

House Bill 3451

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 **as introduced**.

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.

A BILL FOR AN ACT

1
2 Relating to ballots; creating new provisions; and amending ORS 254.074, 254.235, 254.478, 254.485 and
3 254.525.

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

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

6 254.478. (1) Not sooner than the seventh day before the date of an election, in preparation for
7 counting ballots delivered by mail, the county clerk may begin:

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

10 (b) **In accordance with a security plan approved by the Secretary of State under ORS**
11 **254.074, electronically scanning ballots if the voting machine used scans the marked ballots**
12 **without automatically tallying the ballots.**

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

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

16 254.074. (1) Each county clerk shall file a county elections security plan with the Secretary of
17 State not later than:

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

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

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

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

22 (b) Security procedures for transporting ballots;

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

24 (d) Security procedures for processing ballots;

25 (e) Security procedures governing election observers;

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

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

29 (h) **Security procedures for electronically scanning, without automatically tallying, bal-**
30 **lots before the date of an election, if applicable; and**

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

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

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

5 **SECTION 3.** ORS 254.235 is amended to read:

6 254.235. (1) Not later than five business days before an election in which voting machines or
 7 vote tally systems are used, the county clerk shall:

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

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

13 **(2) Not later than 10 business days before an election in which a voting machine is used**
 14 **to electronically scan without automatically tallying ballots, the county clerk shall conduct**
 15 **a test of the machine to ensure that ballots are scanned but not tallied until election day.**

16 [(2)] (3) Prior to the public certification test under subsection (1)(b) of this section, the county
 17 clerk shall mail to each affiliate of a major or minor political party within the county that has no-
 18 tified the clerk that notice is desired, a notice of the time and place where the vote tally system
 19 will be publicly tested. One representative of each party is entitled to be present to ensure that the
 20 testing is done properly. In nonpartisan elections each candidate may designate one representative
 21 who has the same powers as the political party representatives. The party and candidate represen-
 22 tatives shall certify that they have witnessed the testing. The certificates shall be filed with the
 23 county clerk.

24 **SECTION 4.** ORS 254.485 is amended to read:

25 254.485. (1) Ballots may be tallied by a vote tally system or by a counting board. A counting
 26 board may tally ballots at the precinct or in the office of the county clerk. In any event, the ballots
 27 shall be tallied and returned by precinct.

28 (2) If a vote tally system is used, the county clerk shall repeat the public certification test de-
 29 scribed under ORS 254.235 (1). The test shall be conducted on the date of the election and prior to
 30 beginning the tally of ballots. The test may be observed by persons described in ORS 254.235 [(2)]

31 **(3).** The county clerk shall certify the results of the test.

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

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

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

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

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

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

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

45 (7) A person other than the county clerk, a member of a counting board or any other elections

1 official designated by the county clerk may not tally ballots under this chapter.

2 **SECTION 5.** ORS 254.525 is amended to read:

3 254.525. If a vote tally system is used, the county clerk shall repeat the public certification test
4 described under ORS 254.235 (1) for the vote tally system used to conduct the election. The test shall
5 be conducted after all the ballots are tallied but before the final results of the election are certified
6 or before the vote tally system is shut down. The test may be observed by persons described in ORS
7 254.235 [(2)] (3). The county clerk shall certify the results of the test.

8 **SECTION 6.** **The amendments to ORS 254.074, 254.235 and 254.478 by sections 1 to 3 of this**
9 **2009 Act apply to elections that occur on or after the effective date of this 2009 Act.**

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