

Enrolled Senate Bill 77

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CHAPTER

AN ACT

Relating to elections; creating new provisions; amending ORS 203.035, 236.320, 249.042, 249.061, 249.064, 249.078, 249.830, 249.865, 250.355, 253.030 and 260.715; and declaring an emergency.

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

SECTION 1. ORS 236.320 is amended to read:

236.320. (1) Resignation shall be made as follows:

[(1)] (a) By the Secretary of State, State Treasurer and all officers elected by the legislature, to the Governor.

[(2)] (b) By all officers who hold their offices by election, to the officer authorized by law to order a special election to fill the resulting vacancy.

[(3)] (c) By all other officers holding their offices by appointment, to the body, board or officer that appointed them.

(2) Resignations described in this section must be made in writing.

SECTION 2. ORS 249.042 is amended to read:

249.042. When an elector files with the appropriate filing officer [*a signed copy of the elector's prospective petition for nomination*] **the statement and prospective petition** under ORS 249.061, or a declaration of candidacy, it [*shall be*] **is** conclusive evidence that the elector is a candidate for nomination or election by the elector's political party or to the nonpartisan office stated in the petition or declaration.

SECTION 3. ORS 249.061 is amended to read:

249.061. (1) [*No*] **A** petition for nomination [*shall*] **may not** contain the name of more than one candidate.

(2) Before circulating a nominating petition, the candidate shall deliver to the officer with whom the petition will be filed[,]:

(a) A statement signed by the candidate indicating that the candidacy is by prospective petition; and

(b) A copy of the prospective petition [*signed by the candidate*].

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

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

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

(4) The circulator shall certify on each signature sheet that the individuals signed the sheet in the presence of the circulator and that the circulator believes each individual is an elector qualified to sign the petition.

SECTION 4. 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.*]

(3) Pursuant to ORS 249.008, the county clerks shall certify the signatures contained in the nominating petition for genuineness.

SECTION 5. ORS 249.078 is amended to read:

249.078. (1) The name of a candidate for a major political party nomination for President of the United States shall be printed on the ballot or ballot label only:

(a) By direction of the Secretary of State who in the secretary's sole discretion has determined that the candidate's candidacy is generally advocated or is recognized in national news media; or

(b) By nominating petition described in this section and filed with the Secretary of State.

(2) A petition nominating a candidate under this section shall contain from each congressional district the signatures of at least 1,000 electors who are registered in the district and who are members of the major political party of the candidate. The electors in each congressional district shall include electors registered in at least five percent of the precincts in each of at least one-fourth of the counties in the congressional district. The petition shall contain the printed name, residence **or mailing** address and name or number of the precinct, if known, of each elector whose signature appears on the petition. The signatures shall be certified for genuineness by the county clerks under ORS 249.008. Before circulating the petition, the chief sponsor shall file with the Secretary of State a signed copy of the prospective petition. The chief sponsor 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 petition. After the prospective petition is filed, the chief sponsor shall notify the Secretary of State not later than the 10th day after the chief sponsor 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.

SECTION 6. ORS 249.830 is amended to read:

249.830. (1) A [*Any*] person who has been nominated and has accepted the nomination under ORS 249.712 may withdraw from **the** nomination [*not later than the 67th day before the general election*] by filing with the officer with whom the certificate of nomination was filed a written statement declining the nomination and stating the reason for withdrawal. [*The statement shall be signed and acknowledged by the candidate before a notary public.*]

(2) The statement must be:

(a) Signed by the person withdrawing from the nomination; and

(b) Filed not later than the 67th day before the general election.

(3) The [*withdrawal*] statement may be sent to the Secretary of State through a county clerk, as provided by ORS 249.850.

SECTION 7. ORS 249.865 is amended to read:

249.865. (1) Pursuant to section 18, Article II of the Oregon Constitution, an elector of the electoral district from which the public officer is elected may file a petition demanding the recall of the public officer. Before the petition is circulated for signatures, the chief petitioner of the petition shall file with the officer authorized to order the recall election:

- (a) A copy of the prospective petition signed by the chief petitioner;
- (b) A statement of organization described in ORS 260.118; and
- (c) A statement conforming to ORS 260.083 of contributions received and expenditures made by or on behalf of the chief petitioner and political committee the chief petitioner represents, if any, to the date of filing the prospective petition.

(2) The chief petitioner 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 recall petition. After the prospective petition is filed, the chief petitioner shall notify the filing officer not later than the 10th day after the chief petitioner 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.

