

Enrolled
House Bill 3237

Sponsored by Representative BARKER (at the request of Richard P. Burke, Heidi Rickey)

CHAPTER

AN ACT

Relating to elections; creating new provisions; and amending ORS 246.410, 250.038, 250.048, 250.105, 254.545, 260.561, 260.563 and 280.070; and declaring an emergency.

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

SECTION 1. ORS 280.070 is amended to read:

280.070. (1) An election within a county for the purpose of approving a tax levy or tax rate under ORS 280.060 shall be called by the county court or board of county commissioners and shall be held on a date specified in ORS 203.085.

(2) An election within a city for the purpose of approving a tax levy or tax rate under ORS 280.060 or under section 11 (3)(c), Article XI of the Oregon Constitution, shall be called by the governing body of the city and held on a date specified in ORS 221.230.

(3) An election within a political subdivision other than a county or city for the purpose of approving a tax levy or tax rate under ORS 280.060 or under section 11 (3)(c), Article XI of the Oregon Constitution, shall be called by the governing body of the subdivision and held on a date specified in ORS 255.345.

(4)(a) **Except as provided in paragraph (b) of this subsection,** the ballot title for a measure authorizing the imposition of local option taxes shall contain the following additional statement:

This measure may cause property taxes to increase more than three percent.

(b) The ballot title for a measure authorizing the renewal of current local option taxes shall contain the following additional statement:

This measure renews current local option taxes.

[(b)] (c) The statement required by this subsection **shall be placed after the question on the ballot title and** may not be considered for purposes of the word count limitations under ORS 250.035.

[(c) *The statement required by this subsection shall be placed after the question on the ballot title.*]

(5) As part of the question, the ballot title for a measure authorizing **or renewing the authorization of** the imposition of local option taxes shall state:

- (a) The length in years of the period during which the proposed local option tax will be imposed.
- (b) The first fiscal year in which the proposed local option tax will be imposed.

(6) As part of the question, the ballot title for a measure authorizing the establishment of a permanent rate limitation shall contain the following information:

- (a) The tax rate per \$1,000 of assessed value of the proposed permanent rate limitation.
- (b) The first fiscal year in which the proposed permanent rate limitation will be imposed.

(7) The ballot title for a measure authorizing the imposition of local option taxes or a permanent rate limitation shall be in compliance with ORS 250.036.

SECTION 2. ORS 250.038 is amended to read:

250.038. (1) In addition to meeting other applicable requirements of this chapter:

~~[(1)]~~ (a) The ballot title for a measure authorizing the imposition of local option taxes shall contain the statement required by ORS 280.070 (4)~~[(a)]~~ and the information required by ORS 280.070 (5);

~~[(2)]~~ (b) The ballot title for a measure authorizing the establishment of a permanent rate limitation shall contain the information required by ORS 280.070 (6); and

~~[(3)]~~ (c) **Except as provided in subsection (2) of this section,** the front of the outer envelope in which the ballot title is delivered shall state, clearly and boldly printed in red, [*“CONTAINS VOTE ON PROPOSED TAX INCREASE.”*] **one of the following statements:**

(A) For a measure authorizing the imposition of local option taxes, “CONTAINS VOTE ON PROPOSED TAX INCREASE”; or

(B) For a measure authorizing a renewal of current local option taxes, “CONTAINS VOTE ON RENEWAL OF CURRENT LOCAL OPTION TAXES.”

(2) If a ballot contains a measure authorizing the imposition of local option taxes and a measure authorizing the renewal of a current local option tax, the front of the outer envelope in which the ballot is delivered shall state, clearly and boldly printed in red, “CONTAINS VOTE ON PROPOSED TAX INCREASE.”

SECTION 3. ORS 246.410 is amended to read:

246.410. (1) The county clerk, not later than the 30th day before an election, ~~[may]~~ **shall** create, combine or divide one or more precincts~~].~~ *The number of electors to be included in a precinct shall not exceed 5,000.* **as necessary to ensure that:**

(a) Each precinct is part of the same congressional and legislative districts.

(b) Each precinct is contiguous.

(c) The number of electors included in a precinct does not exceed 5,000.

(2) The county clerk shall fix the boundaries of the precincts and designate the precincts by numbers or names.

(3) If the number of electors in a precinct exceeds 5,000, the county clerk shall divide the precinct into two equal precincts according to the provisions of subsection (1) of this section.

(4) Not later than 10 days after a county clerk creates, combines or divides a precinct under this section, the clerk shall notify the Secretary of State.

SECTION 4. ORS 254.545 is amended to read:

254.545. Subject to ORS 254.548, the county clerk:

(1) As soon as possible after any election, shall prepare abstracts of votes. The abstract for election of Governor shall be on a sheet separate from the abstracts for other offices and measures.

(2) On completion of the abstracts, shall record a complete summary of votes cast in the county for each office, candidate for office and measure. The county clerk shall sign and certify this record.

