

House Bill 2005

Sponsored by COMMITTEE ON RULES (at the request of Secretary of State Kate Brown)

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**.

Requires that person being paid to obtain signatures on prospective petition for state measure to be initiated must register with Secretary of State and complete training program. Extends period of time within which secretary must register applicant to obtain signatures on any state petition to five days.

Directs Secretary of State to prepare official templates of cover and signature sheets for prospective petitions for state measures to be initiated.

Directs chief petitioner of state initiative petition to file signature sheets with Secretary of State each month. Allows secretary to begin verification of signatures if secretary determines that at least 50 percent of total number of signatures required on state initiative petition have been filed.

Prohibits Secretary of State from counting signatures obtained by persons who have been convicted of certain crimes or subject to penalty for violation of election law or rule.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to election petitions; creating new provisions; amending ORS 250.029, 250.045, 250.048,
3 250.052, 250.105, 260.262, 260.561, 260.563, 260.567 and 260.995; and declaring an emergency.

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

5 **SECTION 1.** ORS 250.045 is amended to read:

6 250.045. (1) Before circulating a petition to initiate or refer a state measure under section 1,
7 Article IV, Oregon Constitution, the petitioner shall file with the Secretary of State a prospective
8 petition. The prospective petition for a state measure to be initiated shall contain [*a statement of*
9 *sponsorship signed by*] **the signatures of** at least 1,000 electors. The [*statement of sponsorship*
10 *shall*] **signature sheets must** be attached to a full and correct copy of the measure to be initiated.

11 **(2) Before obtaining signatures on a prospective petition for a state measure to be initi-**
12 **ated, the chief petitioners shall file with the Secretary of State a statement declaring**
13 **whether one or more persons will be paid money or other valuable consideration for obtain-**
14 **ing signatures of electors on the prospective petition. After a statement has been filed under**
15 **this subsection, the chief petitioners shall notify the secretary not later than the 10th day**
16 **after any of the chief petitioners first has knowledge or should have had knowledge that:**

17 **(a) Any person is being paid for obtaining signatures, when the statement filed under this**
18 **subsection declared that no such person would be paid.**

19 **(b) No person is being paid for obtaining signatures, when the statement filed under this**
20 **subsection declared that one or more such persons would be paid.**

21 [(2)] **(3) The secretary by rule shall establish procedures for verifying whether [*the statement of***
22 ***sponsorship*] a prospective petition for a state measure to be initiated contains the required**
23 **number of signatures of electors.**

24 [(3)] **(4) The secretary shall date and time stamp the prospective petition and specify the form**
25 **on which the initiative or referendum petition shall be printed for circulation as provided in ORS**

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.

1 250.052. The secretary shall retain the prospective petition.

2 [(4)] (5) The chief petitioner may amend the state measure to be initiated that has been filed
3 with the secretary without filing another prospective petition, if:

4 (a) The Attorney General certifies to the secretary that the proposed amendment will not sub-
5 stantially change the substance of the measure; and

6 (b) The deadline for submitting written comments on the draft title has not passed.

7 [(5)] (6) The cover of an initiative or referendum petition shall designate the name and residence
8 address of not more than three persons as chief petitioners and shall contain instructions for per-
9 sons obtaining signatures of electors on the petition. The instructions shall be adopted by the sec-
10 retary by rule. The cover of a referendum petition shall contain the final measure summary
11 described in ORS 250.065 (1). If a petition seeking a different ballot title is not filed with the Su-
12 preme Court by the deadline for filing a petition under ORS 250.085, the cover of an initiative peti-
13 tion shall contain the latest ballot title certified by the Attorney General under ORS 250.067 (2).
14 However, if the Supreme Court has reviewed the ballot title, the cover of the initiative petition shall
15 contain the title certified by the court.

