

House Bill 2911

Sponsored by Representative BUCKLEY

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**.

Creates Citizen Initiative Review Commission to oversee review of state initiative measures by citizen review panels. Directs panels to review state initiative measures and prepare final report consisting of positions statements of members of panel who support or oppose measure and consensus statement. Directs Secretary of State to print statements in voters' pamphlet.

Specifies procedures for appointment of commission, panels and moderators of panels. Sets terms of office.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; amending ORS 251.185; and declaring an emergency.

3 The Legislative Assembly affirms this state's long-standing policy of promoting informed public
4 discussion and understanding of state initiative measures and declares that it is in the best interests
5 of the state that an independent and impartial analysis of those measures be made available to
6 voters so that voters may thoughtfully evaluate the measures. In support of these declarations, the
7 Legislative Assembly finds:

8 (1) Section 1, Article IV, Oregon Constitution, reserves the right of the people to propose laws
9 and amendments to the Constitution through the initiative and referendum processes.

10 (2) It is the long-standing policy of this state and an underlying premise of democratic govern-
11 ment that informed public discussion will enhance the direct legislation process. This is supported
12 by recent studies and surveys presented to the Legislative Assembly suggesting that review by an
13 independent and impartial panel of Oregon voters would lead to better, more informed public dis-
14 cussion and would enhance the direct legislation process.

15 (3) The most effective way to make available this type of independent and impartial information
16 is for the state to convene panels of voters, demographically representative of the state as a whole,
17 who will study and evaluate state initiative measures through a quasi-legislative hearing process,
18 and to include the findings of the panels in the state voters' pamphlet.

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

20 **SECTION 1. Sections 2 to 8 of this 2007 Act are added to and made a part of ORS chapter**
21 **250.**

22 **SECTION 2. (1) The Citizen Initiative Review Commission is created as an independent**
23 **commission within the legislative branch of government. The purpose of the commission is**
24 **to ensure that:**

25 (a) **Citizen panels are convened as specified in sections 2 to 8 of this 2007 Act;**

26 (b) **The activities of the citizen panels are conducted in a fair and impartial manner;**

27 (c) **The funds appropriated to the commission are spent efficiently and effectively; and**

28 (d) **Appropriate training is provided to the citizen panels, the panel moderators and**

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 **commission staff.**

2 **(2) The commission shall consist of 12 commissioners appointed to serve as follows:**

3 **(a) The Governor, the Attorney General and the Secretary of State shall each appoint**
 4 **one commissioner.**

5 **(b) Six commissioners shall be chosen by the evaluation panels from among the former**
 6 **citizen panelists, in accordance with section 7 of this 2007 Act.**

7 **(c) Three commissioners shall be chosen by the moderator panel from among former**
 8 **moderators in accordance with section 7 of this 2007 Act. The terms of the commissioners**
 9 **shall be staggered so that the terms of four commissioners expire each year.**

10 **(3) The term of office of a commissioner is three years.**

11 **(4) Each commissioner must be an elector. A commissioner may not serve in any elected**
 12 **public office while serving on the commission.**

13 **(5) The term of office of a commissioner begins on January 1. Each commissioner shall**
 14 **serve until a successor is appointed and takes office. Vacancies shall be filled by appointment**
 15 **in the same manner as for the commissioner whose position is vacant. A vacancy shall be**
 16 **filled for the unexpired term. Commissioners may not be appointed to successive terms, ex-**
 17 **cept that if a commissioner is appointed to fill an unexpired term of two or fewer years, the**
 18 **commissioner may be appointed to an additional term.**

19 **(6) A commissioner may not permit the name of the commissioner to be used, or make**
 20 **any campaign contribution, to support or oppose a state initiative measure.**

21 **(7) The commission shall meet at least three times per year and may appoint its own**
 22 **chairperson, vice chairperson and other officers and committees as determined by the com-**
 23 **mission.**

24 **(8) Commissioners shall receive compensation for attendance at commission meetings**
 25 **and be reimbursed for travel expenses related to attendance at those meetings in the same**
 26 **manner as citizen panelists under section 4 of this 2007 Act.**