(3) Not later than the 20th day after the election, shall deliver a copy of the abstracts for other than county offices to the appropriate elections officials. The abstract for election of Governor shall be delivered separately to the Secretary of State as provided in section 4, Article V, Oregon Constitution.

(4) Not later than the 30th day after the election, shall proclaim which county measure is paramount, if two or more approved county measures contain conflicting provisions.

(5) Shall prepare and deliver a certificate of nomination or election to each candidate having the most votes for nomination for or election to county or precinct offices.

(6) Shall prepare, and file with the county governing body, a certificate stating the compensation to which the board clerks are entitled. The county governing body shall order the compensation paid by county funds.

(7) As soon as possible after any election, shall send electronically the results of the election in each precinct to the Secretary of State.

SECTION 5. ORS 250.105 is amended to read:

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

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

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

(d) The secretary shall adopt rules establishing procedures for verifying signatures on an initiative or referendum petition.

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

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

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

(4) The secretary by rule shall designate a statistical sampling technique to verify whether a petition contains the required number of signatures of electors. A petition may not be rejected for the reason that it contains less than the required number of signatures unless two separate sampling processes both establish that the petition lacks the required number of signatures. The second sampling must contain a larger number of signatures than the first sampling. If two samplings are required under this subsection, the total number of signatures verified on the petition shall be not less than five percent of the total number of signatures on the petition.

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

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

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

(8) The Secretary of State and the county clerk, if requested, shall permit authorized persons to be at the office of the secretary or county clerk to watch the verification of signatures on a state initiative petition or prospective petition for a state measure to be initiated under this section. The authorization shall be in writing and shall be filed with the secretary or county clerk. The secretary or county clerk shall permit only as many persons

as watchers under this subsection as will not interfere with an orderly procedure at the office of the secretary or county clerk.

SECTION 6. If House Bill 2005 becomes law, ORS 250.048, as amended by section 2, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2005), is amended to read:

250.048. (1) A person may not pay money or other valuable consideration to another person for obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective petition for a state measure to be initiated, and a person may not receive money or other valuable consideration for obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective petition for a state measure to be initiated, unless the person obtaining the signatures:

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

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

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

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

(b) The residential street address of the applicant;

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

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

(e) A list of the initiative, referendum and recall petitions on which the applicant will gather signatures;

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

(g) A statement signed by the applicant acknowledging that the applicant has read and understands Oregon law applicable to the gathering of signatures on state initiative, referendum and recall petitions and prospective petitions for state measures to be initiated, as the law is summarized in the training program established by the Secretary of State;

(h) Evidence indicating that the applicant has completed the training required by the secretary by rule;

(i) A photograph of the applicant; and

(j) A statement signed by a chief petitioner of each petition or prospective petition, or a person designated by a chief petitioner under this paragraph, upon which the applicant will gather signatures acknowledging that the chief petitioner is liable for violations of law or rule committed by the person obtaining signatures as provided in ORS 260.561. A chief petitioner may designate a person to sign a statement described in this paragraph on behalf of the chief petitioner. [*A person designated under this paragraph incurs no liability for violations of law or rule committed by the person obtaining the signatures.*]

(3)(a) If an applicant complies with subsection (2) of this section, not later than five business days after the applicant applies, the secretary shall register the applicant and assign the applicant a registration number.

(b) A person who is registered to obtain signatures on a prospective petition for a state measure to be initiated need not reapply for a registration under this section in order to obtain signatures on a state initiative, referendum or recall petition, except that the person shall submit a list of the initiative, referendum and recall petitions on which the person will gather signatures.

(c) A registration issued by the secretary under this section is valid until the date that is four months before the next general election.

(4) A person may not apply for registration under this section if, during the five-year period prior to the date of application, the person:

(a) Has been convicted for a criminal offense involving fraud, forgery or identification theft in any state;

(b) Has had a civil penalty imposed under ORS 260.995 for a violation of this section or ORS 260.262; or

(c) Has had a civil or criminal penalty imposed for violation of a statute subject to a criminal penalty under ORS 260.993.

(5) To assist in determining the identity of an applicant or whether an applicant has been convicted for a criminal offense described in subsection (4) of this section, upon consent of the applicant and upon request of the secretary, the Department of State Police shall furnish to the secretary any information that the department may have in its possession from its central bureau of criminal identification, including but not limited to the Law Enforcement Data System established in ORS 181.730, other computerized information and any other information to which the department may have access. For purposes of receiving the information described in this subsection, the office of the Secretary of State is a "criminal justice agency" under ORS 181.010 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555. Upon submitting an application for registration described in subsection (2) of this section, an applicant is deemed to have given the consent necessary for purposes of this subsection.

(6) If a person receives money or other valuable consideration for obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective petition for a state measure to be initiated and the person was not registered as required under this section at the time the signatures were obtained, the secretary may not include any signatures obtained by the person in a count under ORS 250.045 (3) or 250.105 or ORS chapter 249 for purposes of determining whether the petition or prospective petition contains the required number of signatures of electors.

