

House Bill 2256

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Health Care for Secretary of State Kate Brown)

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**.

Requires county judge who exercises judicial functions to file for candidacy with county clerk. Modifies requirements regarding obligation of Secretary of State to reimburse county clerk for recall election for county judge who exercises judicial functions.

Limits signature gathering period to two years for petition to initiate district measure. Requires that petition to initiate district measure be submitted not less than 90 days preceding election at which measure is to be voted on.

Transfers responsibility for issuing notice of district election from elections official to district elections authority. Modifies responsibilities of district elections authority.

Allows election law complaints to be filed electronically.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; amending ORS 249.002, 249.035, 249.088, 254.103,
3 254.483, 255.069, 255.075, 255.085, 255.135, 255.145, 255.215 and 260.345; and repealing ORS
4 249.091.

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

6 **SECTION 1.** ORS 249.002, as amended by section 2, chapter 18, Oregon Laws 2010, is amended
7 to read:

8 249.002. As used in this chapter:

9 (1) "Candidate" means an individual whose name is or is expected to be printed on the official
10 ballot.

11 (2) "County clerk" means the county clerk or the county official in charge of elections.

12 (3) "Elector" means an individual qualified to vote under section 2, Article II, Oregon Consti-
13 tution.

14 (4) "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon
15 Tax Court[, *or any county judge who exercises judicial functions*].

16 (5) "Member" means an individual who is registered as being affiliated with the political party.

17 (6) "Minor political party" means a political party that has qualified as a minor political party
18 under ORS 248.008.

19 (7) "Nonpartisan office" means the office of judge, Superintendent of Public Instruction, Com-
20 missioner of the Bureau of Labor and Industries, any elected office of a metropolitan service district
21 under ORS chapter 268, justice of the peace, county clerk, county assessor, county surveyor, county
22 treasurer, **county judge who exercises judicial functions**, sheriff, district attorney or any office
23 designated nonpartisan by a home rule charter.

24 (8) "Prospective petition" means the information, except signatures and other identification of
25 petition signers, required to be contained in a completed petition.

26 (9) "Public office" means any national, state, county, city or district office or position, except
27 a political party office, filled by the electors.

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 (10) "State office" means Governor, Secretary of State, State Treasurer, Attorney General,
 2 Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, judge,
 3 state Senator, state Representative or district attorney.

4 **SECTION 2.** ORS 249.035 is amended to read:

5 249.035. A nominating petition or declaration of candidacy relating to a candidate for:

6 (1) State office, United States Senator or Representative in Congress shall be filed with the
 7 Secretary of State.

8 (2) County office, **county judge who exercises judicial functions** or precinct committeeperson
 9 shall be filed with the county clerk.

10 (3) City office shall be filed with the chief city elections officer.

11 (4) Any elected office of a metropolitan service district under ORS chapter 268 shall be filed
 12 with the county clerk of the county in which the administrative office of the district is located.

13 (5) Any other office shall be filed under ORS chapter 255.

14 **SECTION 3.** ORS 249.088 is amended to read:

15 249.088. *[(1) Unless otherwise provided by a home rule charter, at the nominating election held on*
 16 *the date of the primary election, two candidates shall be nominated for the nonpartisan office. However,*
 17 *when a candidate, other than a candidate for the office of sheriff, a candidate for the office of county*
 18 *clerk, a candidate for the office of county treasurer or a candidate to fill a vacancy, receives a majority*
 19 *of the votes cast for the office at the nominating election, that candidate is elected.]*

20 *[(2) When a candidate for the office of sheriff, the office of county clerk, the office of county treas-*
 21 *urer or a candidate to fill a vacancy receives a majority of votes cast for the office at the nominating*
 22 *election, that candidate alone is nominated.]*

23 **(1) Except as otherwise provided in this section:**

24 **(a) At the nominating election held on the date of the primary election, two candidates**
 25 **shall be nominated for each nonpartisan office.**

26 **(b) If a candidate receives a majority of the votes cast for the office at the nominating**
 27 **election, that candidate is elected.**

28 **(2) If a candidate to fill a vacancy in a nonpartisan office or a candidate for the office**
 29 **of sheriff, county clerk or county treasurer receives a majority of the votes cast for the of-**
 30 **fice at the nominating election, that candidate alone is nominated.**

