

A-Engrossed
Senate Bill 124

Ordered by the Senate April 11
Including Senate Amendments dated April 11

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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 Attorney General to correct clerical errors in draft or certified ballot titles prepared by Attorney General for state initiative petitions and referendum measures. **Defines "clerical error."** Sets deadline for making corrections. Specifies that time for filing petition for judicial review of corrected ballot title begins on date corrected title is certified.

A BILL FOR AN ACT

1
2 Relating to ballot titles; creating new provisions; and amending ORS 250.045, 250.067, 250.085 and
3 254.085.

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

5 **SECTION 1.** ORS 250.067 is amended to read:

6 250.067. (1) The Secretary of State, upon receiving a draft ballot title from the Attorney General
7 under ORS 250.065 or 250.075, shall provide reasonable statewide notice of having received the draft
8 ballot title and of the public's right to submit written comments as provided in this section. Written
9 comments concerning a draft ballot title *[shall]* **may** be submitted to the secretary *[of State]* not
10 later than the 10th business day after the secretary *[of State]* receives the draft title from the At-
11 torney General. On the next business day after the deadline for submitting comments *[to the secre-*
12 *tary of State]*, the secretary shall send a copy of all written comments to the Attorney General. The
13 secretary shall maintain a record of written comments received.

14 **(2)(a) If written comments are submitted to the secretary under subsection (1) of this**
15 **section,** the Attorney General shall consider *[any written comments submitted under subsection (1)*
16 *of this section and shall]* **the comments and** certify to the secretary *[of State]* either the draft ballot
17 title or a revised ballot title not later than the 10th business day after receiving the comments from
18 the secretary *[of State]*.

19 **(b)** If no written comments are submitted to the secretary *[of State]*, the Attorney General shall
20 certify the draft ballot title not later than the 20th business day after the secretary *[of State]* re-
21 ceives the draft title from the Attorney General. **If the Attorney General determines that a draft**
22 **ballot title described in this paragraph contains a clerical error, the Attorney General may**
23 **correct the error before certifying the corrected draft ballot title to the secretary.**

24 **(c) If the Attorney General determines that a ballot title certified under this subsection**
25 **contains a clerical error, the Attorney General may correct the error and certify to the**
26 **secretary a corrected ballot title not later than the 10th business day after the date the**

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 **ballot title was certified.**

2 (d) The secretary [*of State*] shall furnish the chief petitioner with a copy of [*the*] **each** ballot title
3 **certified under this subsection.**

4 (3) Unless the Supreme Court certifies a different ballot title, the **latest** ballot title [*provided*]
5 **certified** by the Attorney General under subsection (2) of this section [*shall be*] **is** the title **to be**
6 printed in the voters' pamphlet and on the ballot.

7 (4) If a petition for review of a ballot title is filed with the Supreme Court as provided in ORS
8 250.085, the Secretary of State shall file with the Supreme Court a copy of the written comments
9 received as part of the record on review of the ballot title.

10 (5) The secretary [*of State*] by rule shall specify the means for providing reasonable statewide
11 notice for submitting comments on a draft ballot title.

12 (6) **As used in this section, "clerical error" means a typographical, arithmetical or**
13 **grammatical error or omission that is evident from the text of the draft or certified ballot**
14 **title or by comparison of the text of the draft or certified ballot title with a written expla-**
15 **nation that was provided by the Attorney General and issued concurrently with the draft or**
16 **certified ballot title.**

17 **SECTION 2.** ORS 250.085 is amended to read:

18 250.085. (1) Any elector dissatisfied with a ballot title prepared by the Legislative Assembly for
19 a measure referred to the people by the assembly and filed with the Secretary of State may petition
20 the Supreme Court seeking a different title. The petition shall state the reasons that the title filed
21 with the Secretary of State does not substantially comply with the requirements of ORS 250.035.

22 (2) Any elector dissatisfied with [*a*] **the latest** ballot title for an initiated or referred measure
23 certified by the Attorney General and who timely submitted written comments on the draft ballot
24 title may petition the Supreme Court seeking a different title. The petition shall state the reasons
25 that the title filed with the Secretary of State does not substantially comply with the requirements
26 of ORS 250.035.