16 [(6)] (7) The chief petitioners shall include with the prospective petition a statement declaring
17 whether one or more persons will be paid money or other valuable consideration for obtaining sig-
18 natures of electors on the initiative or referendum petition. After the prospective petition is filed,
19 the chief petitioners shall notify the filing officer not later than the 10th day after any of the chief
20 petitioners first has knowledge or should have had knowledge that:

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

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

25 [(7)(a)] (8)(a) Each sheet of signatures on an initiative petition shall contain the caption of the
26 ballot title. Each sheet of signatures on a referendum petition shall contain the subject expressed
27 in the title of the Act to be referred.

28 (b) Each sheet of signatures on an initiative or referendum petition shall:

29 (A) Contain a notice describing the meaning of the color of the signature sheet in accordance
30 with ORS 250.052; and

31 (B) If one or more persons will be paid for obtaining signatures of electors on the petition,
32 contain a notice stating: "Some Circulators For This Petition Are Being Paid." The notice shall be
33 in boldfaced type and shall be prominently displayed on the sheet.

34 (c) The secretary by rule shall adopt a method of designation to distinguish signature sheets of
35 referendum petitions containing the same subject reference and being circulated during the same
36 period.

37 [(8)] (9) The reverse side of the cover of an initiative or referendum petition shall be used for
38 obtaining signatures on the initiative or referendum petition.

39 [(9)] (10) Not more than 20 signatures on the signature sheet of the initiative or referendum
40 petition may be counted. The circulator shall certify on each signature sheet of the initiative or
41 referendum petition that the circulator:

42 (a) Witnessed the signing of the signature sheet by each individual whose signature appears on
43 the signature sheet; and

44 (b) Believes each individual is an elector.

45 [(10)] (11) The person obtaining signatures on the petition shall carry at least one full and cor-

1 rect copy of the measure to be initiated or referred and shall allow any person to review a copy
2 upon request of the person.

3 **SECTION 2.** ORS 250.048 is amended to read:

4 250.048. (1) A person may not pay money or other valuable consideration to another person for
5 obtaining signatures of electors on a state initiative, referendum or recall petition **or a prospective**
6 **petition for a state measure to be initiated**, and a person may not receive money or other valu-
7 able consideration for obtaining signatures of electors on a state initiative, referendum or recall
8 petition **or a prospective petition for a state measure to be initiated**, unless the person obtaining
9 the signatures:

10 (a) Registers with the Secretary of State in the manner prescribed by this section and by rule
11 of the secretary; and

12 (b) Completes the training program prescribed by rule of the secretary.

13 (2) A person may apply to the secretary for a registration required under subsection (1) of this
14 section. The application shall include:

15 (a) The full name and any assumed name of the applicant;

16 (b) The residential street address of the applicant;

17 (c) An example of the signature of the applicant;

18 **(d) A list of the prospective petitions on which the applicant will gather signatures;**

19 [(d)] **(e)** A list of the initiative, referendum and recall petitions on which the applicant will
20 gather signatures;

21 [(e)] **(f)** If the applicant has been convicted for a criminal offense involving fraud, forgery or
22 identification theft, information relating to the circumstances of the conviction as required by the
23 secretary;

24 [(f)] **(g)** A statement signed by the applicant acknowledging that the applicant has read and
25 understands Oregon law applicable to the gathering of signatures on state initiative, referendum and
26 recall petitions **and prospective petitions for state measures to be initiated**, as the law is sum-
27 marized in the training program established by the Secretary of State;

28 [(g)] **(h)** Evidence indicating that the applicant has completed the training required by the sec-
29 retary by rule;

30 [(h)] **(i)** A photograph of the applicant; and

31 [(i)] **(j)** A statement signed by a chief petitioner of each petition **or prospective petition** upon
32 which the applicant will gather signatures acknowledging that the chief petitioner is liable for vio-
33 lations of law or rule committed by the person obtaining signatures as provided in ORS 260.561.

34 (3) If an applicant complies with subsection (2) of this section, not later than [two] **five** business
35 days after the applicant applies, the secretary shall register the applicant and assign the applicant
36 a registration number. **A person who is registered to obtain signatures on a prospective peti-**
37 **tion for a state measure to be initiated need not reapply for a registration under this section**
38 **in order to obtain signatures on a state initiative, referendum or recall petition, except that**
39 **the person shall submit a list of the initiative, referendum and recall petitions on which the**
40 **person will gather signatures.**

41 (4) A person who has been convicted for a criminal offense involving fraud, forgery or identifi-
42 cation theft in any state during the five-year period prior to the date of the application may not
43 apply for registration under this section.