31 **(3) If no more than two candidates to fill a vacancy in a nonpartisan office or no more**
 32 **than two candidates for the office of sheriff, county clerk or county treasurer file a nomi-**
 33 **nating petition or declaration of candidacy, the candidate or candidates shall be nominated**
 34 **for the office. The name or names of the nominated candidate or candidates may not be**
 35 **printed on the ballot at the nominating election.**

36 **(4) The application of this section is subject to the provisions of a home rule charter.**

37 **SECTION 4.** ORS 254.483 is amended to read:

38 254.483. Immediately after 8 p.m. on the day of an election[:], **each county clerk shall provide**
 39 **for the security of, and shall account for, unused ballots.**

40 *[(1) The county clerk shall destroy all unused absentee and regular ballots in the county clerk's*
 41 *possession.]*

42 *[(2) Each county shall provide for the security of, and shall account for, unused ballots.]*

43 **SECTION 5.** ORS 254.103 is amended to read:

44 254.103. **(1) Except as provided in subsection (2) of this section,** the governing body of a
 45 county shall file with the county clerk each measure referred by the county governing body, **in-**

1 **cluding the ballot title for each measure**, not later than the 61st day before the date of the
 2 election.

3 (2) If a measure to be submitted to the electors of a county at an election held on the first
 4 Tuesday after the first Monday in November was submitted on the election date in ORS 203.085 (1)
 5 immediately preceding the first Tuesday after the first Monday in November, the county governing
 6 body shall file the measure with the county clerk not later than the 47th day before an election held
 7 on the first Tuesday after the first Monday in November.

8 **SECTION 6.** ORS 255.069 is amended to read:

9 255.069. (1) Not later than the 115th day before a regular district election, or not later than the
 10 135th day before a district election held on the date of a primary election or general election, the
 11 elections officer shall deliver to each district elections authority, by certified mail, a form for up-
 12 dating information on members of district boards. The form shall include, at a minimum, the district
 13 offices to be filled or for which candidates are to be nominated or elected at the next district
 14 election and information concerning the candidates.

15 (2) Not later than the 105th day before a regular district election or not later than the 125th
 16 day before a district election held on the date of a primary election or general election, the district
 17 elections authority shall **complete, and** return to the elections officer, the form for updating infor-
 18 mation on members of district boards.

19 (3) The [*elections officer*] **district elections authority** shall prepare the notice required by ORS
 20 255.075 by using the form completed by the district elections authority and any other information
 21 available. [*If the form is not returned by the district elections authority by the deadline specified in*
 22 *subsection (2) of this section, the elections officer*] **The authority** shall prepare the notice for the
 23 district using the most current information available. [*If the form is returned by the district elections*
 24 *authority after the deadline, the elections officer shall prepare a corrected notice.*] The district [*shall*
 25 *be*] **is** liable for any additional costs incurred in preparing and publishing a corrected notice.

26 (4) The elections officer shall retain the completed forms in a file maintained for that purpose.
 27 All forms shall be kept for a period of at least four years after the district election for which the
 28 form was completed.

29 (5) If a district is located in more than one county, the elections officer shall immediately certify
 30 the information contained on the form required under subsection (2) of this section to the county
 31 clerk of any other county in which the district is located.

32 (6) The Secretary of State by rule shall establish the forms and procedures the elections officer
 33 and the district elections authority shall use in maintaining adequate records for preparation of the
 34 form required under subsection (1) of this section.

35 **SECTION 7.** ORS 255.075 is amended to read:

36 255.075. (1) When a district election is to be held for the purpose of electing members of the
 37 district board, the [*elections officer*] **district elections authority** shall publish a notice stating the
 38 date of the election, the board positions to be voted upon and the latest date on which candidates
 39 for election as board members may file petitions for nomination or declarations of candidacy. The
 40 notice shall be printed once in a newspaper of general circulation in the district not later than the
 41 40th day before the last day for filing a petition for nomination or declaration of candidacy.

42 (2) In lieu of or in addition to publication of notice under subsection (1) of this section, the
 43 [*elections officer*] **district elections authority** may give notice by mail to each elector of the dis-
 44 trict. The notice shall have postage prepaid and shall be considered given when mailed. The notice
 45 shall be made not later than the 40th day before the last day for filing a petition for nomination or

1 declaration of candidacy. Proof of mailing shall be by affidavit of the district elections [*officer who*]
 2 **authority that** mailed the notice. The affidavit shall state the time and place the notice was mailed.