27 (3) The petition shall name the Attorney General as the respondent and must be filed:

28 (a) Not later than the 10th business day after the Attorney General certifies a ballot title **or a**
29 **corrected ballot title** to the Secretary of State, **whichever is later**; or

30 (b) If the title is provided by the Legislative Assembly under ORS 250.075, not later than the
31 10th business day after the Legislative Assembly files the ballot title with the Secretary of State.

32 (4) An elector filing a petition under this section shall notify the Secretary of State in writing
33 that the petition has been filed. The notice must be received in the office of the Secretary of State
34 not later than 5 p.m. on the next business day following the day the petition is filed.

35 (5) The Supreme Court shall review the title for substantial compliance with the requirements
36 of ORS 250.035.

37 (6) When reviewing a title [*prepared*] **certified** by the Attorney General, the Supreme Court
38 shall not consider arguments concerning the ballot title not presented in writing to the Secretary
39 of State unless the court determines that the argument concerns language added to or removed from
40 the draft title after expiration of the comment period provided in ORS 250.067.

41 (7) The review by the Supreme Court shall be conducted expeditiously to ensure the orderly and
42 timely circulation of the petition or conduct of the election at which the measure is to be submitted
43 to the electors.

44 (8) If the Supreme Court determines that the **latest ballot** title certified by the Attorney Gen-
45 eral or prepared by the Legislative Assembly substantially complies with the requirements of ORS

1 250.035, the court shall certify the title to the Secretary of State. If the Supreme Court determines
2 that the **latest ballot** title certified by the Attorney General or prepared by the Legislative As-
3 sembly does not substantially comply with the requirements of ORS 250.035, the court shall modify
4 the ballot title and certify the ballot title to the Secretary of State or refer the ballot title to the
5 Attorney General for modification.

6 (9) Not later than five business days after the Supreme Court refers a ballot title to the Attor-
7 ney General under this section, the Attorney General shall file a modified ballot title with the Su-
8 preme Court and serve copies of the modified ballot title on all parties to the ballot title review
9 proceeding. If no party to the ballot title review proceeding files an objection to the modified ballot
10 title within five business days after the date the modified ballot title is filed, the Supreme Court
11 shall certify the modified ballot title to the Secretary of State and enter an appellate judgment the
12 next judicial day. If any of the parties to the ballot title review proceeding timely files a petition
13 objecting to the modified ballot title, the Supreme Court shall review the modified ballot title to
14 determine whether the modified ballot title substantially complies with the requirements of ORS
15 250.035.

16 (10) Upon the filing of a petition under subsection (9) of this section objecting to a modified
17 ballot title:

18 (a) If the Supreme Court determines that the modified ballot title substantially complies with the
19 requirements of ORS 250.035, the court shall certify the modified ballot title to the Secretary of
20 State; or

21 (b) If the Supreme Court determines that the modified ballot title does not substantially comply
22 with the requirements of ORS 250.035, the court shall modify the ballot title and certify the ballot
23 title to the Secretary of State or refer the modified ballot title to the Attorney General for addi-
24 tional modification and further proceedings under subsection (9) of this section.

25 **SECTION 3.** ORS 250.045 is amended to read:

26 250.045. (1) Before circulating a petition to initiate or refer a state measure under section 1,
27 Article IV, Oregon Constitution, the petitioner shall file with the Secretary of State a prospective
28 petition. The prospective petition for a state measure to be initiated shall contain a statement of
29 sponsorship signed by at least 25 electors. The statement of sponsorship shall be attached to a full
30 and correct copy of the measure to be initiated. The signatures in the statement of sponsorship must
31 be accompanied by a certificate of the county clerk of each county in which the electors who signed
32 the statement reside, stating the number of signatures believed to be genuine. The Secretary of State
33 shall date and time stamp the prospective petition and specify the form on which the petition shall
34 be printed for circulation. The secretary shall approve or disapprove the form of any petition sig-
35 nature sheet within five business days after the signature sheet is submitted for review by the sec-
36 retary. The secretary shall retain the prospective petition.

37 (2) The chief petitioner may amend the proposed initiated measure filed with the Secretary of
38 State without filing another prospective petition, if:

39 (a) The Attorney General certifies to the Secretary of State that the proposed amendment will
40 not substantially change the substance of the measure; and

41 (b) The deadline for submitting written comments on the draft title has not passed.

