

A-Engrossed
Senate Bill 1083

Ordered by the Senate February 18
Including Senate Amendments dated February 18

Sponsored by Senator WALKER (Pre-session filed.)

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 Supreme Court to rule on ballot title petition not later than 30 days after petition is filed.]

[Requires Secretary of State to verify each signature on state initiative or referendum petition. Directs Secretary of State or Attorney General to conclude investigation of election law violation not later than 90 days after receipt of complaint.]

Directs Supreme Court to rule on ballot title petition not later than 45 days after oral argument or 45 days after all memoranda have been filed in response to petition, whichever is later.

Requires Secretary of State to review signature twice before signature is counted or rejected on initiative or referendum petition. Directs secretary to prescribe employee training program conducted by expert in signature verification. Allows secretary to authorize persons to be present to watch verification of signatures.

Allows elector to challenge active registration status of elector who did not vote in election for purposes of determining number of registered voters eligible to vote in election described in section 11 (8), Article XI of Oregon Constitution.

Directs Secretary of State or Attorney General to conclude investigation of election law violation not later than one year after receipt of complaint and notify elector not later than 90 days after receipt of complaint if secretary or Attorney General requires additional time to determine whether violation has occurred.

Allows Secretary of State to obtain records of United States Postal Service to update elector addresses.

Requires elector challenging ballot of person to have personal, firsthand knowledge that person is not qualified as elector. Prohibits voter challenge based on unverified match list or list compiled through mail sent by political party, candidate or other person or organization.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; amending ORS 250.035, 250.085, 250.105, 254.415 and
3 260.345; and declaring an emergency.

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

5 **SECTION 1.** ORS 250.035 is amended to read:

6 250.035. (1) The ballot title of any measure, other than a state measure, to be initiated or re-
7 ferred shall consist of:

8 (a) A caption of not more than 10 words which reasonably identifies the subject of the measure;

9 (b) A question of not more than 20 words which plainly phrases the chief purpose of the measure
10 so that an affirmative response to the question corresponds to an affirmative vote on the measure;
11 and

12 (c) A concise and impartial statement of not more than 175 words summarizing the measure and
13 its major effect.

14 (2) The ballot title of any state measure to be initiated or referred shall consist of:

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 (a) A caption of not more than 15 words that reasonably identifies the subject matter of the
2 state measure. The caption of an initiative or referendum amendment to the Constitution shall begin
3 with the phrase, "Amends Constitution," which shall not be counted for purposes of the 15-word
4 caption limit;

5 (b) A simple and understandable statement of not more than 25 words that describes the result
6 if the state measure is approved. The statement required by this paragraph shall include either the
7 phrase, "I vote" or "vote yes," or a substantially similar phrase, which may be placed at any point
8 within the statement;

9 (c) A simple and understandable statement of not more than 25 words that describes the result
10 if the state measure is rejected. The statement required by this paragraph shall not describe ex-
11 isting statutory or constitutional provisions in a way that would lead an average elector to believe
12 incorrectly that one of those provisions would be repealed by approval of the state measure, if ap-
13 proval would not have that result. Any thing or action described both in the statement required by
14 paragraph (b) of this subsection and in the statement required by this paragraph shall be described
15 using the same terms in both statements, to the extent practical. Any different terms must be terms
16 that an average elector would understand to refer to the same thing or action. The statement shall
17 include either the phrase, "I vote" or "vote no," or a substantially similar phrase, which may be
18 placed at any point within the statement; and

19 (d) A concise and impartial statement of not more than 125 words summarizing the state meas-
20 ure and its major *[effect]* **effects**.

21 (3) The statements required by subsection (2)(b) and (c) of this section shall be written so that,
22 to the extent practicable, the language of the two statements is parallel.

23 (4) The statement required by subsection (2)(b) of this section shall be written so that an affir-
24 mative response to the statement corresponds to an affirmative vote on the state measure.

25 (5) The statement required by subsection (2)(c) of this section shall be written so that an affir-
26 mative response to the statement corresponds to a negative vote on the state measure.