44 **(5) To assist in determining the identity of an applicant or whether an applicant has been**
45 **convicted for a criminal offense described in subsection (4) of this section, upon consent of**

1 **the applicant and upon request of the Secretary of State, the Department of State Police**
 2 **shall furnish to the secretary any information that the department may have in its pos-**
 3 **session from its central bureau of criminal identification, including but not limited to the**
 4 **Law Enforcement Data System established in ORS 181.730, other computerized information**
 5 **and any other information to which the department may have access. For purposes of re-**
 6 **ceiving the information described in this subsection, the office of the Secretary of State is**
 7 **a “criminal justice agency” under ORS 181.010 to 181.560 and 181.715 to 181.730 and the rules**
 8 **adopted under ORS 181.555. Upon submitting an application for registration described in**
 9 **subsection (2) of this section, an applicant is deemed to have given the consent necessary for**
 10 **purposes of this subsection.**

11 [(5)] **(6)** If a person receives money or other valuable consideration for obtaining signatures of
 12 electors on a state initiative, referendum or recall petition **or a prospective petition for a state**
 13 **measure to be initiated** and the person was not registered as required under this section at the
 14 time the signatures were obtained, the secretary may not [*count the*] **include any signatures ob-**
 15 **tained by the person in a count** under ORS **250.045 (3)** or 250.105 or ORS chapter 249 for purposes
 16 of determining whether the petition **or prospective petition** contains the required number of sig-
 17 natures of electors.

18 [(6)] **(7)** A person registered under this section shall carry evidence of registration with the
 19 person while the person is obtaining signatures on a state initiative, referendum or recall petition
 20 **or a prospective petition for a state measure to be initiated.** The evidence of registration shall
 21 contain the photograph and registration number of the person. The secretary by rule shall designate
 22 the form of the evidence of registration.

23 [(7)] **(8)** A photograph of an applicant submitted under subsection (2) of this section shall:

- 24 (a) Be a conventional photograph with a plain background;
- 25 (b) Show the face or the face, neck and shoulders of the applicant; and
- 26 (c) Be prepared and processed for printing as prescribed by the secretary.

27 **(9) A person registered under this section may not obtain signatures on a petition or**
 28 **prospective petition for which the person is being paid and, at the same time, obtain signa-**
 29 **tures on a petition or prospective petition for which the person is not being paid.**

30 [(8)] **(10)** The secretary shall adopt rules necessary to implement this section, including rules:

- 31 (a) Establishing procedures for registering persons who may be paid money or other valuable
 32 consideration for obtaining signatures of electors on state initiative, referendum or recall petitions
 33 **or prospective petitions for state measures to be initiated;** and
- 34 (b) Establishing a training program for persons who may be paid money or other valuable con-
 35 sideration for obtaining signatures of electors on state initiative, referendum or recall petitions **or**
 36 **prospective petitions for state measures to be initiated.**

37 **SECTION 3.** ORS 250.052 is amended to read:

38 250.052. (1)(a) For each state initiative, referendum or recall petition, the Secretary of State
 39 shall prepare official templates of the cover and signature sheets for the petition. Except as pro-
 40 vided in this section, templates of cover and signature sheets for state initiative and referendum
 41 petitions are subject to the requirements of ORS 250.045. The templates of signature sheets to be
 42 used by persons who are being paid to obtain signatures on the petition shall be a different color
 43 from the sheets to be used by persons who are not being paid to obtain signatures on the petition.

