

House Bill 2942

Sponsored by Representative GARRETT; Representatives BRUUN, CANNON, DEMBROW, KAHL, READ, J SMITH,
Senator BONAMICI

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**.

Transfers responsibility for reviewing ballot titles from Supreme Court to Review Panel composed of retired judges.

Becomes operative July 1, 2010.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to ballot titles; creating new provisions; amending ORS 250.045, 250.052, 250.067, 250.085
3 and 254.085; and declaring an emergency.

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

5 **SECTION 1.** ORS 250.085 is amended to read:

6 250.085. (1)(a) Any elector dissatisfied with a ballot title prepared by the Legislative Assembly
7 for a measure referred to the people by the assembly and filed with the Secretary of State may pe-
8 tition the [*Supreme Court*] **Review Panel under this section** seeking a different title. The petition
9 shall state the reasons that the title filed with the Secretary of State does not substantially comply
10 with the requirements of ORS 250.035.

11 [(2)] (b) Any elector dissatisfied with the latest ballot title for an initiated or referred measure
12 certified by the Attorney General and who timely submitted written comments on the draft ballot
13 title may petition the [*Supreme Court*] **Review Panel under this section** seeking a different title.
14 The petition shall state the reasons that the title filed with the Secretary of State does not sub-
15 stantially comply with the requirements of ORS 250.035.

16 (c) **Any elector dissatisfied with the latest ballot title certified to the Secretary of State**
17 **by the Review Panel under this section may petition the panel seeking a different title. The**
18 **petition shall state the reasons that the title certified to the Secretary of State does not**
19 **substantially comply with the requirements of ORS 250.035.**

20 (2)(a) **The Supreme Court shall appoint pursuant to paragraph (b) of this subsection a**
21 **Review Panel composed of retired judges to review ballot titles submitted under this section.**

22 (b) **The Supreme Court shall appoint five retired judges who are willing to serve on the**
23 **Review Panel. A person is qualified to serve on the panel if the person was a judge who**
24 **elected to retire under ORS 238.535 (1)(b) and has never held elected partisan public office**
25 **or political party office. Not more than two of the five retired judges may be members of the**
26 **same political party. The two largest political parties in the state shall be equally repres-**
27 **ented among the selected retired judges.**

28 (c) **Each Review Panel shall serve for a term of two years that begins on July 1 of the**
29 **even-numbered year.**

30 (d) **In the event of a vacancy in the Review Panel, the Supreme Court shall appoint a**

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 **qualified person who satisfies the composition requirements for the panel under paragraph**
 2 **(b) of this subsection.**

3 (3) *[The petition shall name the Attorney General as the respondent and]* **A petition under this**
 4 **section must be filed with the Secretary of State:**

5 (a) Not later than the 10th business day after the Attorney General **or the Review Panel** cer-
 6 tifies a ballot title or **the Attorney General or the Review Panel certifies** a corrected ballot title
 7 to the Secretary of State[, *whichever is later*]; or

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

10 (4) *[An elector filing a petition under this section shall notify the Secretary of State in writing that*
 11 *the petition has been filed. The notice must be received in the office of the Secretary of State not later*
 12 *than 5 p.m. on the next business day following the day the petition is filed.]* **Upon receiving a petition**
 13 **filed under this section, the Secretary of State shall notify and deliver the petition to the**
 14 **Review Panel.**

15 (5) The *[Supreme Court]* **Review Panel** shall review the title for substantial compliance with the
 16 requirements of ORS 250.035. **Review by the panel shall be conducted expeditiously to ensure**
 17 **the orderly and timely circulation of the petition or conduct of the election at which the**
 18 **measure is to be submitted to the electors.**

19 (6) When reviewing a title certified by the Attorney General, the *[Supreme Court shall]* **Review**
 20 **Panel may** not consider arguments concerning the ballot title not presented in writing to the Sec-
 21 retary of State unless the *[court]* **panel** determines that the argument concerns language added to
 22 or removed from the draft **ballot** title after expiration of the comment period provided in ORS
 23 250.067.

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

27 *[(8)]* (7) If the *[Supreme Court]* **Review Panel** determines that the latest ballot title certified by
 28 the Attorney General or prepared by the Legislative Assembly substantially complies with the re-
 29 quirements of ORS 250.035, the *[court]* **panel** shall certify the title to the Secretary of State. If the
 30 *[Supreme Court]* **panel** determines that the latest ballot title certified by the Attorney General or
 31 prepared by the Legislative Assembly does not substantially comply with the requirements of ORS
 32 250.035, the *[court]* **panel** shall modify the ballot title and certify the ballot title to the Secretary
 33 of State or refer the ballot title to the Attorney General for modification.