3 (3) The Secretary of State by rule shall establish the procedures that the [*elections officer*] **dis-**
 4 **trict elections authority** shall follow in maintaining adequate records for preparation of the notice
 5 required under subsection (1) of this section.

6 **SECTION 8.** ORS 255.085 is amended to read:

7 255.085. [(1) *Not later than the 61st day before a district election on a measure, the district elections*
 8 *authority shall deliver to the elections officer a notice stating the date of the election and a ballot title.*
 9 *The district elections authority shall prepare the ballot title for a measure referred by the authority*
 10 *with the assistance of the district attorney for the county of the elections officer or an attorney employed*
 11 *by the district elections authority.*]

12 (1) **Except as provided in subsection (2) of this section, not later than the 61st day before**
 13 **the date of a district election on a measure, the district elections authority shall file with**
 14 **the elections officer the district measure to be voted on, including the ballot title for the**
 15 **measure, and notice of the date of the election.**

16 (2) If a district submits a measure to the electors of the district at an election held on the first
 17 Tuesday after the first Monday in November and the district submitted a measure on the election
 18 date in ORS 255.345 (1) immediately preceding the date of an election held on the first Tuesday after
 19 the first Monday in November, the district elections authority shall file the measure for the election
 20 held on the first Tuesday after the first Monday in November with the elections officer not later
 21 than the 47th day before an election held on the first Tuesday after the first Monday in November.

22 (3) A notice of election called to approve the issuance of bonds shall include:

- 23 (a) The purpose for which the bonds are to be used;
- 24 (b) The amount and the term of the bonds;
- 25 (c) The kind of bonds proposed to be issued; and

26 (d) If the bond election is authorized by ORS 450.900, the additional notice requirements in ORS
 27 450.905.

28 (4)(a) In the case of a measure submitted by initiative or referendum petition, the [*elections of-*
 29 *ficer*] **district elections authority** shall publish the notice **of election** in the next available edition
 30 of a newspaper of general circulation in the district after the deadline for filing the notice.

31 (b) In the case of a measure referred by the district elections authority, the [*elections officer*]
 32 **authority** shall publish the notice of election in the next available edition of a newspaper of general
 33 circulation in the district after the notice of election is filed. The notice shall also state that an
 34 elector may file a petition for review of the ballot title not later than the date referred to in ORS
 35 255.155. If the circuit court certifies a different ballot title, the [*elections officer*] **authority** shall
 36 publish an amended notice of election in the next available edition of the newspaper referred to in
 37 this subsection after the new **ballot** title is certified to the [*elections officer*] **authority**.

38 **SECTION 9.** ORS 255.135 is amended to read:

39 255.135. (1) Before circulating a petition to initiate or refer a district measure, the petitioner
 40 shall file with the elections officer a prospective petition. The elections officer immediately shall
 41 date and time stamp the prospective petition, and specify the form on which the petition shall be
 42 printed for circulation. The officer shall retain the prospective petition.

43 (2) The cover of an initiative or referendum petition shall designate the name and residence
 44 address of not more than three persons as chief petitioners and shall contain instructions for per-
 45 sons obtaining signatures of electors on the petition. The instructions shall be adopted by the Sec-

1 retary of State by rule. The cover of a referendum petition shall contain the title described in ORS
 2 255.145 (1). If the circuit court has not reviewed the ballot title under ORS 255.155, the cover of an
 3 initiative petition shall contain the ballot title described in ORS 255.145 (3). If the circuit court has
 4 reviewed the ballot title, the cover of the initiative petition shall contain the title certified by the
 5 court.

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

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

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

15 (4)(a) Each sheet of signatures on an initiative petition shall contain the caption of the ballot
 16 title. Each sheet of signatures on a referendum petition shall contain the number of the ordinance
 17 to be referred and the date it was adopted by the district board.

18 (b) Each sheet of signatures on an initiative or referendum petition shall, if one or more persons
 19 will be paid for obtaining signatures of electors on the petition, contain a notice stating: "Some
 20 Circulators For This Petition Are Being Paid."

21 (5) The reverse side of the cover of an initiative or referendum petition shall be used for ob-
 22 taining signatures on an initiative or referendum petition.

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

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

27 (b) Believes each individual is an elector registered in the district.