44 **(b) For each prospective petition for a state measure to be initiated the Secretary of**
 45 **State shall prepare official templates of the cover and signature sheets. The templates of**

1 **signature sheets to be used by persons who are being paid to obtain signatures on the pro-**
 2 **spective petition shall be a different color from the sheets to be used by persons who are not**
 3 **being paid to obtain signatures on the prospective petition. Each signature sheet for the**
 4 **prospective petition shall:**

5 (A) **Contain a notice describing the meaning of the color of the signature sheet; and**

6 (B) **If one or more persons will be paid for obtaining signatures of electors on the pro-**
 7 **spective petition, contain a notice stating: “Some Circulators For This Prospective Petition**
 8 **Are Being Paid.” The notice shall be in boldfaced type and shall be prominently displayed on**
 9 **the sheet.**

10 (2) A person obtaining signatures on a state initiative, referendum or recall petition **or a pro-**
 11 **spective petition for a state measure to be initiated** may use only the cover and signature sheets
 12 contained in the official templates prepared for the petition **or prospective petition**. A person who
 13 is being paid to obtain signatures on the petition **or prospective petition** shall use the signature
 14 sheet template designated for use by persons being paid to obtain signatures. A person who is not
 15 being paid to obtain signatures on the petition **or prospective petition** shall use the signature sheet
 16 template designated for use by persons who are not being paid to obtain signatures.

17 (3) The secretary shall issue templates for a petition **or prospective petition** only to a chief
 18 petitioner of the petition **or prospective petition** or to an agent designated by a chief petitioner.

19 (4) The secretary shall issue official templates to a chief petitioner or designated agent not later
 20 than:

21 (a) Three business days after the deadline for filing a petition under ORS 250.085 relating to a
 22 ballot title certified by the Attorney General for the state initiative petition or, if a petition is filed
 23 with the Supreme Court under ORS 250.085, three business days after the Supreme Court certifies
 24 to the Secretary of State a ballot title for the state initiative petition; *[or]*

25 (b) Three business days after a prospective petition is filed under ORS 249.865 or 250.045 for a
 26 state recall petition or state referendum petition[.]; **or**

27 (c) **Three business days after the chief petitioner files a statement with the Secretary**
 28 **of State under ORS 250.045 (2) for a prospective petition for a state measure to be initiated.**

29 (5) Not later than five business days after the deadline for the secretary to issue templates un-
 30 der subsection (4) of this section, a chief petitioner of a state initiative, referendum or recall petition
 31 **or a prospective petition for a state measure to be initiated** may submit to the secretary a
 32 written request for modification of the templates. The secretary shall approve or disapprove the
 33 request not later than five business days after receiving the request. If the secretary disapproves the
 34 request, the secretary shall advise the chief petitioner in writing of the reasons for the disapproval.

35 (6) In addition to the templates prepared under subsections (1) to (5) of this section, for each
 36 state initiative, referendum or recall petition, the secretary shall prepare an official electronic
 37 template of a signature sheet for the petition. A template prepared under this subsection shall allow
 38 space for the signature of one elector. An elector may print a copy of the electronic signature sheet
 39 for a petition, sign the sheet and deliver the signed sheet to a chief petitioner or an agent desig-
 40 nated by a chief petitioner. Electronic templates described in this subsection are subject to the re-
 41 quirements of ORS 250.045, other than ORS 250.045 [(5), (8) and (9)] **(6), (9) and (10)**.

42 (7) The secretary shall adopt rules prescribing the contents and method of production of official
 43 templates required under this section.

44 **SECTION 4.** ORS 260.262 is amended to read:

45 260.262. (1) As used in this section, “accounts” means:

1 (a) Any contract entered into by a chief petitioner of an initiative or referendum petition and
 2 any person for purposes of obtaining signatures on the **initiative or referendum petition or on a**
 3 **prospective petition for a state measure to be initiated;**

4 (b) Any employment manual or training materials provided to persons who obtain signatures on
 5 the petition **or prospective petition;**

6 (c) Payroll records for each employee obtaining signatures on the petition **or prospective pe-**
 7 **tion** showing hours worked, number of signatures collected and amounts paid;