27 **SECTION 3. The Citizen Initiative Review Commission has the following powers:**

28 **(1) To select and employ an executive director and any research, technical or clerical**
 29 **personnel and consultants as the commission considers necessary. Persons described in this**
 30 **subsection shall receive compensation in an amount set by the commission and are exempt**
 31 **from the provisions of ORS chapters 240 and 243.**

32 **(2) To make any contracts necessary or incidental to the performance of its duties and**
 33 **the execution of its powers, including contracts with public and private agencies, organiza-**
 34 **tions, corporations and individuals, and to pay for services rendered or furnished.**

35 **(3) To adopt rules necessary to carry out its responsibilities under sections 2 to 8 of this**
 36 **2007 Act, including rules to ensure that each citizen panel is able to carry out its responsi-**
 37 **bilities under sections 2 to 8 of this 2007 Act in a manner that is fair and impartial and that**
 38 **is reasonably perceived to be fair and impartial.**

39 **(4) To lease, purchase or otherwise contract for the use of real or personal property or**
 40 **any interest in real or personal property.**

41 **(5) To perform the acts necessary to execute the authority expressly granted to it.**

42 **SECTION 4. (1) Not sooner than four months before the date of the general election and**
 43 **not later than the 75th day before the date of the general election, the Citizen Initiative**
 44 **Review Commission shall convene a citizen panel for each state initiative measure that has**
 45 **qualified for the general election ballot under ORS 250.105.**

1 (2) Each citizen panel shall consist of 24 electors. The commission shall provide for al-
 2 ternate panelists as it deems appropriate. The commission shall adopt rules for selection of
 3 panelists that:

4 (a) Provide for the anonymous selection of panelists from a representative sample of
 5 electors, using survey sampling methods that, to the extent practicable, give every elector
 6 a similar chance of being selected; and

7 (b) Ensure, to the extent practicable and legally permissible, that the demographic
 8 makeup of each citizen panel fairly reflects the population of the state as a whole, with re-
 9 spect to characteristics including, but not limited to, age, education and geographic location.

10 (3) The commission shall adopt uniform rules regarding service on a citizen panel that
 11 the commission considers necessary to keep the citizen panel process from being unduly in-
 12 fluenced by persons having special knowledge of or a special interest in the state initiative
 13 measure being considered by the panel. The rules may include, but are not limited to, pro-
 14 visions that prohibit service on a panel by a person who:

15 (a) Has made a contribution supporting or opposing an initiative measure, or who has
 16 received compensation for supporting or opposing an initiative measure; or

17 (b) Holds a statewide elected public office, serves as a commissioner on a state board or
 18 is a director of a state agency.

19 (4) Compensation shall be paid to each citizen panelist for each day served. This com-
 20 pensation shall be calculated based on an eight-hour day paid at the average hourly wage for
 21 all occupations as published in the most recent Oregon data published by the Economic and
 22 Community Development Department. Each citizen panelist shall also be reimbursed for
 23 travel expenses in accordance with reimbursement policies established by the commission.

24 (5) From the time of appointment through the conclusion of the citizen panel's activities,
 25 a citizen panelist may not permit the citizen panelist's name to be used, or make any con-
 26 tribution, to support or oppose an initiative measure reviewed by that citizen panelist under
 27 sections 2 to 8 of this 2007 Act.

28 (6) A citizen panel is not subject to the public meetings requirements of ORS 192.610 to
 29 192.690.

30 (7) Except for the final report of a citizen panel described in section 5 of this 2007 Act,
 31 the records of a citizen panel may not be disclosed under ORS 192.410 to 192.505.

32 **SECTION 5.** (1) Each citizen panel shall meet for five days. The activities of each panel
 33 shall be moderated by two moderators chosen in accordance with section 8 of this 2007 Act
 34 and supported by the Citizen Initiative Review Commission staff.