28 (7) *[If] Unless otherwise provided by a district ordinance, the gathering of signatures [ex-*
 29 *ceeds the] on a petition to initiate a district measure may not exceed a period of [one year] two*
 30 *years* from the time the petition is approved for circulation. *[any of the chief petitioners, on or*
 31 *before the anniversary of approval of the petition for circulation:]*

32 *[(a) Shall file annually with the elections officer a statement that the initiative petition is still ac-*
 33 *tive; and]*

34 *[(b) May submit to the elections officer for verification any signatures gathered on the petition in*
 35 *the preceding year.]*

36 *[(8) Not later than 30 days before the date that the chief petitioners must file a statement and*
 37 *submit signatures under subsection (7) of this section, the elections officer shall notify the chief*
 38 *petitioners in writing of the requirements of subsection (7) of this section. The notice shall be sent by*
 39 *certified mail, return receipt requested.]*

40 *[(9)] (8) The elections officer [shall] may not accept for filing any petition [which] that* has not
 41 met the provisions of subsection (7) of this section.

42 **(9) A petition to initiate a district measure must be filed not less than 90 days before the**
 43 **election at which the proposed law is to be voted on.**

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

1 request of the person.

2 **SECTION 10.** ORS 255.145 is amended to read:

3 255.145. (1) When a prospective petition for a district measure to be referred is filed with the
 4 elections officer, the officer shall authorize the circulation of the petition containing the title of the
 5 measure as enacted by the district elections authority or, if there is no title, the title supplied by
 6 the petitioner filing the prospective petition. The elections officer immediately shall send two copies
 7 of the prospective petition to the district attorney of the county in which the administrative office
 8 of the district is located.

9 (2) Not later than the sixth business day after a prospective petition for a district measure to
 10 be initiated is filed with the elections officer, the officer shall send two copies of it to the district
 11 attorney of the county in which the administrative office of the district is located if the measure to
 12 be initiated has been determined to be in compliance with section 1 (2)(d) and (5), Article IV of the
 13 Oregon Constitution, as provided in ORS 255.140.

14 (3) Not later than the fifth business day after receiving the copies of the prospective petition,
 15 the district attorney shall provide a ballot title for the district measure to be initiated or referred
 16 and return one copy of the prospective petition and the ballot title to the elections officer. Unless
 17 the circuit court certifies a different title, this ballot title shall be the title printed on the ballot.

18 (4) A copy of the ballot title shall be furnished to the chief petitioner.

19 (5) *[The elections officer, upon receiving]* **Upon filing** a ballot title for a district measure to be
 20 referred or initiated *[from the district attorney,]* **with the elections officer, the district elections**
 21 **authority** shall publish in the next available edition of a newspaper of general circulation in the
 22 district a notice *[of receipt of]* **that** the ballot title **has been filed and** *[including]* notice that an
 23 elector may file a petition for review of the ballot title not later than the date referred to in ORS
 24 255.155.

25 **SECTION 11.** ORS 255.215 is amended to read:

26 255.215. In lieu of or in addition to publication of notice under ORS 255.085, if it is expedient
 27 to do so the *[elections officer]* **district elections authority** may give notice by mail to each elector
 28 of the district. The notice shall have postage prepaid and shall be considered given when mailed.
 29 Mailed notice of a district election under ORS 255.085 shall be made not later than three days after
 30 receipt of the ballot title. Proof of mailing shall be by affidavit of the *[elections officer]* **district**
 31 **elections authority**. The affidavit shall state the time and place the notice was mailed.

32 **SECTION 12.** (1) **When the district elections authority refers a district measure to the**
 33 **people, a ballot title for the measure shall be prepared by the authority with the assistance**
 34 **of the district attorney for the county of the elections officer, or an attorney employed by**
 35 **the authority, and filed with the elections officer.**

36 (2) **The ballot title for a district measure referred to the people by the district elections**
 37 **authority shall be prepared under this section and submitted to the elections officer not later**
 38 **than the date of the order calling the election on the measure.**

39 **SECTION 13.** ORS 260.345 is amended to read:

40 260.345. (1) Any elector may file with any filing officer a written complaint alleging that a vio-
 41 lation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260
 42 has occurred and stating the reason for believing that the violation occurred and any evidence re-
 43 lating to it. **A complaint and any evidence relating to it may be filed electronically.** A complaint
 44 alleging a violation involving the Secretary of State, a candidate for the office of Secretary of State,
 45 or any political committee or person supporting the Secretary of State or a candidate for the office

1 of Secretary of State may be filed with the Attorney General. The Secretary of State or Attorney
2 General shall not accept an anonymous complaint.