34 *[(9)]* (8) Not later than five business days after the *[Supreme Court]* **Review Panel** refers a ballot
 35 title to the Attorney General under this section, the Attorney General shall file a modified ballot
 36 title with the *[Supreme Court]* **panel** and serve copies of the modified ballot title on all parties to
 37 the ballot title review proceeding. If no party to the ballot title review proceeding files an objection
 38 to the modified ballot title within five business days after the date the modified ballot title is filed,
 39 the *[Supreme Court]* **panel** shall certify the modified ballot title to the Secretary of State *[and enter*
 40 *an appellate judgment the next judicial day]*. If any of the parties to the ballot title review proceeding
 41 timely files a petition objecting to the modified ballot title, the *[Supreme Court]* **panel** shall review
 42 the modified ballot title to determine whether the modified ballot title substantially complies with
 43 the requirements of ORS 250.035.

44 *[(10)]* (9) Upon the filing of a petition under subsection *[(9)]* (8) of this section objecting to a
 45 modified ballot title:

1 (a) If the [*Supreme Court*] **Review Panel** determines that the modified ballot title substantially
 2 complies with the requirements of ORS 250.035, the [*court*] **panel** shall certify the modified ballot
 3 title to the Secretary of State; or

4 (b) If the [*Supreme Court*] **Review Panel** determines that the modified ballot title does not sub-
 5 stantially comply with the requirements of ORS 250.035, the [*court*] **panel** shall modify the ballot
 6 title and certify the ballot title to the Secretary of State or refer the modified ballot title to the
 7 Attorney General for additional modification and further proceedings under subsection [(9)] **(8)** of
 8 this section.

9 **SECTION 2.** ORS 250.045 is amended to read:

10 250.045. (1) Before circulating a petition to initiate or refer a state measure under section 1,
 11 Article IV, Oregon Constitution, the petitioner shall file with the Secretary of State a prospective
 12 petition. The prospective petition for a state measure to be initiated shall contain a statement of
 13 sponsorship signed by at least 1,000 electors. The statement of sponsorship shall be attached to a
 14 full and correct copy of the measure to be initiated.

15 (2) The secretary by rule shall establish procedures for verifying whether the statement of
 16 sponsorship contains the required number of signatures of electors.

17 (3) The secretary shall date and time stamp the prospective petition and specify the form on
 18 which the initiative or referendum petition shall be printed for circulation as provided in ORS
 19 250.052. The secretary shall retain the prospective petition.

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

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

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

25 (5) The cover of an initiative or referendum petition shall designate the name and residence
 26 address of not more than three persons as chief petitioners and shall contain instructions for per-
 27 sons obtaining signatures of electors on the petition. The instructions shall be adopted by the sec-
 28 retary by rule. The cover of a referendum petition shall contain the final measure summary
 29 described in ORS 250.065 (1). If a petition seeking a different ballot title is not filed [*with the Su-*
 30 *preme Court*] by the deadline for filing a petition under ORS 250.085, the cover of an initiative pe-
 31 tition shall contain the latest ballot title certified by the Attorney General under ORS 250.067 (2).
 32 However, if the [*Supreme Court*] **Review Panel** has reviewed the ballot title **under ORS 250.085**, the
 33 cover of the initiative petition shall contain the title certified by the [*court*] **panel**.

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

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

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

43 (7)(a) Each sheet of signatures on an initiative petition shall contain the caption of the ballot
 44 title. Each sheet of signatures on a referendum petition shall contain the subject expressed in the
 45 title of the Act to be referred.

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

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

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

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

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

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

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

(b) Believes each individual is an elector.

(10) The person obtaining signatures on the petition shall carry at least one full and correct copy of the measure to be initiated or referred and shall allow any person to review a copy upon request of the person.

SECTION 3. ORS 250.052 is amended to read:

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

(2) A person obtaining signatures on a state initiative, referendum or recall petition may use only the cover and signature sheets contained in the official templates prepared for the petition. A person who is being paid to obtain signatures on the petition shall use the signature sheet template designated for use by persons being paid to obtain signatures. A person who is not being paid to obtain signatures on the petition shall use the signature sheet template designated for use by persons who are not being paid to obtain signatures.

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

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

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

(b) Three business days after a prospective petition is filed under ORS 249.865 or 250.045 for a state recall petition or state referendum petition.

(5) Not later than five business days after the deadline for the secretary to issue templates un-

1 der subsection (4) of this section, a chief petitioner of a state initiative, referendum or recall petition
 2 may submit to the secretary a written request for modification of the templates. The secretary shall
 3 approve or disapprove the request not later than five business days after receiving the request. If
 4 the secretary disapproves the request, the secretary shall advise the chief petitioner in writing of
 5 the reasons for the disapproval.

