

A-Engrossed
Senate Bill 125

Ordered by the Senate June 22
Including Senate Amendments dated June 22

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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.

[Directs chief petitioners of state initiative petition to confer with Legislative Counsel regarding legal and drafting issues raised by petition. Allows chief petitioners to amend initiative petition.]

[Reduces number of signatures of electors necessary to request initiative petition drafting assistance from Legislative Counsel.]

Allows person to challenge content of certified ballot title for state initiative petition if title does not comply with law because of change in statutory law that occurred after title was certified.

Sets deadlines and procedures for revision of ballot title by Attorney General. Allows for review of revised ballot title by Supreme Court.

Specifies that revised title appears on ballot and in voters' pamphlet.

A BILL FOR AN ACT

1
2 Relating to state initiative petitions; creating new provisions; amending ORS 250.045, 250.067 and
3 254.085; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 250.**

6 **SECTION 2. (1) An elector may file a written complaint with the Secretary of State al-**
7 **leging that the provisions of the certified ballot title described in ORS 250.035 (2)(a) to (c) for**
8 **an initiated state measure do not substantially comply with the requirements of ORS 250.035**
9 **because of a change in Oregon statutory law that occurred after the ballot title was certified.**
10 **This section applies only to a certified ballot title for an initiated state measure that the**
11 **secretary has approved for circulation. The complaint must be filed not later than April 1**
12 **of an even-numbered year and shall state the reasons that the certified ballot title does not**
13 **substantially comply with the requirements of ORS 250.035.**

14 **(2) Not later than April 2 of an even-numbered year, the secretary shall provide copies**
15 **of all complaints received under subsection (1) of this section to the Attorney General.**

16 **(3) Not later than the 20th business day after the deadline for receiving copies of the**
17 **complaints, for each certified ballot title for which a complaint was received, the Attorney**
18 **General shall:**

19 **(a) Determine whether the provisions of the certified ballot title described in ORS 250.035**
20 **(2)(a) to (c) do not substantially comply with the requirements of ORS 250.035 because of a**
21 **change in Oregon statutory law that occurred after the ballot title was certified; and**

22 **(b) Issue a revised draft ballot title under subsection (4) of this section or a written de-**

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 **termination under subsection (5) of this section.**

2 **(4)(a) If the Attorney General determines that the provisions of the certified ballot title**
3 **described in ORS 250.035 (2)(a) to (c) do not substantially comply with the requirements of**
4 **ORS 250.035, the Attorney General shall provide a revised draft ballot title to the secretary.**

5 **(b) A revised draft ballot title issued by the Attorney General under this subsection is**
6 **considered a draft ballot title issued under ORS 250.065 (3) and the applicable processes for**
7 **comment, certification and Supreme Court review of the ballot titles apply.**

8 **(5)(a) If the Attorney General determines that the provisions of the certified ballot title**
9 **described in ORS 250.035 (2)(a) to (c) substantially comply with the requirements of ORS**
10 **250.035, the Attorney General shall provide the secretary with a written determination to**
11 **that effect.**

12 **(b) An elector dissatisfied with the Attorney General's determination and who filed a**
13 **complaint under subsection (1) of this section may petition the Supreme Court for review**
14 **of that determination.**

15 **(6) A petition filed with the Supreme Court under this section:**

16 **(a) Shall name the Attorney General as the respondent and state the reasons that the**
17 **ballot title does not substantially comply with the requirements of ORS 250.035 (2)(a) to (c)**
18 **because of a change in Oregon statutory law that occurred after the ballot title was certified;**
19 **and**

20 **(b) Must be filed not later than the 10th business day after the Attorney General provides**
21 **a written determination to the secretary under subsection (5) of this section or not later**
22 **than the 10th business day after the Attorney General certifies a revised ballot title to the**
23 **secretary under ORS 250.067.**

24 **(7) The Attorney General may file a response to a petition filed with the Supreme Court**
25 **not later than the 10th business day after the petition is filed with the court.**