27 (6) To avoid confusion, a ballot title shall not resemble any title previously filed for a measure
28 to be submitted at that election.

29 (7) In the statements required by subsection (2)(b), (c) and (d) of this section, reasonable dis-
30 cretion shall be allowed in the use of articles and conjunctions, but the statements shall not omit
31 articles and conjunctions that are necessary to avoid confusion to or misunderstanding by an aver-
32 age elector.

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

34 250.085. (1) Any elector dissatisfied with a ballot title prepared by the Legislative Assembly for
35 a measure referred to the people by the assembly and filed with the Secretary of State may petition
36 the Supreme Court seeking a different title. The petition shall state the reasons that the title filed
37 with the Secretary of State does not substantially comply with the requirements of ORS 250.035.

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

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

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

1 (b) If the title is provided by the Legislative Assembly under ORS 250.075, not later than the
2 10th business day after the Legislative Assembly files the ballot title with the Secretary of State.

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

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

8 (6) When reviewing a title certified by the Attorney General, the Supreme Court shall not con-
9 sider arguments concerning the ballot title not presented in writing to the Secretary of State unless
10 the court determines that the argument concerns language added to or removed from the draft title
11 after expiration of the comment period provided in ORS 250.067.

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

15 **(7) The Supreme Court shall certify a ballot title or refer the ballot title to the Attorney**
16 **General under subsection (8) of this section not later than 45 days after all memoranda have**
17 **been filed in response to a petition described in subsection (1) or (2) of this section or 45 days**
18 **after oral arguments have been presented in response to a petition described in subsection**
19 **(1) or (2) of this section, whichever is later.**

20 (8) If the Supreme Court determines that the latest ballot title certified by the Attorney General
21 or prepared by the Legislative Assembly substantially complies with the requirements of ORS
22 250.035, the court shall certify the title to the Secretary of State. If the Supreme Court determines
23 that the latest ballot title certified by the Attorney General or prepared by the Legislative Assembly
24 does not substantially comply with the requirements of ORS 250.035, the court shall modify the
25 ballot title and certify the ballot title to the Secretary of State or refer the ballot title to the At-
26 torney General for modification.

27 (9) Not later than five business days after the Supreme Court refers a ballot title to the Attor-
28 ney General under this section, the Attorney General shall file a modified ballot title with the Su-
29 preme Court and serve copies of the modified ballot title on all parties to the ballot title review
30 proceeding. If no party to the ballot title review proceeding files *[an objection]* **a petition objecting**
31 to the modified ballot title within five business days after the date the modified ballot title is filed,
32 the Supreme Court shall certify the modified ballot title to the Secretary of State and enter an ap-
33 pellate judgment the next judicial day. If any of the parties to the ballot title review proceeding
34 timely files a petition objecting to the modified ballot title, the Supreme Court shall review the
35 modified ballot title to determine whether the modified ballot title substantially complies with the
36 requirements of ORS 250.035.

37 (10) *[Upon the filing of a petition under subsection (9) of this section objecting to a modified ballot*
38 *title]* **Not later than 45 days after a petition objecting to a modified ballot title, and any re-**
39 **sponses to the petition, have been filed under subsection (9) of this section:**

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

43 (b) If the Supreme Court determines that the modified ballot title does not substantially comply
44 with the requirements of ORS 250.035, the court shall modify the ballot title and certify the ballot
45 title to the Secretary of State or refer the modified ballot title to the Attorney General for addi-

1 tional modification and further proceedings under subsection (9) of this section.

2 **SECTION 3.** ORS 250.105 is amended to read:

3 250.105. (1)(a) An initiative or referendum petition relating to a state measure must be filed with
4 the Secretary of State for the purpose of verifying whether the petition contains the required num-
5 ber of signatures of electors. **The secretary shall verify whether a state initiative or referen-**
6 **dum petition contains the required number of signatures of electors.**

7 (b) Signatures on a prospective petition for a state measure to be initiated shall be considered
8 under this section for the purpose of verifying whether the initiative petition contains the required
9 number of signatures of electors.