3 (2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed
4 with any person other than the Secretary of State. If the complaint concerns the Secretary of State,
5 any candidate for the office of the Secretary of State, or any political committee or person sup-
6 porting the candidacy of the Secretary of State or of another person for the office of Secretary of
7 State, the complaint and any additional information relating to the complaint shall be sent to the
8 Attorney General.

9 (3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State
10 or Attorney General immediately shall examine the complaint to determine whether a violation of
11 an election law or rule has occurred and shall make any investigation the Secretary of State or
12 Attorney General considers necessary. Except as provided in this subsection, within 48 hours of
13 receiving a complaint under subsection (1) or (2) of this section, the Secretary of State or Attorney
14 General shall notify the person who is the subject of the complaint that a complaint has been re-
15 ceived. If the Secretary of State or Attorney General receives a complaint or complaints involving
16 25 or more individuals, political committees or petition committees in any 24-hour period, the Sec-
17 retary of State or Attorney General need not notify the persons who are the subjects of those
18 complaints within 48 hours of receiving the complaints but shall notify those persons not later than
19 10 business days after receiving the complaint or complaints.

20 (4) If the Secretary of State believes after an investigation under subsection (3) of this section
21 that a violation of an election law or rule has occurred, the secretary:

22 (a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall
23 report the findings to the Attorney General and request prosecution. If the violation involves the
24 Attorney General, a candidate for that office or a political committee or person supporting or op-
25 posing the Attorney General or a candidate for that office, the Secretary of State shall appoint an-
26 other prosecutor for that purpose; or

27 (b) In the case of a violation not subject to a penalty under ORS 260.993, may impose a civil
28 penalty under ORS 260.995.

29 (5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section involving
30 an alleged violation subject to a penalty under ORS 260.993, the Attorney General or other
31 prosecutor immediately shall examine the complaint or report to determine whether a violation of
32 an election law has occurred. If the Attorney General or prosecutor determines that a violation
33 has occurred, the Attorney General or prosecutor immediately shall begin prosecution in the name
34 of the state. The Attorney General or other prosecutor shall have the same powers in any county
35 of this state as the district attorney for the county.

36 (6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged
37 violation of an election law or rule not subject to a penalty under ORS 260.993, the Attorney Gen-
38 eral shall examine the complaint to determine whether a violation of an election law or rule has
39 occurred and shall make any investigation the Attorney General considers necessary. If the Attor-
40 ney General believes after an investigation that a violation of an election law or rule has occurred,
41 the Attorney General may impose a civil penalty under ORS 260.995.

42 (7) In the case of an alleged violation subject to a civil penalty under ORS 260.995, a complaint
43 shall be filed by an elector under this section no later than 90 days following the election at which
44 a violation of an election law or rule is alleged to have occurred, or 90 days following the date the
45 violation of an election law or rule is alleged to have occurred, whichever is later.

1 (8) A filing officer having reason to believe that a violation of an election law or rule has oc-
 2 curred shall proceed promptly as though the officer had received a complaint. Except as provided
 3 in ORS 260.234, a filing officer shall proceed under this subsection no later than two years following
 4 the election at which a violation of an election law or rule is alleged to have occurred, or two years
 5 following the date the violation of an election law or rule is alleged to have occurred, whichever is
 6 later. If a filing officer has not proceeded within two years because of fraud, deceit, misleading
 7 representation or the filing officer could not have reasonably discovered the alleged violation, the
 8 filing officer shall proceed no later than five years following the election at which a violation of an
 9 election law or rule is alleged to have occurred, or five years following the date the violation of an
 10 election law or rule is alleged to have occurred, whichever is later.

11 **SECTION 14. ORS 249.091 is repealed.**

12 **SECTION 15. (1)(a) Except as provided in paragraph (b) of this subsection, the amend-**
 13 **ments to ORS 255.135 by section 9 of this 2011 Act apply to petitions to initiate district**
 14 **measures for which a prospective petition is filed before, on or after January 1, 2012.**

15 **(b) The amendments to ORS 255.135 by section 9 of this 2011 Act do not apply to petitions**
 16 **to initiate district measures for which an election will be held on the measure on or before**
 17 **January 1, 2012.**

18 **(2) Section 12 of this 2011 Act and the amendments to ORS 255.069, 255.075, 255.085,**
 19 **255.135, 255.145 and 255.215 by sections 6 to 11 of this 2011 Act apply to measures to be voted**
 20 **on at an election held on or after January 1, 2012.**

21 _____