26 **(8) A person filing a petition with the Supreme Court under this section shall notify the**
27 **secretary in writing that the petition has been filed. The notice must be received in the office**
28 **of the secretary not later than 5 p.m. on the next business day following the day the petition**
29 **is filed.**

30 **(9) Subject to subsection (1) of this section, the Supreme Court shall review the pro-**
31 **visions of the certified ballot title described in ORS 250.035 (2)(a) to (c) for substantial com-**
32 **pliance with the requirements of ORS 250.035.**

33 **(10) The Supreme Court shall conduct its review expeditiously to ensure the orderly and**
34 **timely conduct of the election at which the initiated state measure is to be submitted to the**
35 **electors.**

36 **(11) If the Supreme Court determines that the provisions of the certified ballot title de-**
37 **scribed in ORS 250.035 (2)(a) to (c) substantially comply with the requirements of ORS**
38 **250.035, the court shall dismiss the petition and notify the secretary. If the Supreme Court**
39 **determines that the provisions of the certified ballot title described in ORS 250.035 (2)(a) to**
40 **(c) do not substantially comply with the requirements of ORS 250.035, the court shall modify**
41 **the ballot title and certify the modified ballot title to the secretary or refer the ballot title**
42 **to the Attorney General for modification.**

43 **(12) Not later than the fifth business day after the Supreme Court refers a ballot title**
44 **to the Attorney General under this section, the Attorney General shall file a modified ballot**
45 **title with the court and serve copies of the modified ballot title on all parties to the ballot**

1 title review proceeding. If no party to the ballot title review proceeding files an objection to
2 the modified ballot title within five business days after the date the modified ballot title is
3 filed, the Supreme Court shall certify the modified ballot title to the secretary and enter an
4 appellate judgment the next judicial day. If any of the parties to the ballot title review pro-
5 ceeding timely files a petition objecting to the modified ballot title, the Supreme Court shall
6 review the modified ballot title to determine whether the provisions of the modified ballot
7 title substantially comply with the requirements of ORS 250.035.

8 (13) Upon the filing of a petition objecting to a modified ballot title under subsection (12)
9 of this section:

10 (a) If the Supreme Court determines that the provisions of the modified ballot title sub-
11 stantially comply with the requirements of ORS 250.035, the court shall certify the modified
12 ballot title to the Secretary of State; or

13 (b) If the Supreme Court determines that the provisions of the modified ballot title do
14 not substantially comply with the requirements of ORS 250.035, the court shall:

15 (A) Make modifications to the ballot title and certify the latest ballot title to the Secre-
16 tary of State; or

17 (B) Refer the modified ballot title to the Attorney General for additional modification and
18 further proceedings under subsection (12) of this section.

19 (14) A ballot title certified by the Attorney General or Supreme Court under this section
20 is the ballot title to be printed in the voters' pamphlet and on the ballot. A ballot title cer-
21 tified under this section is not required to be printed on the cover of the initiative petition
22 under ORS 250.045. The caption of the ballot title certified under this section is not required
23 to be printed on each sheet of signatures of the petition under ORS 250.045.

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

25 250.045. (1) Before circulating a petition to initiate or refer a state measure under section 1,
26 Article IV, Oregon Constitution, the petitioner shall file with the Secretary of State a prospective
27 petition. The prospective petition for a state measure to be initiated shall contain a statement of
28 sponsorship signed by at least 25 electors. The statement of sponsorship shall be attached to a full
29 and correct copy of the measure to be initiated.

30 (2) The signatures in the statement of sponsorship must be accompanied by a certificate of the
31 county clerk of each county in which the electors who signed the statement reside, stating the
32 number of signatures believed to be genuine.

33 (3) The Secretary of State shall date and time stamp the prospective petition and specify the
34 form on which the petition shall be printed for circulation. The secretary shall approve or disap-
35 prove the form of any petition signature sheet within five business days after the signature sheet is
36 submitted for review by the secretary. The secretary shall retain the prospective petition.

37 [(2)] (4) The chief petitioner may amend the proposed initiated measure filed with the Secretary
38 of 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 **ballot** title has not passed.