10 (c) When filing an initiative or referendum petition, the chief petitioner shall sort the signature
11 sheets on the basis of the name of the person who obtained the signatures on the sheet.

12 (d) The secretary shall adopt rules establishing procedures for verifying signatures on an initi-
13 ative or referendum petition.

14 (e) The filed initiative or referendum petition must contain only original signatures. The secre-
15 tary [*or county clerk*] shall verify each petition in the order in which the petitions are filed with the
16 secretary.

17 (2) The secretary may not accept an initiative or referendum petition relating to a state measure
18 for filing if the petition contains less than 100 percent of the required number of signatures.

19 (3) If [*an*] **a state** initiative or referendum petition is submitted not less than 165 days before
20 the election at which the proposed measure is to be voted upon and if the secretary determines that
21 insufficient signatures have been submitted but the deadline for filing the petition has not passed,
22 the petitioners may submit additional signatures.

23 (4) The secretary by rule shall designate a statistical sampling technique to verify whether a
24 petition contains the required number of signatures of electors. **A signature may be counted or**
25 **rejected under this subsection only if the signature has been reviewed at least twice by the**
26 **secretary.** A petition may not be rejected for the reason that it contains less than the required
27 number of signatures unless two separate sampling processes both establish that the petition lacks
28 the required number of signatures. The second sampling must contain a larger number of signatures
29 than the first sampling. If two samplings are required under this subsection, the total number of
30 signatures verified on the petition shall be not less than five percent of the total number of signa-
31 tures on the petition.

32 (5) For purposes of estimating the number of duplicate signatures contained in a petition, the
33 secretary shall apply at least an eight percent duplication rate in the first sampling of signatures
34 on all petitions. If a second sampling of signatures is required under subsection (4) of this section,
35 the secretary shall calculate an estimated signature duplication rate for each petition for which a
36 second sampling is required. The calculation shall be based on the number of electors the secretary
37 determines have signed a specific petition more than once.

38 (6) When verifying signatures for a state initiative or referendum petition, the secretary [*or*
39 *county clerk*] shall identify on an elector's voter registration record or other database that the
40 elector signed the specific initiative or referendum petition.

41 (7) The secretary [*of State*] may employ professional assistance to determine the sampling tech-
42 nique to be designated under subsection (4) of this section.

43 **(8) The secretary shall prescribe by rule a training program for persons employed by the**
44 **secretary for purposes of verifying signatures on state initiative and referendum petitions.**
45 **The training shall be conducted by an expert in signature verification.**

1 **(9) If requested, the secretary shall authorize persons to be present at the office of the**
 2 **secretary to watch the verification of signatures, as described in this section. The authori-**
 3 **zation shall be in writing and shall be signed by and filed with the secretary. The secretary**
 4 **shall authorize only as many persons under this subsection as will not interfere with an or-**
 5 **derly procedure at the office of the secretary.**

6 **SECTION 4.** ORS 260.345 is amended to read:

7 260.345. (1) Any elector may file with any filing officer a written complaint alleging that a vio-
 8 lation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260
 9 has occurred and stating the reason for believing that the violation occurred and any evidence re-
 10 lating to it. A complaint alleging a violation involving the Secretary of State, a candidate for the
 11 office of Secretary of State, or any political committee or person supporting the Secretary of State
 12 or a candidate for the office of Secretary of State may be filed with the Attorney General. The
 13 Secretary of State or Attorney General shall not accept an anonymous complaint.

14 (2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed
 15 with any person other than the Secretary of State. If the complaint concerns the Secretary of State,
 16 any candidate for the office of the Secretary of State, or any political committee or person sup-
 17 porting the candidacy of the Secretary of State or of another person for the office of Secretary of
 18 State, the complaint and any additional information relating to the complaint shall be sent to the
 19 Attorney General.

