The elector is registered as not being affiliated with any political party and wishes to vote
 19 in the primary **or presidential primary** election of a major political party that has provided under
 20 subsection (3) of this section for a primary **or presidential primary** election that admits electors
 21 not affiliated with any political party.

22 (2) Except as provided in ORS 254.470 (4), any elector offering to vote at the primary election
 23 **or presidential primary** shall be given a ballot of the major political party with which the elector
 24 is registered as being affiliated. The elector [*shall*] **may** not be given a ballot of any other political
 25 party at that primary **or presidential primary** election. An elector not affiliated with any political
 26 party and offering to vote at the primary **or presidential primary** election shall be given the ballot
 27 of the major political party in whose primary **or presidential primary** election the elector wishes
 28 to vote if that party has provided under subsection (3) of this section for a primary **or presidential**
 29 **primary** election that admits electors not affiliated with any political party. An elector not affiliated
 30 with any political party who is given a ballot of the major political party associates with the party
 31 for the purpose of voting in that primary **or presidential primary** election.

32 (3) Not later than the 90th day before the date of the primary **or presidential primary** election,
 33 a major political party may file with the Secretary of State a certified copy of the current party rule
 34 allowing an elector not affiliated with any political party to vote in the party's primary **or presi-**
 35 **dential primary** election. The party [*shall*] **may** not repeal the rule as filed during the 90 days be-
 36 fore the primary **or presidential primary** election. The rule shall continue to be effective after the
 37 date of the primary **or presidential primary** election until the party gives written notice to the
 38 Secretary of State that the rule has been repealed. A party rule under this subsection may limit the
 39 candidates for whom an elector who is not affiliated with any political party may vote. The party
 40 rule shall[, *however,*] allow any elector who is permitted to vote for the most numerous branch of
 41 the Legislative Assembly to also vote in federal legislative elections, consistent with section 2, Ar-
 42 ticle I, and the Seventeenth Amendment to the United States Constitution.

43 (4) If the primary **or presidential primary** election ballot includes city, county or nonpartisan
 44 offices or measures, and it is given to an elector who is not eligible to vote for party candidates,
 45 the ballot shall be marked "limited."

1 **SECTION 31.** ORS 254.370 is amended to read:

2 254.370. The county clerk shall maintain:

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

5 (2) At each primary **or presidential primary** election, a record of the number of electors who
6 voted from each major political party;

7 (3) A record of all electors registered as not being affiliated with any political party who vote
8 in a primary **or presidential primary** election of a major political party that has provided under
9 ORS 254.365 for a primary **or presidential primary** election that admits electors not affiliated with
10 any political party; and

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

13 **SECTION 32.** ORS 254.465 is amended to read:

14 254.465. The following rules apply to elections conducted by mail:

15 (1) An election held on the date of the primary, **presidential primary** or general election shall
16 be conducted by mail.

17 (2) A state election not described in subsection (1) of this section may be conducted by mail.
18 The Secretary of State by rule shall direct that a state election authorized to be conducted by mail
19 under this subsection be conducted uniformly by mail or at polling places.

20 (3) A county clerk may conduct an election not described in subsections (1) and (2) of this sec-
21 tion by mail in the county, in a city or in a district defined in ORS 255.012, under the supervision
22 of the Secretary of State. In deciding to conduct an election by mail, the county clerk may consider
23 requests from the governing body of the county, city or district and shall consider whether con-
24 ducting the election by mail will be economically and administratively feasible.

25 (4) The Secretary of State shall adopt rules to provide for uniformity in the conduct of state
26 elections by mail.

27 **SECTION 33.** ORS 254.470 is amended to read:

28 254.470. (1) An election by mail shall be conducted as provided in this section. The Secretary
29 of State may adopt rules governing the procedures for conducting an election by mail.

30 (2) The Secretary of State by rule shall establish requirements and criteria for the designation
31 of places of deposit for the ballots cast in the election. The rules shall also specify the dates and
32 times the places of deposit must be open and the security requirements for the places of deposit.
33 At a minimum, the places designated under this section shall be open on the date of the election for
34 a period of eight or more hours, but must be open until at least 8 p.m. At each place of deposit
35 designated under this section, the county clerk shall prominently display a sign stating that the lo-
36 cation is an official ballot drop site.

37 (3)(a) Except as provided in paragraphs (b), (c) and (d) of this subsection, the county clerk shall
38 mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy
39 envelope not sooner than the 18th day before the date of an election conducted by mail and not later
40 than the 14th day before the date of the election, to each active elector of the electoral district as
41 of the 21st day before the date of the election.

42 (b) Notwithstanding paragraph (a) of this subsection, if the county clerk determines that an ac-
43 tive elector of the electoral district as of the 21st day before the date of the election does not re-
44 ceive daily mail service from the United States Postal Service, the county clerk shall mail by
45 nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope

1 to the elector not sooner than the 20th day before the date of an election conducted by mail and
2 not later than the 18th day before the date of the election.