35 (2) Each citizen panel shall hold not less than three days of open public hearings. The
 36 public hearings may be interspersed with the small group work sessions described in sub-
 37 section (4) of this section. During the public hearings, the citizen panel shall give equal time
 38 to a team of proponents of the state initiative measure and a team of opponents of the
 39 measure, each identified pursuant to section 6 of this 2007 Act, to present arguments and
 40 supporting information, including but not limited to presentations given by persons of each
 41 team's choice. The citizen panel shall also provide time for comments and questions by the
 42 panelists.

43 (3) The commission shall adopt rules to permit a citizen panel by majority vote to request
 44 that additional background information or presentations be provided in the public
 45 hearings. Citizen panelists may choose from:

1 (a) Sources identified by commission staff, including persons who have notified the com-
2 mission that they are interested in providing information or a presentation; and

3 (b) Any additional persons or sources that meet criteria established by the commission.

4 (4) A citizen panel shall meet in private small group work sessions, which may be inter-
5 spered with the public hearings described in subsections (2) and (3) of this section. The work
6 sessions may be attended only by the citizen panelists, moderators and commission staff.

7 (5) Each citizen panel shall prepare and submit to the commission a final report on the
8 initiative measure it considered. A report is considered final once each component of the
9 report has been submitted as described in subsection (7) of this section. A final report or any
10 part of a final report is not subject to revision by the citizen panel as a whole, the commis-
11 sion or any other public body as defined in ORS 174.109. A person may not appeal or challenge
12 a final report or any part of a final report.

13 (6) A citizen panel shall adjourn after the panel:

14 (a) Prepares a final report; and

15 (b) Chooses members to participate on an evaluation panel as described in section 7 of
16 this 2007 Act.

17 (7) The final report of a citizen panel shall be prepared in a form set by commission staff.
18 The final report shall include:

19 (a) The ballot title and full text of the initiative measure reviewed by the citizen panel.

20 (b) Position statements of not more than 250 words explaining the reasoning and position
21 taken by the group of citizen panelists in favor of the measure, by those opposed to the
22 measure and by those undecided on the measure. Each group shall draft one position state-
23 ment representing the consensus of that group. Each position statement shall identify the
24 number of citizen panelists taking that position. A position statement is not required for a
25 position that is not supported by any member of the citizen panel.

26 (c) A citizen panel consensus statement of not more than 150 words explaining the points,
27 if any, upon which all panelists agree.

28 (d) The following disclaimer:

29 _____
30
31 The statements and opinions expressed are those of the citizen panel members and were
32 developed through the citizen panel process. These are NOT official opinions or positions
33 endorsed by the State of Oregon, the Citizen Initiative Review Commission or any govern-
34 ment agency. The state is prohibited from editing the content of these statements. A citizen
35 panel is not a judge of the constitutionality or legality of any ballot measure and any state-
36 ments about such matters are not binding on any court of law.
37 _____

38
39 (8) After a citizen panel report is final, the commission staff shall:

40 (a) Within two business days, and not later than the 70th day before the election, trans-
41 mit the report to the Secretary of State for inclusion in the voters' pamphlet. The voters'
42 pamphlet shall include those elements of the report described in subsection (7)(b), (c) and (d)
43 of this section; and

44 (b) Not later than the 60th day before the election, make available on the commission
45 website the final report and any other information the commission considers necessary.

1 **SECTION 6.** (1) The Citizen Initiative Review Commission shall adopt rules to ensure that
 2 the activities of the citizen panels are conducted in a fair and impartial manner. The rules
 3 shall include:

4 (a) Provisions for the release of citizen panel reports and media relations;

5 (b) Provisions allowing citizen panelist selection and notification to begin before initiative
 6 measures are certified to the ballot by the Secretary of State; and

7 (c) Provisions for instruction to citizen panelists regarding use of information gathered
 8 outside of the citizen panels' proceedings.

9 (2)(a) The Secretary of State shall notify the commission upon receiving an initiative
 10 petition for signature verification. The commission shall provide notice to any person who
 11 makes written request to the commission for the notice and shall provide reasonable state-
 12 wide notice of the establishment of a citizen panel.

