

**Enrolled**  
**House Bill 3270**

Sponsored by Representative GREENLICK; Representatives BARNHART, BUCKLEY, CANNON,  
CLEM, HOLVEY, MERKLEY, RILEY

CHAPTER .....

AN ACT

Relating to elections; creating new provisions; and amending ORS 247.292, 247.563, 249.064, 253.030  
and 260.695.

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

**SECTION 1.** Section 2 of this 2007 Act is added to and made a part of ORS chapter 254.

**SECTION 2.** (1) At each general election, the county clerk shall conduct a hand count of ballots as described in this section and compare the tally of votes for those ballots produced by a vote tally system with the tally of votes for those ballots produced by the hand count.

(2)(a) In the event that the unofficial tally of ballots produced by a vote tally system reveals that the margin of victory between the two candidates receiving the largest number of votes in the county is less than one percent of the total votes cast in that election in the county, the county clerk shall conduct a hand count of ballots in at least 10 percent of all precincts or of ballots in at least 10 percent of all batches of ballots collected by the county clerk.

(b) In the event that the unofficial tally of ballots reveals that the margin of victory between the two candidates receiving the largest number of votes in the county is greater than or equal to one percent but less than two percent of the total votes cast in the county, the county clerk shall conduct a hand count of ballots in at least five percent of all precincts or of ballots in at least five percent of all batches of ballots collected by the county clerk.

(c) In the event that the unofficial tally of ballots reveals that the margin of victory between the two candidates receiving the largest number of votes in the county is greater than or equal to two percent of the total votes cast in the county, the county clerk shall conduct a hand count of ballots in at least three percent of all precincts or of ballots in at least three percent of all batches of ballots collected by the county clerk.

(3) The Secretary of State shall select the precincts at random. At the general election, no fewer than 150 ballots must have been cast in at least one of the precincts selected. The county clerk shall conduct a hand count of ballots cast in the election contest between the two candidates receiving the largest number of votes in the county, an election contest for a state office and, if possible, an election contest for a state measure.

(4) Not later than the day after the date of the general election, the Secretary of State shall advise county clerks in writing of:

- (a) The election contests for which ballots are to be hand counted; and
- (b) The precincts in which ballots are to be hand counted.

(5) A county clerk shall begin the hand counts prescribed by this section not later than the 20th day after the election and complete the hand counts not later than the 30th day after the election. The results of the hand counts shall be provided to the Secretary of State, who shall make the results publicly available on the Secretary of State's website.

(6) The county clerk shall conduct the hand counts required by this section in the manner provided in ORS 258.200 and 258.211.

(7) A comparison of the tally of votes produced by a vote tally system with the tally of votes produced by the hand count required by this section must show that the tally of votes produced by the vote tally system differs by no more than one-half of one percent from the tally of votes produced by the hand count.

(8)(a) If a hand count conducted under this section results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference for each race is equal to or less than one-half of one percent, the tally of votes produced by the vote tally system is the official tally of votes for that vote tally system.

(b) If a hand count conducted under this section results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference in any race is greater than one-half of one percent, the county clerk shall conduct a second hand count of the same ballots.

(c) If the second hand count conducted under this subsection results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference for each race is equal to or less than one-half of one percent, the tally of votes produced by the vote tally system is the official tally of votes for that vote tally system.

(d) If the second hand count conducted under this subsection results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference in any race is greater than one-half of one percent, the county clerk shall conduct a hand count of all ballots counted by that vote tally system. The hand count is the official tally of votes for that vote tally system. If the hand count is the official tally of votes, not later than the 30th day after the election, the county clerk shall certify amended abstracts of votes to appropriate elections officials.

(9) For purposes of conducting the hand counts required under this section, the county clerk shall:

(a) Retain custody of the ballots; and

(b) Provide for security for the ballots and the information required to be collected under this subsection.

(10) Subsections (1) to (9) of this section do not apply if federal law requires a post-election hand count of ballots at the general election to verify election results and the Secretary of State determines that the requirements of federal law are at least as stringent as the requirements of subsections (1) to (9) of this section.

**SECTION 3.** ORS 249.064 is amended to read:

249.064. (1) A nominating petition of a candidate seeking the nomination of a major political party shall contain a statement that each elector whose signature appears on the petition is a member of the same major political party as is the candidate.

