

## SENATE AMENDMENTS TO SENATE BILL 1083

By COMMITTEE ON ELECTIONS AND ETHICS

February 18

1 On page 1 of the printed bill, line 2, after the second semicolon delete the rest of the line and  
2 line 3 and insert “amending ORS 250.035, 250.085, 250.105, 254.415 and 260.345; and declaring an  
3 emergency.”.

4 Delete lines 5 through 28 and delete pages 2 through 8 and insert:

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  
10 measure so that an affirmative response to the question corresponds to an affirmative vote on the  
11 measure; and

12 “(c) A concise and impartial statement of not more than 175 words summarizing the measure  
13 and 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 existing  
25 statutory or constitutional provisions in a way that would lead an average elector to believe incor-  
26 rectly that one of those provisions would be repealed by approval of the state measure, if approval  
27 would not have that result. Any thing or action described both in the statement required by para-  
28 graph (b) of this subsection and in the statement required by this paragraph shall be described using  
29 the same terms in both statements, to the extent practical. Any different terms must be terms that  
30 an average elector would understand to refer to the same thing or action. The statement shall in-  
31 clude either the phrase, ‘I vote’ or ‘vote no,’ or a substantially similar phrase, which may be placed  
32 at any point within the statement; and

33 “(d) A concise and impartial statement of not more than 125 words summarizing the state  
34 measure and its major *[effect]* **effects**.

35 “(3) The statements required by subsection (2)(b) and (c) of this section shall be written so that,

1 to the extent practicable, the language of the two statements is parallel.

2 “(4) The statement required by subsection (2)(b) of this section shall be written so that an af-  
3 firmative response to the statement corresponds to an affirmative vote on the state measure.

4 “(5) The statement required by subsection (2)(c) of this section shall be written so that an af-  
5 firmative response to the statement corresponds to a negative vote on the state measure.

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

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

12 “**SECTION 2.** ORS 250.085 is amended to read:

13 “250.085. (1) Any elector dissatisfied with a ballot title prepared by the Legislative Assembly for  
14 a measure referred to the people by the assembly and filed with the Secretary of State may petition  
15 the Supreme Court seeking a different title. The petition shall state the reasons that the title filed  
16 with the Secretary of State does not substantially comply with the requirements of ORS 250.035.

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

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

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

25 “(b) If the title is provided by the Legislative Assembly under ORS 250.075, not later than the  
26 10th business day after the Legislative Assembly files the ballot title with the Secretary of State.

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

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

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

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

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

44 “(8) If the Supreme Court determines that the latest ballot title certified by the Attorney Gen-  
45 eral or prepared by the Legislative Assembly substantially complies with the requirements of ORS

1 250.035, the court shall certify the title to the Secretary of State. If the Supreme Court determines  
2 that the latest ballot title certified by the Attorney General or prepared by the Legislative Assembly  
3 does not substantially comply with the requirements of ORS 250.035, the court shall modify the  
4 ballot title and certify the ballot title to the Secretary of State or refer the ballot title to the At-  
5 torney General for modification.

6 “(9) Not later than five business days after the Supreme Court refers a ballot title to the At-  
7 torney General under this section, the Attorney General shall file a modified ballot title with the  
8 Supreme Court and serve copies of the modified ballot title on all parties to the ballot title review  
9 proceeding. If no party to the ballot title review proceeding files [*an objection*] **a petition objecting**  
10 to the modified ballot title within five business days after the date the modified ballot title is filed,  
11 the Supreme Court shall certify the modified ballot title to the Secretary of State and enter an ap-  
12 pellate judgment the next judicial day. If any of the parties to the ballot title review proceeding  
13 timely files a petition objecting to the modified ballot title, the Supreme Court shall review the  
14 modified ballot title to determine whether the modified ballot title substantially complies with the  
15 requirements of ORS 250.035.

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

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

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

26 “**SECTION 3.** ORS 250.105 is amended to read:

27 “250.105. (1)(a) An initiative or referendum petition relating to a state measure must be filed  
28 with the Secretary of State for the purpose of verifying whether the petition contains the required  
29 number of signatures of electors. **The secretary shall verify whether a state initiative or ref-**  
30 **erendum petition contains the required number of signatures of electors.**

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

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

36 “(d) The secretary shall adopt rules establishing procedures for verifying signatures on an ini-  
37 tiative or referendum petition.

38 “(e) The filed initiative or referendum petition must contain only original signatures. The sec-  
39 retary [*or county clerk*] shall verify each petition in the order in which the petitions are filed with  
40 the secretary.

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

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

1 the petitioners may submit additional signatures.

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

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

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

20 “(7) The secretary [*of State*] may employ professional assistance to determine the sampling  
21 technique to be designated under subsection (4) of this section.

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

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

30 “**SECTION 4.** ORS 260.345 is amended to read:

31 “260.345. (1) Any elector may file with any filing officer a written complaint alleging that a vi-  
32 olation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260  
33 has occurred and stating the reason for believing that the violation occurred and any evidence re-  
34 lating to it. A complaint alleging a violation involving the Secretary of State, a candidate for the  
35 office of Secretary of State, or any political committee or person supporting the Secretary of State  
36 or a candidate for the office of Secretary of State may be filed with the Attorney General. The  
37 Secretary of State or Attorney General shall not accept an anonymous complaint.