20 (3)(a) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of
 21 State or Attorney General immediately shall examine the complaint to determine whether a vio-
 22 lation of an election law or rule has occurred and shall make any investigation the Secretary of
 23 State or Attorney General considers necessary. Except as provided in this [subsection] **paragraph**,
 24 within 48 hours of receiving a complaint under subsection (1) or (2) of this section, the Secretary
 25 of State or Attorney General shall notify the person who is the subject of the complaint that a
 26 complaint has been received. If the Secretary of State or Attorney General receives a complaint or
 27 complaints involving 25 or more individuals or political committees in any 24-hour period, the Sec-
 28 retary of State or Attorney General need not notify the persons who are the subjects of those
 29 complaints within 48 hours of receiving the complaints but shall notify those persons not later than
 30 10 business days after receiving the complaint or complaints.

31 **(b) Not later than 90 days after receipt of a complaint under subsection (1) or (2) of this**
 32 **section, the Secretary of State or Attorney General shall notify in writing the elector who**
 33 **filed the complaint whether the Secretary of State or Attorney General requires additional**
 34 **time to determine whether a violation of an election law or rule has occurred. Not later than**
 35 **one year after receipt of the complaint, the Secretary of State or Attorney General shall**
 36 **determine whether a violation has occurred. Written notification provided under this para-**
 37 **graph shall state only that an extension of time is needed to determine whether a violation**
 38 **has occurred.**

39 **(c) Paragraph (b) of this subsection does not apply to a complaint filed under subsection**
 40 **(1) or (2) of this section involving an alleged violation subject to a penalty under ORS 260.993.**

41 (4) If the Secretary of State believes after an investigation under subsection (3) of this section
 42 that a violation of an election law or rule has occurred, the secretary:

43 (a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall
 44 report the findings to the Attorney General and request prosecution. If the violation involves the
 45 Attorney General, a candidate for that office or a political committee or person supporting or op-

1 posing the Attorney General or a candidate for that office, the Secretary of State shall appoint an-
2 other prosecutor for that purpose; or

3 (b) In the case of a violation not subject to a penalty under ORS 260.993, may impose a civil
4 penalty under ORS 260.995.

5 (5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section involving
6 an alleged violation subject to a penalty under ORS 260.993, the Attorney General or other
7 prosecutor immediately shall examine the complaint or report to determine whether a violation of
8 an election law has occurred. If the Attorney General or prosecutor determines that a violation
9 has occurred, the Attorney General or prosecutor immediately shall begin prosecution in the name
10 of the state. The Attorney General or other prosecutor shall have the same powers in any county
11 of this state as the district attorney for the county.

12 (6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged
13 violation of an election law or rule not subject to a penalty under ORS 260.993, the Attorney Gen-
14 eral shall examine the complaint to determine whether a violation of an election law or rule has
15 occurred and shall make any investigation the Attorney General considers necessary. If the Attor-
16 ney General believes after an investigation that a violation of an election law or rule has occurred,
17 the Attorney General may impose a civil penalty under ORS 260.995.

18 (7) In the case of an alleged violation subject to a civil penalty under ORS 260.995, a complaint
19 shall be filed by an elector under this section no later than 90 days following the election at which
20 a violation of an election law or rule is alleged to have occurred, or 90 days following the date the
21 violation of an election law or rule is alleged to have occurred, whichever is later.

22 (8) A filing officer having reason to believe that a violation of an election law or rule has oc-
23 curred shall proceed promptly as though the officer had received a complaint. A filing officer shall
24 proceed under this subsection no later than two years following the election at which a violation
25 of an election law or rule is alleged to have occurred, or two years following the date the violation
26 of an election law or rule is alleged to have occurred, whichever is later. If a filing officer has not
27 proceeded within two years because of fraud, deceit, misleading representation or the filing officer
28 could not have reasonably discovered the alleged violation, the filing officer shall proceed no later
29 than five years following the election at which a violation of an election law or rule is alleged to
30 have occurred, or five years following the date the violation of an election law or rule is alleged to
31 have occurred, whichever is later.