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

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

15 **SECTION 4.** ORS 250.067 is amended to read:

16 250.067. (1) The Secretary of State, upon receiving a draft ballot title from the Attorney General
 17 under ORS 250.065 or 250.075, shall provide reasonable statewide notice of having received the draft
 18 ballot title and of the public's right to submit written comments as provided in this section. Written
 19 comments concerning a draft ballot title may be submitted to the secretary not later than the 10th
 20 business day after the secretary receives the draft title from the Attorney General. On the next
 21 business day after the deadline for submitting comments, the secretary shall send a copy of all
 22 written comments to the Attorney General. The secretary shall maintain a record of written com-
 23 ments received.

24 (2)(a) If written comments are submitted to the secretary under subsection (1) of this section,
 25 the Attorney General shall consider the comments and certify to the secretary either the draft ballot
 26 title or a revised ballot title not later than the 10th business day after receiving the comments from
 27 the secretary.

28 (b) If no written comments are submitted to the secretary, the Attorney General shall certify the
 29 draft ballot title not later than the 20th business day after the secretary receives the draft title from
 30 the Attorney General. If the Attorney General determines that a draft ballot title described in this
 31 paragraph contains a clerical error, the Attorney General may correct the error before certifying
 32 the corrected draft ballot title to the secretary.

33 (c) If the Attorney General determines that a ballot title certified under this subsection contains
 34 a clerical error, the Attorney General may correct the error and certify to the secretary a corrected
 35 ballot title not later than the 10th business day after the date the ballot title was certified.

36 (d) The secretary shall furnish the chief petitioner with a copy of each ballot title certified un-
 37 der this subsection.

38 (3) Unless the [*Supreme Court*] **Review Panel** certifies a different ballot title, the latest ballot
 39 title certified by the Attorney General under subsection (2) of this section is the title to be printed
 40 in the voters' pamphlet and on the ballot.

41 (4) If a petition is filed [*with the Supreme Court as provided in*] **under** ORS 250.085, the Secre-
 42 tary of State shall [*file with the Supreme Court*] **deliver to the Review Panel** a copy of the written
 43 comments received as part of the record on review of the ballot title.

44 (5) The secretary by rule shall specify the means for providing reasonable statewide notice for
 45 submitting comments on a draft ballot title.

1 (6) As used in this section, “clerical error” means a typographical, arithmetical or grammatical
 2 error or omission that is evident from the text of the draft or certified ballot title or by comparison
 3 of the text of the draft or certified ballot title with a written explanation that was provided by the
 4 Attorney General and issued concurrently with the draft or certified ballot title.

5 **SECTION 5.** ORS 254.085 is amended to read:

6 254.085. (1) The Secretary of State, not later than the 61st day before the date of a primary or
 7 general election, shall file with each county clerk a statement of the state and congressional district
 8 offices to be filled or for which candidates are to be nominated in the county at the election, infor-
 9 mation concerning all candidates for the offices, and the state measures to be voted on.

10 (2) The information concerning candidates for the Supreme Court, Court of Appeals, Oregon Tax
 11 Court and circuit court shall include a designation of incumbent for each candidate who is the
 12 regularly elected or appointed judge of the court to which the candidate seeks election. If a candi-
 13 date was regularly elected or appointed to a specific position or department on the court, the candi-
 14 date shall be designated as the incumbent only if the person is a candidate for that position or
 15 department.

16 (3) Included with each state measure shall be the measure number, the latest ballot title certi-
 17 fied by the Attorney General under ORS 250.067 (2) or, if the [*Supreme Court*] **Review Panel** has
 18 reviewed the title under ORS 250.085, the title certified by the [*court*] **panel** and the financial esti-
 19 mates under ORS 250.125. The Secretary of State shall keep a copy of the statement.

20 **SECTION 6. (1) The Supreme Court shall appoint the first Review Panel not later than**
 21 **July 1, 2010.**

22 **(2) The amendments to ORS 250.045, 250.052, 250.067, 250.085 and 254.085 by sections 1 to**
 23 **5 of this 2009 Act apply to ballot titles for initiative petitions for which a prospective petition**
 24 **is filed on or after July 1, 2010.**

25 **SECTION 7. The Secretary of State, Attorney General or Supreme Court may take any**
 26 **action before July 1, 2010, that is necessary to enable the secretary, Attorney General or**
 27 **Supreme Court to exercise, on and after July 1, 2010, all the duties, functions and powers**
 28 **conferred upon the secretary, Attorney General or Supreme Court by section 6 of this 2009**
 29 **Act and the amendments to ORS 250.045, 250.052, 250.067, 250.085 and 254.085 by sections 1**
 30 **to 5 of this 2009 Act.**

31 **SECTION 8. The amendments to ORS 250.045, 250.052, 250.067, 250.085 and 254.085 by**
 32 **sections 1 to 5 of this 2009 Act become operative on July 1, 2010.**

33 **SECTION 9. This 2009 Act being necessary for the immediate preservation of the public**
 34 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
 35 **on its passage.**

36