13 (b) Each notice given by the commission under this section must include the date, time
 14 and place of each citizen panel hearing and must explain how to register to provide infor-
 15 mation or a presentation to the citizen panel. The commission shall provide to the citizen
 16 panel any information regarding the persons who register. Each notice shall establish a
 17 deadline for registration that is at least two weeks prior to the date the citizen panel is
 18 scheduled to convene.

19 (3)(a) The chief petitioners of an initiative measure shall select two persons to a team
 20 to provide information and presentations in favor of the measure to the citizen panel. If the
 21 proponents fail to timely select two team leaders, the commission, by procedures established
 22 by rule, may designate the team in favor of the measure.

23 (b) The commission shall establish by rule procedures for selecting opponents of the
 24 measure to a team to provide information and presentations in opposition to the measure.
 25 The commission shall notify each member of the committee chosen under ORS 251.205 as an
 26 opponent of the measure of the opportunity to serve as leader of the opponent team. If no
 27 individual from the opponents selected under ORS 251.205 volunteers to serve, or if more
 28 than one individual volunteers to serve, the commission staff shall attempt to facilitate an
 29 agreement among those individuals as to who should lead the team. If no decision can be
 30 reached among the individuals, commission staff shall choose a team leader.

31 (4) A person may not appeal or challenge the choice of team leader.

32 (5) Prior to the date that the citizen panel convenes, commission staff shall prepare an
 33 agenda for the citizen panel proceedings, including the agendas or outlines submitted by each
 34 team, and send that schedule to each citizen panelist and to each person to whom notice was
 35 sent under subsection (2) of this section.

36 **SECTION 7.** (1) The Citizen Initiative Review Commission shall evaluate the conduct of
 37 the citizen panels. After the general election in each year that a citizen panel was convened,
 38 the commission shall:

39 (a) Conduct a statewide study of electors and collect other data to determine the use-
 40 fulness of the citizen panels and their reports;

41 (b) Make the results of the study available to the public; and

42 (c) Convene, not later than February 1 of the following year, an evaluation panel in ac-
 43 cordance with subsection (2) of this section and a moderator panel in accordance with sub-
 44 section (3) of this section.

45 (2)(a) Prior to convening the first citizen panel in a calendar year, the executive director

1 of the commission or, in the absence of an executive director, the commission shall select
 2 the number of citizen panelists who will constitute the evaluation panel. The number ap-
 3 pointed must be no fewer than eight and no more than 18 and must be based on the number
 4 of expected state initiative measures, so that each citizen panel elects an equal number of
 5 its members to serve on the evaluation panel.

6 (b) The evaluation panel shall meet for not more than three days to conduct its review.
 7 The evaluation panel shall submit a written report and may make recommendations to the
 8 commission on all procedural aspects of the citizen panel proceedings.

9 (c) Panelists serving on the evaluation panel shall be compensated for their attendance
 10 at evaluation panel meetings and reimbursed for their travel expenses in the same manner
 11 as citizen panelists under section 4 of this 2007 Act.

12 (d) The evaluation panel shall choose two of its members to serve on the commission for
 13 a three-year term, in accordance with section 2 of this 2007 Act.

14 (3)(a) In each year in which a citizen panel is convened, the commission shall convene a
 15 moderator panel to meet no later than February 1 of the following year.

16 (b) The moderator panel shall consist of all persons who served as moderators of the
 17 citizen panels for the most recent election cycle.

18 (c) The moderator panel shall meet for not more than two days to conduct its review.
 19 The moderator panel shall submit a written report and may make recommendations to the
 20 commission on all procedural aspects of the citizen panel proceedings.

21 (d) Panelists serving on the moderator panel shall be compensated for their attendance
 22 at moderator panel meetings at the same daily rate they were paid as moderators of the
 23 citizen panels and reimbursed for their travel expenses in the same manner as citizen pan-
 24 elists under section 4 of this 2007 Act.

25 (e) The moderator panel shall choose one of its members to serve on the commission for
 26 a three-year term, in accordance with section 2 of this 2007 Act.