(2) A nominating petition of any candidate shall contain the number of signatures of electors required by ORS 249.068 or 249.072 and the residence **or mailing** address and name or number of the precinct, if known, of each elector whose signature appears.

(3) The signatures contained in the nominating petition shall be certified for genuineness by the county clerks under ORS 249.008.

**SECTION 4.** ORS 253.030 is amended to read:

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

(2) An application for an absentee ballot must[:]

*[(a) Be in writing and signed by the applicant; and]*

*[(b)]* be received by the clerk not later than 8 p.m. the day of the election.

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

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

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

**SECTION 5.** ORS 260.695 is amended to read:

260.695. (1) *[No]* **A person** *[shall]* **may not** print or circulate an imitation of the ballot or sample ballot, or a portion of the ballot or sample ballot, which contains information which will not appear, or deletes information which will appear, on the ballot or sample ballot, or that portion of the ballot or sample ballot, unless the imitation of the ballot or sample ballot, or portion of the ballot or sample ballot, contains the following statement in bold type: "NOT FOR OFFICIAL USE." This subsection does not prohibit the printing or circulation of an imitation of a ballot which illustrates the manner in which a candidate's name may be written in for an office.

(2) *[No person, within any building in which a polling place is located or, in an election conducted by mail, after the date that ballots are mailed as provided in ORS 254.470, within any building in which ballots are issued, or within 100 feet measured radially from any entrance to the building, shall]* **A person may not** do any electioneering, including circulating any cards or *[hand bills]* **handbills**, or soliciting of signatures to any petition **within any building in which any state or local government elections office designated for the deposit of ballots under ORS 254.470 is located, or within 100 feet measured radially from any entrance to the building.** *[No person shall]* **A person may not** do any electioneering by public address system located more than 100 feet from an entrance to the building *[but]* **if the person is** capable of being understood within 100 feet of the building. The electioneering need not relate to the election being conducted. **In an election conducted by mail, this subsection applies during the period beginning on the date that ballots are mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all persons waiting in line at the building who began the act of voting as described in ORS 254.470 (11) by 8 p.m. have finished voting.**

(3) *[No person shall obstruct an entrance of a building in which a polling place is located. In an election conducted by mail, from the date that ballots are mailed as provided in ORS 254.470 until the time designated by the county clerk for closure of the building on election day, no person shall]* **A person may not** obstruct an entrance of a building in which **a polling place is located, ballots are issued or** a place designated for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS 254.474 is located. **In an election conducted by mail, this subsection applies during the period beginning on the date that ballots are mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all persons waiting in line at the building or location who began the act of voting as described in ORS 254.470 (11) by 8 p.m. have finished voting.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) *[No]* **A person** *[other than]*, **except** an elections official *[shall]* **in performance of duties, may not provide elections advice or attempt to collect voted ballots within any building in which any state or local government elections office designated for the deposit of ballots under ORS 254.470 is located, or within 100 feet measured radially from any entrance to the building** *[a location designated for deposit of ballots under ORS 254.470]*.

(19) *[No]* **A person**, except an elections official in performance of duties, in an election conducted by mail, *[shall]* **may not** establish a location to collect ballots voted by electors unless:

(a) The person prominently displays at the location a sign stating: "NOT AN OFFICIAL BALLOT DROP SITE[.]"; **and**

(b) **The sign is printed in all capital letters in bold 50-point type.**

**SECTION 6.** ORS 247.292 is amended to read:

247.292. (1)(a) A county clerk shall update the registration of an elector in the county upon receiving written evidence from:

(A) The elector *[or from the United States Postal Service]* indicating a residence or mailing address that is different from the residence or mailing address for the elector as contained in the records of the county clerk; **or**

(B) **The United States Postal Service indicating a residence address that is different from the residence address for the elector as contained in the records of the county clerk.**

(b) This subsection applies only if the new residence address is located in the same county as the residence address for the elector as contained in the records of the county clerk.

(2) When a county clerk updates the registration of an elector under subsection (1) of this section, the clerk shall send a new precinct memorandum card by nonforwardable mail to the elector as provided in ORS 247.181. The clerk shall include a notice stating that if the residence address or mailing address is not correct, the elector must notify the clerk.

(3) An elector [*shall not be*] **is not** disqualified from voting due to any error relating to an update of registration made under this section.