42 [(3)] (5) 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 ballot title described in ORS 250.067 (2). However, if the Supreme Court has
 4 reviewed the ballot title **under ORS 250.085**, the cover of the initiative petition shall contain the
 5 title certified by the court **under ORS 250.085**.

6 [(4)] (6) 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)] (7)(a) Each sheet of signatures on an initiative petition shall contain the caption of the
 16 ballot title **referred to in subsection (5) of this section**. Each sheet of signatures on a referendum
 17 petition shall contain the subject expressed in the 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)] (8) The reverse side of the cover of an initiative or referendum petition shall be used for
 27 obtaining signatures on an initiative or referendum petition.

28 [(7)] (9) Not more than 20 signatures on the signature sheet of the initiative or referendum pe-
 29 tition shall be counted. The circulator shall certify on each signature sheet of the initiative or ref-
 30 erendum 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)] (10) The person obtaining signatures on the petition shall carry at least one full and correct
 33 copy of the measure to be initiated or referred and shall allow any person to review a copy upon
 34 request of the person.

35 **SECTION 4.** ORS 250.067 is amended to read:

36 250.067. (1) The Secretary of State, upon receiving a draft ballot title from the Attorney General
 37 under ORS 250.065 or 250.075 **or a revised draft ballot title under section 2 of this 2007 Act**,
 38 shall provide reasonable statewide notice of having received the draft ballot title and of the public's
 39 right to submit written comments as provided in this section. Written comments concerning a draft
 40 ballot title [shall] **may** be submitted to the secretary [of State] not later than the 10th business day
 41 after the secretary [of State] receives the draft **ballot title or a revised draft ballot title** from the
 42 Attorney General. On the next business day after the deadline for submitting comments [to the sec-
 43 retary of State], the secretary shall send a copy of all written comments to the Attorney General.
 44 The secretary shall maintain a record of written comments received.

45 (2)(a) **If written comments are submitted to the secretary under subsection (1) of this**

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

5 (b) If no written comments are submitted to the secretary [*of State*], the Attorney General shall
6 certify the draft ballot title not later than the 20th business day after the secretary [*of State*] re-
7 ceives the draft **ballot** title from the Attorney General.

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

10 (3) Unless the Supreme Court certifies a different ballot title **under ORS 250.085 or section 2**
11 **of this 2007 Act**, the ballot title [*provided*] **certified** by the Attorney General under subsection (2)
12 of this section [*shall be*] **is the ballot title to be** printed in the voters' pamphlet and on the ballot.

13 (4) If a petition for review of a ballot title is filed with the Supreme Court as provided in ORS
14 250.085 **or section 2 of this 2007 Act**, the secretary [*of State*] shall file with the Supreme Court a
15 copy of the written comments received as part of the record on review of the ballot title.

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

18 **SECTION 5.** ORS 254.085 is amended to read:

19 254.085. (1) [*The Secretary of State,*] Not later than the 61st day before the date of a primary or
20 general election, **the Secretary of State** shall file with each county clerk a statement of the state
21 and congressional district offices to be filled or for which candidates are to be nominated in the
22 county at the election, information concerning all candidates for the offices, and the state measures
23 to be voted on.

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

30 (3) Included with each state measure shall be the measure number, the ballot title [*prepared*]
31 **certified** by the Attorney General under ORS 250.067 (2) or, if the Supreme Court has reviewed the
32 **ballot** title under ORS 250.085 **or section 2 of this 2007 Act**, the **latest ballot** title certified by the
33 court, and the financial estimates under ORS 250.125. The Secretary of State shall keep a copy of
34 the statement.

35 **SECTION 6. Section 2 of this 2007 Act and the amendments to ORS 250.045, 250.067 and**
36 **254.085 by sections 3 to 5 of this 2007 Act apply to ballot titles for petitions for initiated state**
37 **measures that, if filed with the Secretary of State with the required number of signatures**
38 **of qualified electors, will be submitted to the people at an election occurring on or after**
39 **November 4, 2008.**

40 **SECTION 7. This 2007 Act being necessary for the immediate preservation of the public**
41 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
42 **on its passage.**