8 (d) Records identifying the amount and purpose of each payment made by the chief petitioner
 9 or any contractor, as defined in ORS 260.563, to any subcontractor, as defined in ORS 260.563, ob-
 10 taining signatures on the petition **or prospective petition;** and

11 (e) Copies of signature sheets circulated by persons who are being paid to obtain signatures on
 12 the petition **or prospective petition.**

13 (2) For purposes of enforcing section 1b, Article IV of the Oregon Constitution, a chief petitioner
 14 of an initiative or referendum petition who pays any person money or other valuable consideration
 15 to obtain signatures on the petition **or prospective petition** shall keep detailed accounts. The ac-
 16 counts shall be current as of not later than the seventh calendar day after the date a payment is
 17 made to a person for obtaining signatures on the petition **or prospective petition.**

18 (3) The Secretary of State shall review the accounts of each chief petitioner described in sub-
 19 section (2) of this section in the manner and according to a regular schedule adopted by the secre-
 20 tary by rule.

21 (4) In addition to the review conducted under subsection (3) of this section, the secretary, At-
 22 torney General or Commissioner of the Bureau of Labor and Industries may inspect the accounts
 23 of a chief petitioner described in subsection (2) of this section under reasonable circumstances at
 24 any time before the deadline for filing signatures on the petition or during the period specified for
 25 retention of the accounts under subsection (5) of this section. The right of inspection may be en-
 26 forced by writ of mandamus issued by any court of competent jurisdiction.

27 (5) A chief petitioner must preserve the accounts pertaining to an initiative or referendum pe-
 28 tition **or a prospective petition for a state measure to be initiated** for at least two years after
 29 the deadline for filing the petition for verification of signatures or at least two years after the date
 30 the last statement is filed under ORS 260.118, whichever is later.

31 (6) If a chief petitioner does not produce accounts under subsection (3) or (4) of this section:

32 (a) There is a rebuttable presumption that a violation of section 1b, Article IV of the Oregon
 33 Constitution, has occurred; and

34 (b) The chief petitioner may not obtain additional signatures on the petition **or prospective**
 35 **petition** until the chief petitioner is able to supply the accounts to the secretary, Attorney General
 36 or commissioner.

37 (7) Accounts are not subject to disclosure under ORS 192.410 to 192.505.

38 **SECTION 5.** ORS 260.561 is amended to read:

39 260.561. (1) If a chief petitioner of a statewide initiative or referendum petition has knowledge
 40 **or should have had knowledge** of a violation of any provision of Oregon Revised Statutes or of
 41 any rule adopted by the Secretary of State under ORS chapters 246 to 260 related to the circulation
 42 of a statewide initiative or referendum petition **or a prospective petition for a state measure to**
 43 **be initiated** committed by a person obtaining signatures on the chief petitioner's petition **or pro-**
 44 **spective petition**, the violation by the person obtaining signatures shall be conclusively considered
 45 a violation by the chief petitioner.

1 (2) A chief petitioner shall not be liable under subsection (1) of this section if the chief
 2 petitioner notifies the Secretary of State in writing not later than one business day after the chief
 3 petitioner obtains knowledge of a potential violation. The notice shall state:

- 4 (a) That a potential violation has occurred;
- 5 (b) The nature of the potential violation; and
- 6 (c) All specific information known to the chief petitioner regarding the potential violation.

7 (3) If a statewide initiative or referendum petition has more than one chief petitioner, each chief
 8 petitioner *[with]* **who has knowledge or should have had** knowledge may be held liable under
 9 subsection (1) of this section.

10 (4) This section does not apply to a violation of law that is subject to criminal penalty.

11 **SECTION 6.** ORS 260.563 is amended to read:

12 260.563. (1) As used in this section:

13 (a) "Contractor" means a person who contracts on predetermined terms with a chief petitioner,
 14 or a person acting on behalf of a chief petitioner, of an initiative or referendum petition **or a pro-**
 15 **spective petition for a state measure to be initiated** for the purpose of obtaining signatures on
 16 the petition **or prospective petition.**

17 (b) "Subcontractor" means a person who contracts on predetermined terms with a contractor for
 18 the purpose of obtaining signatures on an initiative or referendum petition **or a prospective peti-**
 19 **tion for a state measure to be initiated** and who has no direct contractual relationship with a
 20 chief petitioner or other person acting on behalf of a chief petitioner.

