

Senate Bill 1083

Sponsored by Senator WALKER (Presession 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 **as introduced**.

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.

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

Prohibits voter challenge based on list compiled through mail sent by political party.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; and amending ORS 248.008, 250.035, 250.085, 250.105,
3 254.415 and 260.345.

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:

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

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

23 (c) A simple and understandable statement of not more than 25 words that describes the result
24 if the state measure is rejected. The statement required by this paragraph shall not describe ex-
25 isting statutory or constitutional provisions in a way that would lead an average elector to believe
26 incorrectly that one of those provisions would be repealed by approval of the state measure, if ap-
27 proval would not have that result. Any thing or action described both in the statement required by
28 paragraph (b) of this subsection and in the statement required by this paragraph shall be described

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 using the same terms in both statements, to the extent practical. Any different terms must be terms
 2 that an average elector would understand to refer to the same thing or action. The statement shall
 3 include either the phrase, "I vote" or "vote no," or a substantially similar phrase, which may be
 4 placed at any point within the statement; and

5 (d) [A] **An accurate**, concise and impartial statement of not more than 125 words summarizing
 6 the *[state measure and its major effect]* **primary features and legal effects of the state measure**.

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

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

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

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

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

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

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

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

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

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

32 (b) If the title is provided by the Legislative Assembly under ORS 250.075, not later than the
 33 10th business day after the Legislative Assembly files the ballot title with the Secretary of State.

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

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

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

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

1 **(7) The Supreme Court shall certify a ballot title or refer the ballot title to the Attorney**
 2 **General under subsection (8) of this section not later than 30 days after the petition de-**
 3 **scribed in subsection (1) or (2) of this section is filed.**

4 (8) If the Supreme Court determines that the latest ballot title certified by the Attorney General
 5 or prepared by the Legislative Assembly substantially complies with the requirements of ORS
 6 250.035, the court shall certify the title to the Secretary of State. If the Supreme Court determines
 7 that the latest ballot title certified by the Attorney General or prepared by the Legislative Assembly
 8 does not substantially comply with the requirements of ORS 250.035, the court shall modify the
 9 ballot title and certify the ballot title to the Secretary of State or refer the ballot title to the At-
 10 torney General for modification.

11 (9) Not later than five business days after the Supreme Court refers a ballot title to the Attor-
 12 ney General under this section, the Attorney General shall file a modified ballot title with the Su-
 13 preme Court and serve copies of the modified ballot title on all parties to the ballot title review
 14 proceeding. If no party to the ballot title review proceeding files an objection to the modified ballot
 15 title within five business days after the date the modified ballot title is filed, the Supreme Court
 16 shall certify the modified ballot title to the Secretary of State and enter an appellate judgment the
 17 next judicial day. If any of the parties to the ballot title review proceeding timely files a petition
 18 objecting to the modified ballot title, the Supreme Court shall review the modified ballot title to
 19 determine whether the modified ballot title substantially complies with the requirements of ORS
 20 250.035.

21 (10) [*Upon the filing of a petition under subsection (9) of this section objecting to a modified ballot*
 22 *title*] **Not later than 30 days after a petition objecting to a modified ballot title is filed under**
 23 **subsection (9) of this section:**

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

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

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

32 250.105. (1)(a) An initiative or referendum petition relating to a state measure must be filed with
 33 the Secretary of State for the purpose of verifying whether the petition contains the required num-
 34 ber of signatures of electors.

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

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

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

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

45 (2) The secretary may not accept an initiative or referendum petition relating to a state measure

1 for filing if the petition contains less than 100 percent of the required number of signatures.

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

6 *[(4) The secretary by rule shall designate a statistical sampling technique to verify whether a peti-*
 7 *tion contains the required number of signatures of electors. A petition may not be rejected for the rea-*
 8 *son that it contains less than the required number of signatures unless two separate sampling processes*
 9 *both establish that the petition lacks the required number of signatures. The second sampling must*
 10 *contain a larger number of signatures than the first sampling. If two samplings are required under this*
 11 *subsection, the total number of signatures verified on the petition shall be not less than five percent of*
 12 *the total number of signatures on the petition.]*

13 *[(5) For purposes of estimating the number of duplicate signatures contained in a petition, the*
 14 *secretary shall apply at least an eight percent duplication rate in the first sampling of signatures on*
 15 *all petitions. If a second sampling of signatures is required under subsection (4) of this section, the*
 16 *secretary shall calculate an estimated signature duplication rate for each petition for which a second*
 17 *sampling is required. The calculation shall be based on the number of electors the secretary determines*
 18 *have signed a specific petition more than once.]*

19 **(4) The Secretary of State shall verify whether a state initiative or referendum petition**
 20 **contains the required number of signatures of electors by verifying each signature on the**
 21 **petition.**

22 *[(6)]* **(5)** When verifying signatures for a state initiative or referendum petition, the secretary
 23 *[or county clerk]* shall identify on an elector’s voter registration record or other database that the
 24 elector signed the specific initiative or referendum petition.