3 (c) Notwithstanding paragraph (a) of this subsection, the Secretary of State by rule shall specify
4 the date on which all ballots shall be mailed for any state election conducted by mail under ORS
5 254.465 (2).

6 (d) Notwithstanding paragraph (a) of this subsection, in the case of ballots to be mailed to ad-
7 dresses outside this state to electors who are not long-term absent electors, the county clerk may
8 mail the ballots not sooner than the 29th day before the date of the election.

9 (4) For an election held on the date of a primary **or presidential primary** election:

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

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

17 (c) An elector not affiliated with any political party who wishes to vote in the primary **or**
18 **presidential primary** election of a major political party shall apply to the county clerk in writing.
19 The application shall indicate which major political party ballot the elector wishes to receive. Ex-
20 cept for electors described in subsection (5) of this section, and subject to ORS 247.203, the appli-
21 cation must be received by the county clerk not later than 5 p.m. of the 21st day before the date
22 of the election.

23 (d) If the primary **or presidential primary** election ballot includes city, county or nonpartisan
24 offices or measures, an elector not eligible to vote for party candidates shall be mailed a ballot
25 limited to those offices and measures for which the elector is eligible to vote.

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

31 (6) The ballot or ballot label shall contain the following warning:
32

33
34 Any person who, by use of force or other means, unduly influences an elector to vote in any
35 particular manner or to refrain from voting is subject to a fine.
36

37
38 (7) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign
39 the return identification envelope supplied with the ballot and comply with the instructions provided
40 with the ballot. The elector may return the marked ballot to the county clerk by United States mail
41 or by depositing the ballot at the office of the county clerk, at any place of deposit designated by
42 the county clerk or at any location described in ORS 254.472 or 254.474. The ballot must be returned
43 in the return identification envelope. If the elector returns the ballot by mail, the elector must
44 provide the postage. A ballot must be received at the office of the county clerk, the designated place
45 of deposit or at any location described in ORS 254.472 or 254.474 not later than the end of the period

1 determined under subsection (2) of this section on the date of the election.

2 (8) 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 (3) or (4) of
6 this section, a replacement ballot may be mailed, made available in the office of the county clerk
7 or made available at one central location in the electoral district in which the election is conducted.
8 The county clerk shall designate the central location. A replacement ballot need not be mailed after
9 the fifth day before the date of the election.

10 (9) 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; and

13 (c) The signature is verified as provided in subsection (10) of this section.

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

19 (11) At 8 p.m. on election day, electors who are at the county clerk's office, a site designated
20 under subsection (2) of this section or any location described in ORS 254.472 or 254.474 and who are
21 in line waiting to vote or deposit a voted ballot shall be considered to have begun the act of voting.

22 **SECTION 34.** ORS 254.474 is amended to read:

23 254.474. (1) Notwithstanding ORS 254.465 (1), at each primary **or presidential primary** election
24 and general election, the county clerk shall maintain voting booths in the county as follows:

25 (a) In each county with 35,000 or more electors in the county, the county clerk shall maintain
26 a number of voting booths equal to at least one voting booth for every 20,000 electors in the county;
27 and

28 (b) In each county with fewer than 35,000 electors in the county, the county clerk shall maintain
29 at least one voting booth.

30 (2) The county clerk may determine the location of the voting booths required under this sec-
31 tion.

32 **SECTION 35.** ORS 254.555 is amended to read:

33 254.555. (1) Except as provided in ORS 254.548, not later than the 30th day after any election,
34 the Secretary of State, regarding offices for which the secretary receives filings for nomination,
35 shall:

36 (a) Canvass the votes for the offices, except the office of Governor after the general election.

37 (b) Enter in a register of nominations after the primary **or presidential primary** election the
38 name and, if applicable, major political party of each candidate nominated, the office for which the
39 candidate is nominated, and the date of entry.

40 (c) Prepare and deliver a certificate of nomination or election to each candidate having the most
41 votes for nomination for or election to the office. The Secretary of State shall sign the certificate
42 under the seal of the state.

43 (d) Issue a proclamation declaring the election of candidates to the offices.

44 (2) Not later than the 30th day after the election:

45 (a) The Secretary of State, regarding measures for which the secretary as the filing officer, shall

1 canvass the votes for each measure.

2 (b) The Governor shall issue a proclamation giving the number of votes cast for or against each
3 such measure, and declaring the approved measures as the law on the effective date of the measure.
4 If two or more approved measures contain conflicting provisions, the Governor shall proclaim which
5 is paramount.

6 **SECTION 36.** ORS 260.532 is amended to read:

7 260.532. (1) *[No person shall]* **A person may not** cause to be written, printed, published, posted,
8 communicated or circulated, any letter, circular, bill, placard, poster, photograph or other publica-
9 tion, or cause any advertisement to be placed in a publication, or singly or with others pay for any
10 advertisement, with knowledge or with reckless disregard that the letter, circular, bill, placard,
11 poster, photograph, publication or advertisement contains a false statement of material fact relating
12 to any candidate, political committee or measure.

