

A-Engrossed
House Bill 3451

Ordered by the House April 28
Including House Amendments dated April 28

Sponsored by COMMITTEE ON RULES

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.

Allows county clerk to electronically scan [*but not tally*] ballots prior to date of election in accordance with security plan approved by Secretary of State. **Specifies when county clerk must test voting machines or vote tally systems to ensure correct tallying of ballots.**

A BILL FOR AN ACT

1
2 Relating to ballots; creating new provisions; and amending ORS 254.074, 254.235, 254.478 and 254.485.

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

4 **SECTION 1.** ORS 254.478 is amended to read:

5 254.478. (1) **Subject to ORS 260.705 and** not sooner than the seventh day before the date of an
6 election, [*in preparation for counting ballots delivered by mail,*] the county clerk may:

7 (a) Begin opening return identification and secrecy envelopes of ballots delivered by mail and
8 received by the county clerk; **and**

9 (b) **In accordance with a security plan approved by the Secretary of State under ORS**
10 **254.074, begin scanning ballots into a vote tally system.**

11 (2) The county clerk may take any other actions that are necessary to [*allow the counting of*]
12 **count** ballots delivered by mail [*to begin on election day*].

13 **SECTION 2.** ORS 254.074 is amended to read:

14 254.074. (1) Each county clerk shall file a county elections security plan with the Secretary of
15 State not later than:

16 (a) January 31 of each calendar year; and

17 (b) One business day after any revision is made to the county elections security plan.

18 (2) A county elections security plan shall include, but is not limited to:

19 (a) A written security agreement entered into with any vendor handling ballots;

20 (b) Security procedures for transporting ballots;

21 (c) Security procedures at official places of deposit for ballots;

22 (d) Security procedures for processing ballots;

23 (e) Security procedures governing election observers;

24 (f) Security procedures for ballots located in county elections work areas, buildings and storage
25 areas;

26 (g) Security procedures for vote tally systems, including computer access to vote tally systems;

27 (h) **Security procedures for scanning ballots into a vote tally system before the date of**
28 **the election, if applicable; and**

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 *[(h)]* (i) Post-election ballot security.

2 (3) A security plan developed and filed under this section is confidential and not subject to dis-
3 closure under ORS 192.410 to 192.505.

4 **(4) A county clerk may not scan ballots as described in ORS 254.478 unless the Secretary**
5 **of State reviews and approves a security plan under this section.**

6 **SECTION 3.** ORS 254.485 is amended to read:

7 254.485. (1) Ballots may be tallied by a vote tally system or by a counting board. A counting
8 board may tally ballots at the precinct or in the office of the county clerk. In any event, the ballots
9 shall be tallied and returned by precinct.

10 (2) If a vote tally system is used, the county clerk shall repeat the public certification test de-
11 scribed under ORS 254.235 (1). The test shall be conducted *[on the date of the election and]* **imme-**
12 **diately** prior to *[beginning the tally of ballots]* **scanning any ballots.** The test may be observed by
13 persons described in ORS 254.235 (2). The county clerk shall certify the results of the test.

14 (3) If *[a vote tally system is used or if]* a counting board has been appointed, the tally of ballots
15 may begin on the date of the election.

16 (4)(a) If ballots are tallied by a counting board, after the tally has begun it shall continue until
17 completed. Except as provided in paragraph (b) of this subsection, a counting board shall tally
18 without adjournment and in the presence of the clerks and persons authorized to attend.

19 (b) A counting board may be relieved by another board if the tally is not completed after 12
20 hours.

21 (5) A counting board shall audibly announce the tally as it proceeds. The board shall use only
22 pen and ink to tally.

23 (6) For ballots cast using a voting machine, the county clerk shall:

24 (a) Enter the ballots cast using the machine into the vote tally system; and

25 (b) In the event of a recount, provide the paper record copy recorded by the machine to the
26 counting board.

27 (7) A person other than the county clerk, a member of a counting board or any other elections
28 official designated by the county clerk may not tally ballots under this chapter.

29 **SECTION 4.** ORS 254.235 is amended to read:

30 254.235. (1) Not later than *[five business]* **seven** days before an election in which voting ma-
31 chines or vote tally systems are used, the county clerk shall:

32 (a) Conduct a preparatory test of the machine and system for logic and accuracy to ensure that
33 each ballot format, where appropriate, correctly tallies ballots in each electoral contest by precinct;
34 and

35 (b) Conduct a public certification test for the vote tally system using a selection of precincts,
36 ballot formats and electoral districts from the preparatory test conducted under this subsection.

37 (2) Prior to the public certification test under subsection (1)(b) of this section, the county clerk
38 shall mail to each affiliate of a major or minor political party within the county that has notified
39 the clerk that notice is desired, a notice of the time and place where the vote tally system will be
40 publicly tested. One representative of each party is entitled to be present to ensure that the testing
41 is done properly. In nonpartisan elections each candidate may designate one representative who has
42 the same powers as the political party representatives. The party and candidate representatives
43 shall certify that they have witnessed the testing. The certificates shall be filed with the county
44 clerk.

45 **SECTION 5.** The amendments to ORS 254.074, 254.235, 254.478 and 254.485 by sections 1

1 **to 4 of this 2009 Act apply to elections held on or after the effective date of this 2009 Act.**

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