21 (2) If a contractor has knowledge **or should have had knowledge** of an unreported violation
 22 of section 1b, Article IV of the Oregon Constitution, by a subcontractor, the violation by the sub-
 23 contractor is conclusively considered a violation by the contractor.

24 (3) A contractor is not liable under subsection (2) of this section if the contractor notifies the
 25 Secretary of State in writing not later than one business day after the contractor obtains knowledge
 26 of an unreported potential violation. The notice shall state:

- 27 (a) That a potential violation has occurred;
- 28 (b) The nature of the potential violation; and
- 29 (c) All specific information known to the contractor regarding the potential violation.

30 (4) This section does not apply to a violation of law that is subject to criminal penalty.

31 **SECTION 7.** ORS 260.567 is amended to read:

32 260.567. (1) Except as provided in subsection (2) of this section, a person other than the person
 33 who signed the signature sheet of an initiative, referendum, recall or candidate nominating
 34 petition, **a prospective petition for a state measure to be initiated** or a certificate of nomination
 35 may not write, alter, correct, clarify or obscure on the signature sheet any information about the
 36 person who signed the signature sheet.

37 (2) A person other than the person who signed the signature sheet may:

38 (a) Alter, correct, clarify or obscure on the signature sheet any information about the person
 39 who signed the signature sheet if the line on which the signature appears is subsequently initialed
 40 by the person who signed the signature sheet; or

41 (b) Write, alter, correct, clarify or obscure on the signature sheet any information about the
 42 person who signed the signature sheet if the person who signed the signature sheet is a person with
 43 a disability and requests assistance in writing, altering, correcting, clarifying or obscuring on the
 44 signature sheet any information about the person.

45 (3) As used in this section:

1 (a) "Information about the person who signed the signature sheet" means any information re-
 2 garding the person who signed the signature sheet of an initiative, referendum, recall or candidate
 3 nominating petition, **a prospective petition for a state measure to be initiated** or a certificate
 4 of nomination, in addition to the signature of the person, that is required or requested to be supplied
 5 on a signature sheet of an initiative, referendum, recall or candidate nominating petition, **a pro-**
 6 **spective petition** or a certificate of nomination.

7 (b) "The person who signed the signature sheet" means the person whose signature will be
 8 submitted for verification under ORS chapter 249 or ORS **250.045 (3)**, 250.105, 250.215, 250.315 or
 9 255.175 for the purpose of determining whether the petition, **prospective petition** or certificate
 10 contains the required number of signatures of electors.

11 **SECTION 8.** ORS 250.105 is amended to read:

12 250.105. (1)(a) An initiative or referendum petition relating to a state measure must be filed with
 13 the Secretary of State for the purpose of verifying whether the petition contains the required num-
 14 ber of signatures of electors.

15 (b) Signatures **previously verified** on a prospective petition for a state measure to be initiated
 16 shall be [*considered*] **included in the calculation** under this section for the purpose of verifying
 17 whether the initiative petition contains the required number of signatures of electors.

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

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

22 (e) [*The*] **A** filed [*initiative or*] referendum petition must contain only original signatures. The
 23 secretary or county clerk shall verify each petition in the order in which the petitions are filed with
 24 the secretary.

25 **(2) Once every month, the chief petitioner of an initiative petition relating to a state**
 26 **measure shall file with the Secretary of State all signature sheets containing signatures of**
 27 **electors obtained on the petition since the last monthly filing. The secretary shall hold all**
 28 **signature sheets filed under this subsection unless the chief petitioner withdraws the peti-**
 29 **tion. If the secretary determines that the total number of signatures filed under this sub-**
 30 **section is at least 50 percent of the required number of signatures, the secretary may begin**
 31 **to determine whether the petition contains the required number of signatures of electors.**
 32 **Signature sheets filed under this section shall contain only original signatures. The secretary**
 33 **shall adopt rules prescribing the dates by which signature sheets must be filed each month.**

34 [(2)] **(3)** The secretary may not accept [*an initiative or*] a referendum petition relating to a state
 35 measure for filing if the petition contains less than 100 percent of the required number of signatures.

