

House Bill 2605

Sponsored by Representatives KRUMMEL, THATCHER; Representative FLORES

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**.

Authorizes board of election officials to duplicate ballot for purposes of counting ballot by vote tally machine. Specifies that ballot that is duplicated may be counted only once under provisions relating to conduct of elections and once in any recount. Prohibits elections official from modifying ballot cast by elector. Directs county clerks to develop security procedures governing counting of ballots. Requires that ballots be stored in secure location.

Requires person who establishes ballot drop site accessible to general public to file statement with county clerk listing name and address of person, contact information, location of drop site, time that ballots will be transferred to county clerk and date drop site will be removed. Allows county clerk to remove drop site if statement is not filed.

Directs county clerks to provide training for persons who watch receiving and counting of votes.

Specifies that valid ballots not counted in original tally of ballots must be segregated and counted in ballot recount, unless otherwise ordered by court. Directs county clerk to retain ballots not counted in original tally as segregated.

Provides that nomination or election of person, or approval or rejection of measure, may be set aside in case of mistake in canvass of votes.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; and amending ORS 254.074, 254.482, 254.505, 258.026,
3 258.211 and 260.695.

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

5 **SECTION 1.** ORS 254.505 is amended to read:

6 254.505. (1) Only official ballots shall be counted.

7 (2) Any vote from which it is impossible to determine the elector's choice for the office or
8 measure [*shall*] **may** not be counted.

9 (3) Any ballot that has a sticker or other device in violation of ORS 254.405 (2) [*shall be void*
10 *and shall not be counted*] **is void and may not be counted**.

11 (4) **Except as provided in this subsection, a counting board clerk, other elections official**
12 **or other person may not alter, write on or in any other way modify a ballot cast by an**
13 **elector. When the elector's choice for the office or measure is clear, the county clerk may**
14 **appoint a board of election officials to enhance or duplicate the ballot so that the ballot may**
15 **be counted by a vote tally machine. The members of the board of election officials may not**
16 **all be members of the same political party. A ballot that is duplicated may be counted only**
17 **once under this chapter and once in any recount conducted under ORS chapter 258.**

18 (5) Counting board clerks shall disregard misspelling or abbreviations of the names of candi-
19 dates if it can be ascertained from the ballot for whom the vote was intended.

20 [(2)] (6) When ballots are counted by counting boards, the board chairperson, using ink, imme-
21 diately shall initial the back of the wholly or partially void ballot and write on it "Not counted
22 for _____" (stating the office or measure). The election board shall seal the wholly void ballots
23 in an envelope.

24 **SECTION 2.** ORS 254.074 is amended to read:

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.

1 254.074. (1) Each county clerk shall file a county elections security plan with the Secretary of
 2 State not later than:

- 3 (a) January 31 of each calendar year; and
- 4 (b) One business day after any revision is made to the county elections security plan.

5 (2) A county elections security plan shall include, but is not limited to:

- 6 (a) A written security agreement entered into with any vendor handling ballots;
- 7 (b) Security procedures for transporting ballots;
- 8 (c) Security procedures at official places of deposit for ballots;
- 9 (d) Security procedures for processing ballots;
- 10 (e) Security procedures governing election observers;
- 11 (f) Security procedures for ballots located in county elections work areas, buildings and storage
 12 areas;
- 13 (g) Security procedures for vote tally systems, including computer access to vote tally systems;

14 [*and*]

15 **(h) Security procedures governing the timing, location and method of tallying ballots; and**

16 [*h*] (i) Post-election ballot security.

17 (3) A security plan developed and filed under this section is confidential and not subject to dis-
 18 closure under ORS 192.410 to 192.505.

19 **SECTION 3. Section 4 of this 2007 Act is added to and made a part of ORS chapter 254.**

20 **SECTION 4. Subject to ORS 254.478, ballots received by the county clerk shall be stored
 21 in a secure location designated by the county clerk. Only persons authorized by the county
 22 clerk shall have access to the secure location.**

23 **SECTION 5. Section 6 of this 2007 Act is added to and made a part of ORS chapter 254.**

24 **SECTION 6. (1) In an election conducted by mail, a person, except an elections official
 25 in performance of duties, may not establish a place of deposit for ballots cast in the election
 26 that is accessible to the general public unless the person first files with the county clerk of
 27 the county in which the place of deposit is to be established a signed, written statement de-
 28 scribed in subsection (2) of this section.**

29 **(2) The statement required under subsection (1) of this section shall contain:**

- 30 **(a) The name and address of the person establishing the place of deposit;**
- 31 **(b) The telephone number, electronic mail address or other contact information for the
 32 person;**
- 33 **(c) A description of the location of the place of deposit;**
- 34 **(d) A description of the date and time that the person will transfer ballots to the office
 35 of the county clerk or other secure location designated by the county clerk; and**
- 36 **(e) The date that the place of deposit will be removed.**

