

Enrolled Senate Bill 124

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General Hardy Myers for Department of Justice)

CHAPTER

AN ACT

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

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

SECTION 1. ORS 250.067 is amended to read:

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

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

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

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

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

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

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

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

(6) **As used in this section, “clerical error” means a typographical, arithmetical or grammatical error or omission that is evident from the text of the draft or certified ballot title or by comparison of the text of the draft or certified ballot title with a written explanation that was provided by the Attorney General and issued concurrently with the draft or certified ballot title.**

SECTION 2. ORS 250.085 is amended to read:

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

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

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

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

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

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

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

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

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

(8) If the Supreme Court determines that the **latest ballot** title certified by the Attorney General or prepared by the Legislative Assembly substantially complies with the requirements of ORS 250.035, the court shall certify the title to the Secretary of State. If the Supreme Court determines that the **latest ballot** title certified by the Attorney General or prepared by the Legislative Assembly does not substantially comply with the requirements of ORS 250.035, the court shall modify the ballot title and certify the ballot title to the Secretary of State or refer the ballot title to the Attorney General for modification.

(9) Not later than five business days after the Supreme Court refers a ballot title to the Attorney General under this section, the Attorney General shall file a modified ballot title with the Supreme Court and serve copies of the modified ballot title on all parties to the ballot title review proceeding. If no party to the ballot title review proceeding files an objection to the modified ballot title within five business days after the date the modified ballot title is filed, the Supreme Court shall certify the modified ballot title to the Secretary of State and enter an appellate judgment the next judicial day. If any of the parties to the ballot title review proceeding timely files a petition objecting to the modified ballot title, the Supreme Court shall review the modified ballot title to

determine whether the modified ballot title substantially complies with the requirements of ORS 250.035.

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

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

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

SECTION 3. ORS 250.045 is amended to read:

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

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

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

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

(3) The cover of an initiative or referendum petition shall designate the name and residence address of not more than three persons as chief petitioners and shall contain instructions for persons obtaining signatures of electors on the petition. The instructions shall be adopted by the Secretary of State by rule. The cover of a referendum petition shall contain the final measure summary described in ORS 250.065 (1). If a petition seeking a different ballot title is not filed with the Supreme Court by the deadline for filing a petition under ORS 250.085, the cover of an initiative petition shall contain the **latest** ballot title [*described in*] **certified by the Attorney General under ORS 250.067 (2)**. However, if the Supreme Court has reviewed the ballot title, the cover of the initiative petition shall contain the title certified by the court.

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

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

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

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

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

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

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

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

(6) The reverse side of the cover of an initiative or referendum petition shall be used for obtaining signatures on an initiative or referendum petition.

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

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

SECTION 4. ORS 254.085 is amended to read:

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

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

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

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

Passed by Senate April 16, 2007

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Secretary of Senate

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President of Senate

Passed by House May 10, 2007

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Speaker of House

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