36 [(3)] **(4)** If **the total number of signatures required on** an initiative **petition** or referendum
 37 petition is submitted not less than 165 days before the election at which the proposed measure is
 38 to be voted upon and if the secretary determines that insufficient signatures have been submitted
 39 but the deadline for filing **signatures on** the petition has not passed, the petitioners may submit
 40 additional signatures.

41 [(4)] **(5)** The secretary by rule shall designate a statistical sampling technique to verify whether
 42 a petition contains the required number of signatures of electors. A petition may not be rejected for
 43 the reason that it contains less than the required number of signatures unless two separate sampling
 44 processes both establish that the petition lacks the required number of signatures. The second
 45 sampling must contain a larger number of signatures than the first sampling. If two samplings are

1 required under this subsection, the total number of signatures verified on the petition shall be not
2 less than five percent of the total number of signatures on the petition.

3 [(5)] (6) For purposes of estimating the number of duplicate signatures contained in a petition,
4 the secretary shall apply at least an eight percent duplication rate in the first sampling of signatures
5 on all petitions. If a second sampling of signatures is required under subsection [(4)] (5) of this
6 section, the secretary shall calculate an estimated signature duplication rate for each petition for
7 which a second sampling is required. The calculation shall be based on the number of electors the
8 secretary determines have signed a specific petition more than once.

9 [(6)] (7) When verifying signatures for a state initiative or referendum petition, the secretary
10 or county clerk shall identify on an elector's voter registration record or other database that the
11 elector signed the specific initiative or referendum petition.

12 [(7)] (8) The Secretary of State may employ professional assistance to determine the sampling
13 technique to be designated under subsection [(4)] (5) of this section.

14 **SECTION 9.** ORS 250.029 is amended to read:

15 250.029. (1) **Except as provided in subsection (2) of this section,** the chief petitioners of an
16 initiative or referendum petition may withdraw the petition at any time prior to the submission of
17 the petition for signature verification.

18 (2) **The chief petitioners of an initiative petition relating to a state measure may with-**
19 **draw the petition at any time prior to the submission of the total number of signatures re-**
20 **quired on the petition for signature verification.**

21 (3) The Secretary of State by rule shall design a form for use in filing a withdrawal of any ini-
22 tiative or referendum petition. The withdrawal form must be signed by all of the chief petitioners
23 and filed with the filing officer.

24 **SECTION 10.** ORS 260.995 is amended to read:

25 260.995. (1) Except as provided in subsection (2) of this section, following an investigation under
26 ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed
27 \$250 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any
28 election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter
29 preliminary to or relating to an election, for which [no] a civil penalty is **not** otherwise provided.

30 (2) The secretary or the Attorney General may impose a civil penalty not to exceed:

31 (a) \$1,000 for each violation of ORS 251.049 (3) or 251.405 (3); or

32 (b) \$1,000 plus the amount converted to personal use for each violation of ORS 260.407.

33 (3) Except as otherwise provided by this section, civil penalties under this section shall be im-
34 posed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall
35 include:

36 (a) A statement of the authority and jurisdiction under which the hearing is to be held; and

37 (b) If the person is an agency, corporation or an unincorporated association, a statement that
38 such person must be represented by an attorney licensed in Oregon, unless the person is a political
39 committee which may be represented by any officer identified in the most recent statement of or-
40 ganization filed with the filing officer.

41 (4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
42 shall be held by the secretary or Attorney General:

43 (a) Upon request of the person against whom the penalty may be assessed, if the request is made
44 not later than the 20th day after the date the person received notice sent under subsection (3) of
45 this section; or

1 (b) Upon the secretary's or Attorney General's own motion.