37 **(3) If a person establishes a place of deposit in violation of any provision of this section,
 38 the county clerk may take action to remove the place of deposit and take custody of any
 39 ballots left at the place of deposit or in the possession of the person who established the
 40 place of deposit. This subsection applies in addition to any penalties that may be imposed
 41 under ORS chapter 260 for violation of this section.**

42 **SECTION 7. ORS 260.695 is amended to read:**

43 260.695. (1) [*No person shall*] **A person may not** print or circulate an imitation of the ballot or
 44 sample ballot, or a portion of the ballot or sample ballot, which contains information which will not
 45 appear, or deletes information which will appear, on the ballot or sample ballot, or that portion of

1 the ballot or sample ballot, unless the imitation of the ballot or sample ballot, or portion of the
 2 ballot or sample ballot, contains the following statement in bold type: “NOT FOR OFFICIAL
 3 USE.” This subsection does not prohibit the printing or circulation of an imitation of a ballot which
 4 illustrates the manner in which a candidate’s name may be written in for an office.

5 (2) *[No person]* **A person may not**, within any building in which a polling place is located or,
 6 in an election conducted by mail, after the date that ballots are mailed as provided in ORS 254.470,
 7 within any building in which ballots are issued, or within 100 feet measured radially from any en-
 8 trance to the building, shall do any electioneering, including circulating any cards or hand bills, or
 9 soliciting signatures to any petition. *[No person shall]* **A person may not** do any electioneering by
 10 public address system located more than 100 feet from an entrance to the building but capable of
 11 being understood within 100 feet of the building. The electioneering need not relate to the election
 12 being conducted.

13 (3) *[No person shall]* **A person may not** obstruct an entrance of a building in which a polling
 14 place is located. In an election conducted by mail, from the date that ballots are mailed as provided
 15 in ORS 254.470 until the time designated by the county clerk for closure of the building on election
 16 day, *[no person shall]* **a person may not** obstruct an entrance of a building in which a place des-
 17 igned for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS
 18 254.474 is located.

19 (4) *[No person shall]* **A person may not** vote or offer to vote in any election knowing the person
 20 is not entitled to vote.

21 (5) *[No person at a polling place]* **A person**, other than an election board member, *[shall]* **may**
 22 **not** deliver a ballot to an elector **at a polling place**.

23 (6) *[No]* **An** elector at a polling place *[shall]* **may not** knowingly receive a ballot from any other
 24 person than an election board member.

25 (7) *[No person shall]* **A person may not** make a false statement about the person’s inability to
 26 mark a ballot.

27 (8) *[No]* **A** person, except an elections official in performance of duties or other person providing
 28 assistance to an elector as described in ORS 254.445, *[shall]* **may not** ask a person at the polling
 29 place for whom that person intends to vote, or examine or attempt to examine the person’s ballot.

30 (9) *[No person shall]* **A person may not** show the person’s own marked or punched ballot to
 31 another person to reveal how it was marked or punched.

32 (10) *[No]* **An** elections official, other than in the performance of duties, *[shall]* **may not** disclose
 33 to any person any information by which it can be ascertained for whom any elector has voted.

34 (11) *[No]* **A** person, except an elections official in performance of duties, *[shall]* **may not** do
 35 anything to a ballot to permit identification of the person who voted.

36 (12) *[No]* **An** elector at a polling place *[shall]* **may not** deliver a ballot to an election board
 37 member except the ballot the elector received from an election board member. *[Nothing in this sub-*
 38 *section shall]* **This subsection does not** prohibit a person from delivering any absentee ballot or
 39 ballots to an election board member.

40 (13) *[No]* **A** person at a polling place, except an election board member, *[shall]* **may not** receive
 41 from an elector other than an absent elector a marked or punched ballot.

42 (14) *[No elector shall]* **An elector may not** willfully leave in the polling place anything that will
 43 show how the elector’s ballot was marked or punched. In an election conducted by mail, *[no elector*
 44 *shall]* **an elector may not** willfully leave at any place designated for the deposit of ballots under
 45 ORS 254.470 or in any voting booth maintained under ORS 254.474, anything that will show how the

1 elector's ballot was marked or punched.

2 (15) [No] A person, except an elections official in performance of duties, [shall] **may not** remove
 3 a ballot from any polling place, any place designated for the deposit of ballots under ORS 254.470
 4 or any voting booth maintained under ORS 254.474.

5 (16) [No] A person, except an elections official in performance of duties or a person authorized
 6 by that official, [shall] **may not** willfully deface, remove, alter or destroy a posted election notice.

7 (17) [No] A person, except an elections official in performance of duties, [shall] **may not**
 8 willfully remove, alter or destroy election equipment or supplies, or break the seal or open any
 9 sealed package containing election supplies.

10 (18) [No] A person [other than], **except** an elections official [shall] **in performance of duties,**
 11 **may not** attempt to collect voted ballots within 100 feet measured radially from a location desig-
 12 nated for deposit of ballots under ORS 254.470.