13 (2) As used in subsection (1) of this section, “cause” does not include the broadcast of an ad-
14 vertisement by a radio or television station or cable television company unless the advertisement
15 is for:

16 (a) The candidacy of the owner, licensee or operator of the station or company; or

17 (b) A ballot measure of which a chief petitioner is the owner, licensee or operator of the station
18 or company.

19 (3) A candidate who knows of and consents to a publication or advertisement prohibited by this
20 section with knowledge or with reckless disregard that it contains a false statement of material fact,
21 violates this section regardless of whether the candidate has participated directly in the publication
22 or advertisement.

23 (4) There is a rebuttable presumption that a candidate knows of and consents to any publication
24 or advertisement prohibited by this section caused by a political committee over which the candi-
25 date exercises any direction and control.

26 (5) Any candidate or political committee aggrieved by a violation of this section shall have a
27 right of action against the person alleged to have committed the violation. The aggrieved party may
28 file the action in the circuit court for any county in this state in which a defendant resides or can
29 be found or, if the defendant is a nonresident of this state, in the circuit court for any county in
30 which the publication occurred. To prevail in such an action, the plaintiff must show by clear and
31 convincing evidence that the defendant violated subsection (1) of this section.

32 (6) A plaintiff who prevails in an action provided by subsection (5) of this section may recover
33 economic and noneconomic damages, as defined in ORS 31.710, or \$2,500, whichever is greater. The
34 court may award such additional equitable relief as it considers necessary or proper. The equitable
35 relief may include, but is not limited to, a requirement that a retraction of the false statement be
36 disseminated in the manner directed by the court. Proof of entitlement to economic and noneconomic
37 damages must be by a preponderance of evidence. The court shall award the prevailing party rea-
38 sonable attorney fees at trial and on appeal.

39 (7) A political committee has standing to bring an action provided by subsection (5) of this sec-
40 tion as plaintiff in its own name, if its purpose as evidenced by its preelection activities, solicitations
41 and publications has been injured by the violation and if it has fully complied with the provisions
42 of this chapter. In an action brought by a political committee as provided by subsection (5) of this
43 section, the plaintiff may recover economic and noneconomic damages for all injury to the purpose
44 of the committee as provided in subsection (6) of this section.

45 (8) If a judgment is rendered in an action under this section against a defendant who has been

1 nominated to public office or elected to a public office other than state Senator or state Represen-
2 tative, and it is established by clear and convincing evidence that the false statement was delib-
3 erately made or caused to be made by the defendant, the finder of fact shall determine whether the
4 false statement reversed the outcome of the election. If the finder of fact finds by clear and con-
5 vincing evidence that the false statement reversed the outcome of the election, the defendant shall
6 be deprived of the nomination or election and the nomination or office shall be declared vacant.

7 (9) An action under this section must be filed not later than the 30th day after the election re-
8 lating to which a publication or advertisement in violation of this section was made. Proceedings
9 on a complaint filed under this section shall have precedence over all other business on the docket.
10 The courts shall proceed in a manner which will ensure that:

11 (a) Final judgment on a complaint which relates to a primary **or presidential primary** election
12 or nominating election is rendered before the 30th day before the general election; and

13 (b) Final judgment on a complaint which relates to an election to an office is rendered before
14 the term of that office begins.

15 (10) The remedy provided by this section is the exclusive remedy for a violation of this section.

16 **SECTION 37.** ORS 316.102 is amended to read:

17 316.102. (1) A credit against taxes shall be allowed for voluntary contributions in money made
18 in the taxable year:

19 (a) To a major political party qualified under ORS 248.006 or to a committee thereof or to a
20 minor political party qualified under ORS 248.008 or to a committee thereof.

21 (b) To or for the use of a person who must be a candidate for nomination or election to a fed-
22 eral, state or local elective office in any primary election, **presidential primary election**, general
23 election or special election in this state. The person must, in the calendar year in which the con-
24 tribution is made, either be listed on a primary election, **presidential primary election**, general
25 election or special election ballot in this state or have filed in this state one of the following:

26 (A) A prospective petition;

27 (B) A declaration of candidacy;

28 (C) A certificate of nomination; or

29 (D) A designation of a principal campaign committee.

30 (c) To a political committee, as defined in ORS 260.005, if the political committee has certified
31 the name of its treasurer to the filing officer, as defined in ORS 260.005, in the manner provided in
32 ORS chapter 260.

33 (2) The credit allowed by subsection (1) of this section shall be the lesser of:

34 (a) The total contribution, not to exceed \$50 on a separate return; the total contribution, not to
35 exceed \$100 on a joint return; or

36 (b) The tax liability of the taxpayer.

37 (3) The claim for tax credit shall be substantiated by submission, with the tax return, of official
38 receipts of the candidate, agent, political party or committee thereof or political committee to whom
39 contribution was made.

40 **SECTION 38.** This 2007 Act being necessary for the immediate preservation of the public
41 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
42 on its passage.