42 (3) The cover of an initiative or referendum petition shall designate the name and residence
43 address of not more than three persons as chief petitioners and shall contain instructions for per-
44 sons obtaining signatures of electors on the petition. The instructions shall be adopted by the Sec-
45 retary of State by rule. The cover of a referendum petition shall contain the final measure summary

1 described in ORS 250.065 (1). If a petition seeking a different ballot title is not filed with the Su-
2 preme Court by the deadline for filing a petition under ORS 250.085, the cover of an initiative peti-
3 tion shall contain the **latest** ballot title [*described in*] **certified by the Attorney General under**
4 ORS 250.067 (2). However, if the Supreme Court has reviewed the ballot title, the cover of the ini-
5 tiative petition shall contain the title certified by the court.

6 (4) The chief petitioners shall include with the prospective petition a statement declaring
7 whether one or more persons will be paid money or other valuable consideration for obtaining sig-
8 natures of electors on the initiative or referendum petition. After the prospective petition is filed,
9 the chief petitioners shall notify the filing officer not later than the 10th day after any of the chief
10 petitioners first has knowledge or should have had knowledge that:

11 (a) Any person is being paid for obtaining signatures, when the statement included with the
12 prospective petition declared that no such person would be paid.

13 (b) No person is being paid for obtaining signatures, when the statement included with the pro-
14 spective petition declared that one or more such persons would be paid.

15 (5)(a) Each sheet of signatures on an initiative petition shall contain the caption of the ballot
16 title. Each sheet of signatures on a referendum petition shall contain the subject expressed in the
17 title of the Act to be referred.

18 (b) Each sheet of signatures on an initiative or referendum petition shall:

19 (A) Contain only the signatures of electors of one county; and

20 (B) If one or more persons will be paid for obtaining signatures of electors on the petition,
21 contain a notice stating: "Some Circulators For This Petition Are Being Paid." The notice shall be
22 in boldfaced type and shall be prominently displayed on the sheet.

23 (c) The Secretary of State by rule shall adopt a method of designation to distinguish signature
24 sheets of referendum petitions containing the same subject reference and being circulated during the
25 same period.

26 (6) The reverse side of the cover of an initiative or referendum petition shall be used for ob-
27 taining signatures on an initiative or referendum petition.

28 (7) Not more than 20 signatures on the signature sheet of the initiative or referendum petition
29 shall be counted. The circulator shall certify on each signature sheet of the initiative or referendum
30 petition that the individuals signed the sheet in the presence of the circulator and that the
31 circulator believes each individual is an elector.

32 (8) The person obtaining signatures on the petition shall carry at least one full and correct copy
33 of the measure to be initiated or referred and shall allow any person to review a copy upon request
34 of the person.

35 **SECTION 4.** ORS 254.085 is amended to read:

36 254.085. (1) The Secretary of State, not later than the 61st day before the date of a primary or
37 general election, shall file with each county clerk a statement of the state and congressional district
38 offices to be filled or for which candidates are to be nominated in the county at the election, infor-
39 mation concerning all candidates for the offices, and the state measures to be voted on.

40 (2) The information concerning candidates for the Supreme Court, Court of Appeals, Oregon Tax
41 Court and circuit court shall include a designation of incumbent for each candidate who is the
42 regularly elected or appointed judge of the court to which the candidate seeks election. If a candi-
43 date was regularly elected or appointed to a specific position or department on the court, the can-
44 didate shall be designated as the incumbent only if the person is a candidate for that position or
45 department.

1 (3) Included with each state measure shall be the measure number, the **latest** ballot title [*pre-*
2 *pared*] **certified** by the Attorney General under ORS 250.067 (2) or, if the Supreme Court has re-
3 viewed the title under ORS 250.085, the title certified by the court and the financial estimates under
4 ORS 250.125. The Secretary of State shall keep a copy of the statement.

5 **SECTION 5. The amendments to ORS 250.067 and 250.085 by sections 1 and 2 of this 2007**
6 **Act apply to ballot titles first filed by the Attorney General as draft ballot titles on or after**
7 **the effective date of this 2007 Act.**

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