13 *[(19) No person, except an elections official in performance of duties, in an election conducted by*
 14 *mail, shall establish a location to collect ballots voted by electors unless the person prominently dis-*
 15 *plays at the location a sign stating: "NOT AN OFFICIAL BALLOT DROP SITE."]*

16 **(19) A person, except an elections official in performance of duties, in an election con-**
 17 **ducted by mail, may not establish a place of deposit for ballots cast in an election unless the**
 18 **person prominently displays at the location a sign stating: "NOT AN OFFICIAL BALLOT**
 19 **DROP SITE" and files a statement under section 6 of this 2007 Act.**

20 **SECTION 8.** ORS 254.482 is amended to read:

21 254.482. (1) After the date that ballots are mailed as provided in ORS 254.470, the county clerk,
 22 if requested, shall permit authorized persons to be at the office of the county clerk to watch the
 23 receiving and counting of votes. The authorization shall be in writing, shall be signed by an officer
 24 or its county affiliate of a political party, a candidate or the county clerk and shall be filed with the
 25 county clerk. The county clerk shall permit only so many persons as watchers under this section
 26 as will not interfere with an orderly procedure at the office of the county clerk.

27 **(2) Any person authorized to watch the receiving and counting of votes under this section**
 28 **must first receive training provided by the county clerk. The county clerk shall schedule the**
 29 **training prior to any election conducted by mail. A person is not required to receive training**
 30 **under this subsection more than once in a calendar year.**

31 **SECTION 9.** ORS 258.211 is amended to read:

32 258.211. (1) The ballot boxes containing the ballots to be recounted shall be opened by the offi-
 33 cial directed to make the recount only in the presence of the counting board and the persons re-
 34 ferred to in this section.

35 (2) The counting board shall conduct the recount by hand and, if requested, permit:

36 (a) In the instance of a nomination or office, an affected candidate or an elector authorized in
 37 writing by an affected candidate, and an elector authorized in writing by each major or minor poli-
 38 tical party to be present to watch the recount.

39 (b) In the instance of a measure, one elector advocating and one elector opposing the measure
 40 to be present to watch the recount.

41 (3) For ballots cast using a voting machine:

42 (a) The county clerk shall deposit the paper record copy recorded by the machine into the ballot
 43 box; and

44 (b) The paper record copies are the ballots to be recounted under this section.

45 **(4) All valid ballots shall be counted in any recount conducted under this chapter. Unless**

1 otherwise ordered by a court, any ballot determined by the county clerk to be valid and that
 2 was not counted in the original tally of ballots for the measure, nomination or office con-
 3 ducted under ORS chapter 254 shall be segregated, counted and included in the abstract of
 4 votes for the recount. The county clerk shall retain the ballots, as segregated, during the
 5 period that ballots must be retained under ORS 254.535.

6 **SECTION 10.** ORS 258.026 is amended to read:

7 258.026. (1) The nomination or election of a person [*shall*] **may** not be set aside for any cause
 8 listed in ORS 258.016 (3) to (5) unless:

9 (a) The person nominated or elected had knowledge of or connived in the cause of the contest;
 10 [*or*]

11 (b) The number of votes taken from the person nominated or elected by reason of the cause of
 12 the contest would reduce the legal votes of the person below the number of legal votes given to
 13 another person for the same nomination or office[.]; **or**

14 (c) **In the case of a mistake in the canvass of votes, it can be determined that the nom-**
 15 **ination or election would have been given to one of the candidates other than the candidate**
 16 **nominated or elected if all votes not canvassed due to the mistake had been canvassed for**
 17 **the other candidate.**

18 (2) The nomination or election of a person [*shall*] **may** not be set aside for the cause described
 19 in ORS 258.016 (6) unless it can be determined that the nomination or election would have been
 20 given to one of the candidates other than the candidate nominated or elected if all votes not cast
 21 or tallied due to the error had been cast or tallied for the other candidate.

22 (3) The approval or rejection of a measure [*shall*] **may** not be set aside unless it appears that:

23 (a) The number of votes taken from the approval or rejection by reason of the contest would
 24 reverse the outcome of the election; [*or*]

25 (b) The outcome of the election would have been reversed if all votes not cast or tallied due to
 26 an error under ORS 258.016 (6) had been cast or tallied for approval or rejection of the measure[.];
 27 **or**

28 (c) **In the case of a mistake in the canvass of votes, the outcome of the election would**
 29 **have been reversed if all votes not canvassed due to the mistake had been canvassed for**
 30 **approval or rejection of the measure.**

31 **SECTION 11.** Sections 4 and 6 of this 2007 Act and the amendments to ORS 254.074,
 32 254.482, 254.505, 258.026, 258.211 and 260.695 by sections 1, 2 and 7 to 10 of this 2007 Act apply
 33 only to elections conducted on or after the effective date of this 2007 Act.