2 (5) The person against whom a penalty may be assessed need not appear in person at a hearing
 3 held under this section, but instead may submit written testimony or other evidence, sworn to before
 4 a notary public, to the secretary or Attorney General for entry in the hearing record. The testimony
 5 or other evidence must be received by the secretary or Attorney General not later than three
 6 business days before the day of the hearing.

7 (6) All hearings under this section shall be held not later than 30 days after the deadline for the
 8 person against whom the penalty may be assessed to request a hearing. However, if requested by
 9 the person against whom the penalty may be assessed, a hearing under subsection (4) of this section
 10 shall be held not later than 45 days after the deadline for the person against whom the penalty may
 11 be assessed to request a hearing.

12 (7) The secretary or Attorney General shall issue an order not later than 90 days after a hearing
 13 or after the deadline for requesting a hearing if no hearing is held.

14 (8) All penalties recovered under this section shall be paid into the State Treasury and credited
 15 to the General Fund.

16 (9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the
 17 person against whom the penalty is assessed:

18 (a) Is personally responsible for the payment of the civil penalty;

19 (b) Shall pay the civil penalty from personal funds of the person; and

20 (c) May not pay the civil penalty from contributions received by a candidate or the principal
 21 campaign committee of a candidate.

22 **SECTION 11. Section 12 of this 2009 Act is added to and made a part of ORS chapter 260.**

23 **SECTION 12. The Secretary of State may not count signatures under ORS 250.045 (3) or
 24 250.105 or ORS chapter 249 for purposes of determining whether an initiative, referendum
 25 or recall petition or a prospective petition for a state measure to be initiated contains the
 26 required number of signatures of electors if the secretary determines that the person who
 27 obtained the signatures:**

28 **(1) Has been convicted for a criminal offense involving fraud, forgery or identification
 29 theft in any state during the five-year period prior to the date that the signatures were ob-
 30 tained; or**

31 **(2) Has been subject to a penalty under ORS 260.993 or 260.995 for violation of an election
 32 law or rule.**

33 **SECTION 13. The amendments to ORS 250.045, 250.048, 250.052, 260.262, 260.563 and 260.567
 34 by sections 1 to 4, 6 and 7 of this 2009 Act apply to signatures of electors collected on a
 35 prospective petition for a state measure to be initiated that, if filed with the required number
 36 of signatures of electors, will be submitted to the people at a general election occurring after
 37 the first Tuesday after the first Monday in November 2010, regardless of when the prospec-
 38 tive petition for the state measure to be initiated is filed.**

39 **SECTION 14. (1) The amendments to ORS 250.105 by section 8 of this 2009 Act apply to
 40 signature sheets for state initiative petitions that, if filed with the required number of sig-
 41 natures of electors, will be submitted to the people at a general election occurring after the
 42 first Tuesday after the first Monday in November 2010, regardless of when the prospective
 43 petition for the state initiative petition is filed.**

44 **(2) The amendments to ORS 250.029 by section 9 of this 2009 Act apply to state initiative
 45 petitions that, if filed with the required number of signatures of electors, will be submitted**

1 to the people at a general election occurring after the first Tuesday after the first Monday
2 in November 2010, regardless of when the prospective petition for the state initiative petition
3 is filed.

4 SECTION 15. Section 12 of this 2009 Act and the amendments to ORS 250.029, 250.045,
5 250.048, 250.052, 250.105, 260.262, 260.561, 260.563, 260.567 and 260.995 by sections 1 to 10 of this
6 2009 Act become operative on January 1, 2010.

7 SECTION 16. The Secretary of State may take any action before January 1, 2010, that is
8 necessary to enable the secretary to exercise, on and after January 1, 2010, all the duties,
9 functions and powers conferred on the secretary by section 12 of this 2009 Act and the
10 amendments to ORS 250.029, 250.045, 250.048, 250.052, 250.105, 260.262, 260.561, 260.563, 260.567
11 and 260.995 by sections 1 to 10 of this 2009 Act.

12 SECTION 17. This 2009 Act being necessary for the immediate preservation of the public
13 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
14 on its passage.

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