27 **SECTION 8.** (1) The Citizen Initiative Review Commission shall establish minimum qual-
 28 ifications for citizen panel moderators, including but not limited to:

29 (a) Minimum levels of experience in facilitation or mediation and completion of at least
 30 two days of training specifically designed for moderators of citizen panels under this chapter;
 31 and

32 (b) Any additional qualifications the commission considers appropriate in order to ensure
 33 that the citizen panel process is conducted in a fair and impartial manner.

34 (2) The commission shall request and evaluate the qualifications of potential moderators
 35 and shall designate a pool of moderators. The commission shall contract with two modera-
 36 tors for each citizen panel to be convened. Each contract for services shall provide for the
 37 compensation of the moderator for services in preparation for a citizen panel, moderating a
 38 citizen panel, and participating on the subsequent moderator panel.

39 (3) A moderator may not at any time permit the name of the moderator to be used, or
 40 make any contribution, in supporting or opposing the state initiative measure reviewed by
 41 the citizen panel served by the moderator.

42 **SECTION 9.** ORS 251.185 is amended to read:

43 251.185. (1) The Secretary of State shall have printed in the voters' pamphlet for a general
 44 election or any special election a copy of the title and text of each state measure to be submitted
 45 to the people at the election for which the pamphlet was prepared. Each measure shall be printed

1 in the pamphlet with:

2 (a) The number and ballot title of the measure;

3 (b) The financial estimates and any statement prepared for the measure under ORS 250.125;

4 (c) The explanatory statement prepared for the measure **under ORS 251.215, 251.225 or**
 5 **251.235; [and]**

6 **(d) The information received from the Citizen Initiative Review Commission under sec-**
 7 **tion 5 of this 2007 Act; and**

8 [(d)] (e) Arguments relating to the measure and filed with the Secretary of State.

9 (2) A county measure or measure of a metropolitan service district organized under ORS chapter
 10 268, and ballot title, explanatory statement and arguments relating to the measure, filed by the
 11 county or metropolitan service district under ORS 251.285 shall be included in the voters' pamphlet
 12 described in subsection (1) of this section if required under ORS 251.067.

13 **SECTION 10. Notwithstanding section 2 of this 2007 Act, the first members appointed to**
 14 **the Citizen Initiative Review Commission shall be appointed and serve as follows:**

15 (1) **The Governor, the Secretary of State and the Attorney General shall each appoint one**
 16 **commissioner. The Governor, the secretary and the Attorney General shall determine at**
 17 **random which member serves for a term of one year, a term of two years and a term of**
 18 **three years.**

19 (2) **The Governor, the Secretary of State and the Attorney General shall appoint the**
 20 **three initial commissioners occupying the moderator positions on the commission. The ap-**
 21 **pointing authorities shall choose from a list of trained moderators suggested to the ap-**
 22 **pointing authorities by any nonprofit organization registered under section 501 (c)(3) of the**
 23 **Internal Revenue Code that has conducted pilot projects in this state using methods similar**
 24 **to the citizen panel review process. If more than one organization meeting these criteria**
 25 **provides a list, the commissioners appointed under subsection (1) of this section shall choose**
 26 **which list to use. The Governor, the secretary and the Attorney General shall determine at**
 27 **random which member serves for a term of one year, a term of two years and a term of**
 28 **three years.**

29 (3) **For purposes of the first appointment of members of the commission, only four of the**
 30 **six citizen panelist positions shall be filled. The majority and minority leaders of the Senate**
 31 **and the House of Representatives shall each appoint one of the commissioners from a list**
 32 **of persons provided by the nonprofit organization described in subsection (2) of this section.**
 33 **Each of these initial commissioners shall be assigned to a two or three-year term, so that**
 34 **two seats expire in each year. The remaining two citizen panelist seats shall be filled by in-**
 35 **dividuals chosen by the first evaluation panel.**

36 **SECTION 11. This 2007 Act being necessary for the immediate preservation of the public**
 37 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
 38 **on its passage.**