(3) Each sheet of the recall petition must contain:

(a) The words "Petition for recall of," (name and title of officer) and the date of the filing under subsection (1) of this section; and

(b) The name and address of the treasurer **or the chief petitioner** listed on the statement of organization filed under subsection (1) of this section.

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

(5) Any intentional or willful violation of subsection (1) or (2) of this section by a chief petitioner of the recall petition or by the treasurer listed on the statement of organization filed under subsection (1) of this section invalidates the prospective petition before it is circulated for signatures.

SECTION 8. ORS 250.355 is amended to read:

250.355. If a referendum petition contains the required number of verified signatures, the election on the city measure shall be held on the next available election date in ORS 221.230 that is not sooner than the 90th day after the referendum [*measure*] **petition** was filed with the city elections officer.

SECTION 9. 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 any manner designated by the Secretary of State by rule, including 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. ORS 260.715 is amended to read:

260.715. (1) A person may not knowingly make a false statement, oath or affidavit when a statement, oath or affidavit is required under the election laws.

(2) A person may not request a ballot in a name other than the person's own name.

(3) A person may not vote or attempt to vote more than once at any election held on the same date.

(4) A person may not vote or attempt to vote both in an election held in this state and in another state on the same date.

~~[(4)]~~ (5) A person, except an elections official in performance of duties, may not willfully alter or destroy a ballot cast at an election or the returns of an election.

~~[(5)]~~ (6) A person may not willfully place a fraudulent ballot among the genuine ballots.

~~[(6)]~~ (7) A person may not falsely write anything purporting to be written by an election board member on the ballot or ballot stub.

~~[(7)]~~ (8) A person may not commit theft of a ballot or tally or return sheet, or willfully hinder or delay the delivery of the tally or return sheet to the county clerk, or fraudulently break open a sealed tally or return sheet of the election.

~~[(8)]~~ (9) A person may not manufacture or knowingly use a fraudulent ballot return identification envelope or secrecy envelope or sell, offer to sell, purchase or offer to purchase, for money or other valuable consideration, any official ballot, replacement ballot, ballot return identification envelope or secrecy envelope. As used in this subsection, "ballot return identification envelope" and "secrecy envelope" mean those envelopes used to return ballots to the county clerk by absent electors or in elections conducted by mail.

SECTION 11. (1) **The amendments to ORS 236.320 by section 1 of this 2007 Act apply to resignations submitted on or after the effective date of this 2007 Act.**

(2) **The amendments to ORS 249.042, 249.061, 249.064 and 249.078 by sections 2 to 5 of this 2007 Act apply to nominating petitions filed on or after the effective date of this 2007 Act.**

(3) **The amendments to ORS 249.830 by section 6 of this 2007 Act apply to statements of withdrawal from nomination filed on or after the effective date of this 2007 Act.**

(4) **The amendments to ORS 249.865 by section 7 of this 2007 Act apply to recall petitions filed on or after the effective date of this 2007 Act.**

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

(6) **The amendments to ORS 260.715 by section 10 of this 2007 Act apply to elections held on or after the effective date of this 2007 Act.**

SECTION 12. ORS 203.035 is amended to read:

203.035. (1) Subject to subsection (3) of this section, the governing body or the electors of a county may by ordinance exercise authority within the county over matters of county concern, to the fullest extent allowed by Constitutions and laws of the United States and of this state, as fully as if each particular power comprised in that general authority were specifically listed in ORS 203.030 to 203.075.

(2) The power granted by this section is in addition to other grants of power to counties, shall not be construed to limit or qualify any such grant and shall be liberally construed, to the end that counties have all powers over matters of county concern that it is possible for them to have under the Constitutions and laws of the United States and of this state.

(3) An ordinance adopted by a county governing body that changes the number or mode of selection of elective county officers shall not take effect unless the ordinance is submitted to and approved by the electors of the county at a primary election, ~~[or] general election~~ **or election held on the first Tuesday after the first Monday in November of an odd-numbered year.** However, ~~[no]~~ **an** ordinance adopted under this section may **not** change the mode of selection of a county assessor.

(4) Nothing in this section shall be construed to limit the rights of the electors of a county to propose county ordinances through exercise of the initiative power.

SECTION 13. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by Senate April 17, 2007

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Secretary of Senate

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President of Senate

Passed by House May 3, 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