38 “(2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed  
39 with any person other than the Secretary of State. If the complaint concerns the Secretary of State,  
40 any candidate for the office of the Secretary of State, or any political committee or person sup-  
41 porting the candidacy of the Secretary of State or of another person for the office of Secretary of  
42 State, the complaint and any additional information relating to the complaint shall be sent to the  
43 Attorney General.

44 “(3)(a) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of  
45 State or Attorney General immediately shall examine the complaint to determine whether a vio-

1 lation of an election law or rule has occurred and shall make any investigation the Secretary of  
2 State or Attorney General considers necessary. Except as provided in this [subsection] **paragraph**,  
3 within 48 hours of receiving a complaint under subsection (1) or (2) of this section, the Secretary  
4 of State or Attorney General shall notify the person who is the subject of the complaint that a  
5 complaint has been received. If the Secretary of State or Attorney General receives a complaint or  
6 complaints involving 25 or more individuals or political committees in any 24-hour period, the Sec-  
7 retary of State or Attorney General need not notify the persons who are the subjects of those  
8 complaints within 48 hours of receiving the complaints but shall notify those persons not later than  
9 10 business days after receiving the complaint or complaints.

10 **“(b) Not later than 90 days after receipt of a complaint under subsection (1) or (2) of this**  
11 **section, the Secretary of State or Attorney General shall notify in writing the elector who**  
12 **filed the complaint whether the Secretary of State or Attorney General requires additional**  
13 **time to determine whether a violation of an election law or rule has occurred. Not later than**  
14 **one year after receipt of the complaint, the Secretary of State or Attorney General shall**  
15 **determine whether a violation has occurred. Written notification provided under this para-**  
16 **graph shall state only that an extension of time is needed to determine whether a violation**  
17 **has occurred.**

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

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

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

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

29 “(5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section in-  
30 volving an alleged violation subject to a penalty under ORS 260.993, the Attorney General or other  
31 prosecutor immediately shall examine the complaint or report to determine whether a violation of  
32 an election law has occurred. If the Attorney General or prosecutor determines that a violation  
33 has occurred, the Attorney General or prosecutor immediately shall begin prosecution in the name  
34 of the state. The Attorney General or other prosecutor shall have the same powers in any county  
35 of this state as the district attorney for the county.

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

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

1 “(8) A filing officer having reason to believe that a violation of an election law or rule has oc-  
2 curred shall proceed promptly as though the officer had received a complaint. A filing officer shall  
3 proceed under this subsection no later than two years following the election at which a violation  
4 of an election law or rule is alleged to have occurred, or two years following the date the violation  
5 of an election law or rule is alleged to have occurred, whichever is later. If a filing officer has not  
6 proceeded within two years because of fraud, deceit, misleading representation or the filing officer  
7 could not have reasonably discovered the alleged violation, the filing officer shall proceed no later  
8 than five years following the election at which a violation of an election law or rule is alleged to  
9 have occurred, or five years following the date the violation of an election law or rule is alleged to  
10 have occurred, whichever is later.

11 **“SECTION 5.** ORS 254.415 is amended to read:

12 **“254.415. (1)(a) Except as provided in paragraphs (b) and (c) of this subsection:**

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

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

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

23 **“(c) The county clerk, an elections official or an elector may not use an unverified match**  
24 **list to challenge the ballot of any person offering to vote, unless the information on the list**  
25 **includes a signature, photograph or other unique identifying number that verifies the iden-**  
26 **tity of the person.**

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

29 **“(e) For purposes of this subsection:**

30 **“(A) ‘Political party’ means any local, state or national affiliate of a political party in-**  
31 **cluding, but not limited to, subcontractors, vendors or other persons appointed by a political**  
32 **party who act as agents for the party.**

33 **“(B) ‘Unverified match list’ means a list produced by matching the information of regis-**  
34 **tered electors or applicants for voter registration to a list of persons who are ineligible to**  
35 **vote.**

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

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

42 **“(4) For purposes of determining the number of registered voters eligible to vote in an**  
43 **election described in section 11 (8), Article XI of the Oregon Constitution, during the period**  
44 **beginning the day after an election and continuing until the 20th day after the election, any**  
45 **elector may challenge the active registration status of an elector who did not vote in the**

1 election. If after a challenge made under this subsection the county clerk determines that  
2 the registration of an elector should not be considered active, the county clerk may not  
3 consider the person to be eligible to vote for purposes of section 11 (8), Article XI of the  
4 Oregon Constitution.

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

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

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

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

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

16 “SECTION 10. The amendments to ORS 250.105 by section 3 of this 2008 Act apply to state  
17 initiative or referendum petitions filed for signature verification on or after the effective  
18 date of this 2008 Act.

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

21 “SECTION 12. This 2008 Act being necessary for the immediate preservation of the public  
22 peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect  
23 on its passage.”.

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