32 **SECTION 5.** ORS 254.415 is amended to read:

33 254.415. (1)(a) **Except as provided in paragraphs (b) and (c) of this subsection:**

34 (A) The county clerk[,] **or** an elections official [*or any elector*] shall challenge the ballot of any
35 person offering to vote whom the clerk[,] **or** official [*or elector*] knows or suspects not to be qualified
36 as an elector.

37 (B) **Any elector may challenge the ballot of a person offering to vote if the elector has**
38 **personal, firsthand knowledge that the person is not qualified as an elector.**

39 (b) **The county clerk, an elections official or an elector may not challenge the ballot of**
40 **any person offering to vote solely because the name of the person is contained on a list of**
41 **electors compiled through the use of mail that was sent by a political party, a candidate or**
42 **any other person or organization and was returned as undeliverable or, in the case of regis-**
43 **tered mail, was not acknowledged by the intended recipient.**

44 (c) **The county clerk, an elections official or an elector may not use an unverified match**
45 **list to challenge the ballot of any person offering to vote, unless the information on the list**

1 includes a signature, photograph or other unique identifying number that verifies the iden-
2 tity of the person.

3 (d) Paragraph (b) of this subsection does not apply to records of the county clerk, the
4 Secretary of State or the United States Postal Service.

5 (e) For purposes of this subsection:

6 (A) "Political party" means any local, state or national affiliate of a political party in-
7 cluding, but not limited to, subcontractors, vendors or other persons appointed by a political
8 party who act as agents for the party.

9 (B) "Unverified match list" means a list produced by matching the information of regis-
10 tered electors or applicants for voter registration to a list of persons who are ineligible to
11 vote.

12 (2) The county clerk, elections official or elector challenging the ballot shall make, under oath
13 or affirmation before a county clerk or other elections official, a written and numbered statement
14 of challenge. The statement shall contain the name and residence address of the challenger, the
15 name of the person challenged and a statement of the facts upon which the challenge is based.

16 (3) A person's ballot may be challenged at any time before the ballot is removed from its return
17 envelope for processing.

18 (4) For purposes of determining the number of registered voters eligible to vote in an
19 election described in section 11 (8), Article XI of the Oregon Constitution, during the period
20 beginning the day after an election and continuing until the 20th day after the election, any
21 elector may challenge the active registration status of an elector who did not vote in the
22 election. If after a challenge made under this subsection the county clerk determines that
23 the registration of an elector should not be considered active, the county clerk may not
24 consider the person to be eligible to vote for purposes of section 11 (8), Article XI of the
25 Oregon Constitution.

26 **SECTION 6.** Section 7 of this 2008 Act is added to and made a part of ORS chapter 247.

27 **SECTION 7.** (1) The Secretary of State may obtain and use records of the United States
28 Postal Service to verify the accuracy of addresses of electors contained in the elector records
29 of the Secretary of State.

30 (2) Based on information obtained under subsection (1) of this section, the Secretary of
31 State shall automatically update the address of an elector.

32 **SECTION 8.** The amendments to ORS 250.035 by section 1 of this 2008 Act apply to ballot
33 titles for state initiative or referendum petitions for which a prospective petition is filed on
34 or after the effective date of this 2008 Act.

35 **SECTION 9.** The amendments to ORS 250.085 by section 2 of this 2008 Act apply to ballot
36 title petitions filed on or after the effective date of this 2008 Act.

37 **SECTION 10.** The amendments to ORS 250.105 by section 3 of this 2008 Act apply to state
38 initiative or referendum petitions filed for signature verification on or after the effective
39 date of this 2008 Act.

40 **SECTION 11.** The amendments to ORS 260.345 by section 4 of this 2008 Act apply to
41 complaints received on or after the effective date of this 2008 Act.

42 **SECTION 12.** This 2008 Act being necessary for the immediate preservation of the public
43 peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect
44 on its passage.