

**Enrolled**  
**House Bill 3451**

Sponsored by COMMITTEE ON RULES

CHAPTER .....

AN ACT

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

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

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

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

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

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

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

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

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

(a) January 31 of each calendar year; and

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

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

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

(b) Security procedures for transporting ballots;

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

(d) Security procedures for processing ballots;

(e) Security procedures governing election observers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 5.** The amendments to ORS 254.074, 254.235, 254.478 and 254.485 by sections 1 to 4 of this 2009 Act apply to elections held on or after the effective date of this 2009 Act.

**Passed by House May 1, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 5, 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