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

(8) A photograph of an applicant submitted under subsection (2) of this section shall:

(a) Be a conventional photograph with a plain background;

(b) Show the face or the face, neck and shoulders of the applicant; and

(c) Be prepared and processed for printing as prescribed by the secretary.

(9) A person registered under this section may not obtain signatures on a petition or prospective petition for which the person is being paid and, at the same time, obtain signatures on a petition or prospective petition for which the person is not being paid. The secretary may not include any signatures obtained in violation of this subsection in a count under ORS 250.045 (3) or 250.105 or ORS chapter 249 for purposes of determining whether a state initiative, referendum or recall petition or a prospective petition for a state measure to be initiated contains the required number of signatures of electors.

(10) The secretary shall adopt rules necessary to implement this section, including rules:

(a) Establishing procedures for registering persons who may be paid money or other valuable consideration for obtaining signatures of electors on state initiative, referendum or recall petitions or prospective petitions for state measures to be initiated; and

(b) Establishing a training program for persons who may be paid money or other valuable consideration for obtaining signatures of electors on state initiative, referendum or recall petitions or prospective petitions for state measures to be initiated.

SECTION 7. If House Bill 2005 becomes law, ORS 260.561, as amended by section 5, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2005), is amended to read:

260.561. (1)(a) If a chief petitioner of a statewide initiative or referendum petition has knowledge of a violation of any provision of Oregon Revised Statutes, of any rule adopted by the Secretary of State under ORS chapters 246 to 260 related to the circulation of a statewide initiative or referendum petition or section 1b, Article IV of the Oregon Constitution, committed by a person obtaining signatures on the chief petitioner's petition or prospective petition, the violation by the person obtaining signatures is conclusively considered a violation by the chief petitioner.

(b) If a chief petitioner of a statewide initiative or referendum petition has knowledge or should have had knowledge of a violation of ORS 250.048, 260.262, 260.555, 260.558, 260.567, 260.575, 260.665, 260.715 (1) or section 1b, Article IV of the Oregon Constitution, or any rule adopted by the Secretary of State related to section 1b, Article IV of the Oregon Constitution, petition sheets or circulator training, registration or certification, committed by a person obtaining signatures on the chief petitioner's petition or prospective petition or a contractor or subcontractor, as defined in ORS 260.563, the violation by the person obtaining signatures or the contractor or subcontractor is conclusively considered a violation by the chief petitioner.

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

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

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

(4)(a) Subsection (1)(a) of this section does not apply to a violation of law that is subject to criminal penalty.

(b) A chief petitioner may not be held criminally liable under subsection (1)(b) of this section solely based on a violation committed by a person obtaining signatures on the chief petitioner's petition or prospective petition or by a contractor or subcontractor.

SECTION 8. If House Bill 2005 becomes law, ORS 260.563, as amended by section 6, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2005), is amended to read:

260.563. (1) As used in this section:

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

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

(2) If a contractor has knowledge or should have had knowledge of a violation of ORS 250.048, 260.555, 260.558, 260.567, 260.575, 260.665 or 260.715 (1) or section 1b, Article IV of the Oregon Constitution, or any rule adopted by the Secretary of State related to section 1b, Article IV of the Oregon Constitution, petition sheets or circulator training, registration or certification, by a subcontractor, the violation by the subcontractor is conclusively considered a violation by the contractor.

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

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

(4) A contractor may not be held criminally liable under this section solely based on a violation committed by a subcontractor.

SECTION 9. The amendments to ORS 250.038 and 280.070 by sections 1 and 2 of this 2009 Act apply to measures that will be submitted to the people at an election held on or after the effective date of this 2009 Act.

SECTION 10. (1)(a) The amendments to ORS 246.410 by section 3 of this 2009 Act become operative January 1, 2012.

(b) The amendments to ORS 246.410 by section 3 of this 2009 Act apply to precincts on and after January 1, 2012.

(2) The amendments to ORS 254.545 by section 4 of this 2009 Act apply to elections held on or after January 1, 2010.

(3) The amendments to ORS 250.105 by section 5 of this 2009 Act apply to state initiative petitions and prospective petitions for a state measure to be initiated that are filed with the Secretary of State for the purpose of verifying whether the petition contains the required number of signatures of electors on or after the effective date of this 2009 Act.

SECTION 11. (1) The amendments to ORS 250.048 by section 6 of this 2009 Act apply to payment or receipt of money or other valuable consideration for obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective petition for a state measure to be initiated that are obtained on or after January 1, 2010.

(2) The amendments to ORS 260.561 and 260.563 by sections 7 and 8 of this 2009 Act apply to violations that occur on or after January 1, 2010.

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

Passed by House June 11, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 24, 2009

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President of Senate

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State