**SECTION 7.** ORS 247.563 is amended to read:

247.563. (1) Except as provided in subsection (4) of this section and ORS 247.555, whenever it appears to the county clerk that an elector needs to update the elector's registration or that the elector has changed residence address to another county, the county clerk shall mail a notice to the elector.

(2) The notice shall be sent by forwardable mail and shall include a postage prepaid, preaddressed return card on which the elector may state the elector's current residence and mailing address. The notice shall advise the elector that:

(a) The elector should return the card promptly;

(b) If the card is not returned by the 21st calendar day immediately preceding an election, the elector may be required to complete a new registration card in order to vote in an election; and

(c) The elector's registration will be canceled if the elector neither votes nor updates the registration before two general elections have been held.

(3) When the county clerk mails a notice under this section, the registration of the elector shall be considered inactive until the elector updates the registration, the registration is canceled or the clerk determines that the registration should be considered active.

(4) This section does not apply when the county clerk receives written evidence from the elector[, *the United States Postal Service*] or another county clerk indicating a change of residence or mailing address **or from the United States Postal Service indicating a change of residence address** and the registration of the elector is automatically updated by the county clerk under any provision of this chapter.

**SECTION 8.** (1) **The amendments to ORS 249.064 by section 3 of this 2007 Act apply to nominating petitions filed on or after the effective date of this 2007 Act.**

(2) **The amendments to ORS 253.030 by section 4 of this 2007 Act apply to applications for absentee ballots made on or after the effective date of this 2007 Act.**

(3) **The amendments to ORS 260.695 by section 5 of this 2007 Act apply to activities occurring on or after the effective date of this 2007 Act.**

(4) **The amendments to ORS 247.292 by section 6 of this 2007 Act apply to written evidence received by a county clerk on or after the effective date of this 2007 Act.**

**SECTION 9.** **If Senate Bill 77 becomes law, section 4 of this 2007 Act (amending ORS 253.030) is repealed and ORS 253.030, as amended by section 9, chapter 155, Oregon Laws 2007 (Enrolled Senate Bill 77), is amended to read:**

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

(2) An application for an absentee ballot must be received by the clerk not later than 8 p.m. the day of the election.

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

(4) Application for an absentee ballot may be made in any manner designated by the Secretary of State by rule, including **in writing**, by electronic mail or by using a facsimile machine. As used in this subsection, "facsimile machine" means a machine that electronically transmits or receives facsimiles of documents through connection with a telephone network.

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

**SECTION 10. If Senate Bill 74 becomes law, section 5 of this 2007 Act (amending ORS 260.695) is repealed and ORS 260.695, as amended by section 55, chapter 154, Oregon Laws 2007 (Enrolled Senate Bill 74), is amended to read:**

260.695. (1) A person may not print or circulate an imitation of the ballot or sample ballot, or a portion of the ballot or sample ballot, which contains information which will not appear, or deletes information which will appear, on the ballot or sample ballot, or that portion of the ballot or sample ballot, unless the imitation of the ballot or sample ballot, or portion of the ballot or sample ballot, contains the following statement in bold type: "NOT FOR OFFICIAL USE." This subsection does not prohibit the printing or circulation of an imitation of a ballot which illustrates the manner in which a candidate's name may be written in for an office.

(2) A person may not do any electioneering, including circulating any cards or handbills, or soliciting of signatures to any petition, within any building in which *[ballots are issued]* **any state or local government elections office designated for the deposit of ballots under ORS 254.470 is located**, or within 100 feet measured radially from any entrance to the building. A person may not do any electioneering by public address system located more than 100 feet from an entrance to the building *[but]* **if the person is** capable of being understood within 100 feet of the building. The electioneering need not relate to the election being conducted. This subsection applies during the period beginning on the date that ballots are mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all persons **waiting** in line **at the building who began the act of voting** as described in ORS 254.470 (10) **by 8 p.m.** have finished *[the act of]* voting.

(3) A person may not obstruct an entrance of a building in which **ballots are issued** or a place designated for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS 254.474 is located. **This subsection applies during the period beginning on the date that ballots are mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all persons waiting in line at the building or location who began the act of voting as described in ORS 254.470 (10) by 8 p.m. have finished voting.**

(4) A person may not vote or offer to vote in any election knowing the person is not entitled to vote.