25 *[(7) The Secretary of State may employ professional assistance to determine the sampling technique*
 26 *to be designated under subsection (4) of this section.]*

27 **SECTION 4.** ORS 254.415 is amended to read:

28 254.415. (1)(a) **Except as provided in paragraph (b) of this subsection,** the county clerk, an
 29 elections official or any elector shall challenge the ballot of any person offering to vote whom the
 30 clerk, official or elector knows or suspects not to be qualified as an elector.

31 **(b) The county clerk, an elections official or any elector may not challenge the ballot of**
 32 **any person offering to vote solely because the name of the person was contained on a list**
 33 **of voters compiled through the use of mail sent by a political party that was returned as**
 34 **undeliverable or, in the case of registered mail, was not acknowledged by the intended re-**
 35 **ipient.**

36 **(c) For purposes of this subsection, “political party” means any local, state or national**
 37 **affiliate of a political party including, but not limited to, subcontractors, vendors or other**
 38 **individuals appointed by a political party who act as agents for the party.**

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

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

45 **SECTION 5.** ORS 260.345 is amended to read:

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

8 (2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed
 9 with any person other than the Secretary of State. If the complaint concerns the Secretary of State,
 10 any candidate for the office of the Secretary of State, or any political committee or person sup-
 11 porting the candidacy of the Secretary of State or of another person for the office of Secretary of
 12 State, the complaint and any additional information relating to the complaint shall be sent to the
 13 Attorney General.

14 (3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State
 15 or Attorney General immediately shall examine the complaint to determine whether a violation of
 16 an election law or rule has occurred and shall make any investigation the Secretary of State or
 17 Attorney General considers necessary. Except as provided in this subsection, within 48 hours of
 18 receiving a complaint under subsection (1) or (2) of this section, the Secretary of State or Attorney
 19 General shall notify the person who is the subject of the complaint that a complaint has been re-
 20 ceived. If the Secretary of State or Attorney General receives a complaint or complaints involving
 21 25 or more individuals or political committees in any 24-hour period, the Secretary of State or At-
 22 torney General need not notify the persons who are the subjects of those complaints within 48 hours
 23 of receiving the complaints but shall notify those persons not later than 10 business days after re-
 24 ceiving the complaint or complaints.

25 **(4) Not later than 90 days after receipt of a complaint under subsection (1) or (2) of this**
 26 **section, the Secretary of State shall determine whether a violation of an election law or rule**
 27 **has occurred.** If the Secretary of State believes after an investigation under subsection (3) of this
 28 section that a violation of an election law or rule has occurred, the secretary:

29 (a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall
 30 report the findings to the Attorney General and request prosecution. If the violation involves the
 31 Attorney General, a candidate for that office or a political committee or person supporting or op-
 32 posing the Attorney General or a candidate for that office, the Secretary of State shall appoint an-
 33 other prosecutor for that purpose; or

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

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

43 (6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged
 44 violation of an election law or rule not subject to a penalty under ORS 260.993, the Attorney Gen-
 45 eral shall examine the complaint to determine whether a violation of an election law or rule has

1 occurred and shall make any investigation the Attorney General considers necessary. **Not later**
 2 **than 90 days after receipt of a complaint under subsection (1) or (2) of this section, the At-**
 3 **torney General shall determine whether a violation of an election law or rule has occurred.**
 4 If the Attorney General believes after an investigation that a violation of an election law or rule
 5 has occurred, the Attorney General may impose a civil penalty under ORS 260.995.

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

10 (8) A filing officer having reason to believe that a violation of an election law or rule has oc-
 11 curred shall proceed promptly as though the officer had received a complaint. A filing officer shall
 12 proceed under this subsection no later than two years following the election at which a violation
 13 of an election law or rule is alleged to have occurred, or two years following the date the violation
 14 of an election law or rule is alleged to have occurred, whichever is later. If a filing officer has not
 15 proceeded within two years because of fraud, deceit, misleading representation or the filing officer
 16 could not have reasonably discovered the alleged violation, the filing officer shall proceed no later
 17 than five years following the election at which a violation of an election law or rule is alleged to
 18 have occurred, or five years following the date the violation of an election law or rule is alleged to
 19 have occurred, whichever is later.

20 **SECTION 6.** ORS 248.008 is amended to read:

21 248.008. (1) An affiliation of electors becomes a minor political party in the state, a county or
 22 other electoral district, qualified to make nominations for public office in that electoral district and
 23 in any other electoral district wholly contained within the electoral district, when either of the
 24 following events occurs:

25 (a) When the affiliation of electors has filed with the Secretary of State a petition with the
 26 signatures of at least a number of electors equal to one and one-half percent of the total votes cast
 27 in the electoral district for all candidates for Governor at the most recent election at which a can-
 28 didate for Governor was elected to a full term. The petition also shall state the intention to form
 29 a new political party and give the designation of it. The filed petition shall contain only original
 30 signatures. The petition shall be filed not later than two years following the date the prospective
 31 petition is filed. The circulator shall certify on each signature sheet that the circulator witnessed
 32 the signing of the signature sheet by each individual whose signature appears on the signature sheet
 33 and that the circulator believes each individual is an elector registered in the electoral district. The
 34 Secretary of State shall verify whether the petition contains the required number of signatures of
 35 electors. The petition shall not be accepted for filing if it contains less than 100 percent of the re-
 36 quired number of signatures. The Secretary of State by rule shall designate a statistical sampling
 37 technique to verify whether a petition contains the required number of signatures of electors. A
 38 petition shall not be rejected for the reason that it contains less than the required number of sig-
 39 natures unless two separate sampling processes both establish that the petition lacks the required
 40 number of signatures. The second sampling must contain a larger number of signatures than the first
 41 sampling. The Secretary of State may employ professional assistance to determine the sampling
 42 technique. [*The statistical sampling technique may be the same as that adopted under ORS 250.105.*]
 43 Before circulating the petition, the chief sponsor of the petition shall file with the Secretary of State
 44 a signed copy of the prospective petition. The chief sponsor shall include with the prospective peti-
 45 tion a statement declaring whether one or more persons will be paid money or other valuable con-

1 sideration for obtaining signatures of electors on the petition. After the prospective petition is filed,
2 the chief sponsor shall notify the filing officer not later than the 10th day after the chief sponsor
3 first has knowledge or should have had knowledge that:

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

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

8 (b) When the affiliation of electors has polled for any one of its candidates for any public office
9 in the electoral district at least one percent of the total votes cast in the electoral district for all
10 candidates for:

11 (A) Presidential elector at the last general election at which candidates for President and Vice
12 President of the United States were listed on the ballot; or

13 (B) Any single state office to be voted upon in the state at large for which nominations by pol-
14 itical parties are permitted by law at the most recent election at which a candidate for the office
15 was elected to a full term.

16 (2) After satisfying either requirement of subsection (1) of this section, the minor political party
17 may nominate candidates at the next general election if at any time during the period beginning on
18 the date of the next primary election and ending on the 90th day before the next general election,
19 a number of electors equal to at least one-tenth of one percent of the total votes cast in the state
20 or electoral district for all candidates for Governor at the most recent election at which a candidate
21 for Governor was elected to a full term are registered as members of the party.

22 (3) A filing officer shall not accept a certificate of nomination of a candidate nominated by a
23 minor political party unless the minor political party has satisfied the registration requirement of
24 subsection (2) of this section.

25 (4) After a minor political party qualifies to nominate candidates, in order to maintain status
26 as a minor political party:

27 (a) A candidate or candidates of the party must poll a number of votes described in subsection
28 (1)(b) of this section at each subsequent general election and following each general election, the
29 registration requirement of subsection (2) of this section must be satisfied; or

30 (b) Following each general election, at any time during the period beginning on the date of the
31 next primary election and ending on the 90th day before the next general election, a number of
32 electors equal to at least one-half of one percent of the total number of registered electors in this
33 state must be registered as members of the party.

34 (5) An affiliation of electors ceases to be a minor political party in the state or electoral district
35 if:

36 (a) The registration requirement of subsection (2) or (4)(b) of this section is not satisfied. The
37 affiliation of electors ceases to be a minor political party on the date of the deadline for satisfying
38 the registration requirement; or

39 (b) Except as provided in subsection (4)(b) of this section, in the case of a minor political party
40 qualified to nominate candidates, a candidate or candidates of the minor political party do not sat-
41 isfy the one percent requirement specified in subsection (1)(b) of this section at the next general
42 election. The affiliation of electors ceases to be a minor political party on the date of the election.

43 (6) During the period beginning on the date of the primary election and ending on the 90th day
44 before the date of the general election, the Secretary of State shall determine not less than once
45 each month whether the registration requirement of subsection (2) or (4)(b) of this section has been

1 satisfied. If the party changes its name, only those electors who register on or after the effective
 2 date of the name change as members of the party under the new party name shall be counted as
 3 members of the party under this subsection.

4 (7) An affiliation of electors or a minor political party may not satisfy the one percent require-
 5 ment referred to in subsection (1)(b) of this section by nominating a candidate who is the nominee
 6 of another political party at the same election.

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

10 (2) Based on information obtained under subsection (1) of this section, the Secretary of
 11 State may automatically update the address of an elector.

12 **SECTION 8. Section 7 of this 2008 Act is added to and made a part of ORS chapter 247.**

13 **SECTION 9. The amendments to ORS 250.035 by section 1 of this 2008 Act apply to ballot**
 14 **titles for state initiative or referendum petitions for which a prospective petition is filed on**
 15 **or after the effective date of this 2008 Act.**

16 **SECTION 10. The amendments to ORS 250.085 by section 2 of this 2008 Act apply to ballot**
 17 **title petitions filed on or after the effective date of this 2008 Act.**

18 **SECTION 11. The amendments to ORS 250.105 by section 3 of this 2008 Act apply to state**
 19 **initiative or referendum petitions filed for signature verification on or after January 1, 2010.**

20 **SECTION 12. The amendments to ORS 254.415 by section 4 of this 2008 Act apply to**
 21 **statements of challenge submitted on or after the effective date of this 2008 Act.**

22 **SECTION 13. The amendments to ORS 260.345 by section 5 of this 2008 Act apply to**
 23 **complaints received on or after the effective date of this 2008 Act.**

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