(5) A person may not make a false statement about the person's inability to mark a ballot.

(6) A person, except an elections official in performance of duties or *[other]* **another** person providing assistance to an elector as described in ORS 254.445, may not ask a person at any place designated for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472 or 254.474 for whom that person intends to vote, or examine or attempt to examine the person's ballot.

(7) A person may not show the person's own marked ballot to another person to reveal how it was marked.

(8) An elections official, other than in the performance of duties, may not disclose to any person any information by which it can be ascertained for whom any elector has voted.

(9) A person, except an elections official in performance of duties, may not do anything to a ballot to permit identification of the person who voted.

(10) An elector may not willfully leave at any place designated for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472 or 254.474 anything that will show how the elector's ballot was marked.

(11) A person, except an elections official in performance of duties, may not remove a ballot from any place designated for the deposit of ballots under ORS 254.470 or any location described in ORS 254.472 or 254.474.

(12) A person, except an elections official in performance of duties or a person authorized by that official, may not willfully deface, remove, alter or destroy a posted election notice.

(13) A person, except an elections official in performance of duties, may not willfully remove, alter or destroy election equipment or supplies, or break the seal or open any sealed package containing election supplies.

(14) A person, except an elections official in performance of duties, may not **provide elections advice or attempt to collect voted ballots within any building in which any state or local government elections office designated for the deposit of ballots under ORS 254.470 is located, or within 100 feet measured radially from [a location designated for deposit of ballots under ORS 254.470] any entrance to the building.**

(15) A person, except an elections official in performance of duties, may not establish a location to collect ballots voted by electors unless:

(a) The person prominently displays at the location a sign stating: "NOT AN OFFICIAL BALLOT DROP SITE[.]"; **and**

(b) **The sign is printed in all capital letters in bold 50-point type.**

**SECTION 11.** If both Senate Bill 74 and Senate Bill 77 become law, section 8 of this 2007 Act is amended to read:

**Sec. 8.** (1) The amendments to ORS 249.064 by section 3 of this 2007 Act apply to nominating petitions filed on or after the effective date of this 2007 Act.

(2) The amendments to ORS 253.030 by section [4] **9** of this 2007 Act apply to applications for absentee ballots made on or after the effective date of this 2007 Act.

(3) The amendments to ORS 260.695 by section [5] **10** of this 2007 Act apply to activities occurring on or after the effective date of this 2007 Act.

(4) The amendments to ORS 247.292 by section 6 of this 2007 Act apply to written evidence received by a county clerk on or after the effective date of this 2007 Act.

**SECTION 12.** If Senate Bill 77 becomes law and Senate Bill 74 does not become law, section 8 of this 2007 Act is amended to read:

**Sec. 8.** (1) The amendments to ORS 249.064 by section 3 of this 2007 Act apply to nominating petitions filed on or after the effective date of this 2007 Act.

(2) The amendments to ORS 253.030 by section [4] **9** of this 2007 Act apply to applications for absentee ballots made on or after the effective date of this 2007 Act.

(3) The amendments to ORS 260.695 by section 5 of this 2007 Act apply to activities occurring on or after the effective date of this 2007 Act.

(4) The amendments to ORS 247.292 by section 6 of this 2007 Act apply to written evidence received by a county clerk on or after the effective date of this 2007 Act.

**SECTION 13.** If Senate Bill 74 becomes law and Senate Bill 77 does not become law, section 8 of this 2007 Act is amended to read:

**Sec. 8.** (1) The amendments to ORS 249.064 by section 3 of this 2007 Act apply to nominating petitions filed on or after the effective date of this 2007 Act.

(2) The amendments to ORS 253.030 by section 4 of this 2007 Act apply to applications for absentee ballots made on or after the effective date of this 2007 Act.

(3) The amendments to ORS 260.695 by section [5] **10** of this 2007 Act apply to activities occurring on or after the effective date of this 2007 Act.

(4) The amendments to ORS 247.292 by section 6 of this 2007 Act apply to written evidence received by a county clerk on or after the effective date of this 2007 Act.

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**Passed by House June 8, 2007**

**Repassed by House June 26, 2007**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 24, 2007**

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President of Senate

**Received by Governor:**

.....M,....., 2007

**Approved:**

.....M,....., 2007

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2007

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Secretary of State