

House Bill 2258

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 Secretary of State to establish Initiative and Referendum Hotline for reports of election law or rule violations.

Provides that person who contracts or subcontracts with chief petitioner keep detailed accounts. Specifies that chief petitioners, contractors and subcontractors must submit accounts to Secretary of State for inspection every six months or upon ceasing to obtain more signatures on petition or prospective petition, whichever is sooner.

Allows Secretary of State to issue temporary provisional registration for paid petition circulators in certain circumstances.

Provides that persons who have served sentence for certain convictions during previous five-year period are ineligible to register as paid petition circulator.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to petitions; creating new provisions; amending ORS 250.048, 260.262 and 260.556; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 250.048, as amended by section 4, chapter 9, Oregon Laws 2010, is amended
6 to read:

7 250.048. (1) A person may not pay money or other valuable consideration to another person for
8 obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective
9 petition for a state measure to be initiated, and a person may not receive money or other valuable
10 consideration for obtaining signatures of electors on a state initiative, referendum or recall petition
11 or a prospective petition for a state measure to be initiated, unless the person obtaining the signa-
12 tures:

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

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

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

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

19 (b) The residential street address of the applicant;

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

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

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

24 (f) If the applicant has been convicted **or served a sentence** for a criminal offense involving
25 fraud, forgery or identification theft, information relating to the circumstances of the conviction **or**

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 **relating to the sentence**, as required by the secretary;

2 (g) A statement signed by the applicant acknowledging that the applicant has read and under-
 3 stands Oregon law applicable to the gathering of signatures on state initiative, referendum and re-
 4 call petitions and prospective petitions for state measures to be initiated, as the law is summarized
 5 in the training program established by the Secretary of State;

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

8 (i) A photograph of the applicant; and

9 (j) A statement signed by a chief petitioner of each petition or prospective petition, or a person
 10 designated by a chief petitioner under this paragraph, upon which the applicant will gather signa-
 11 tures acknowledging that the chief petitioner is liable for violations of law or rule committed by the
 12 person obtaining signatures as provided in ORS 260.561. A chief petitioner may designate a person
 13 to sign a statement described in this paragraph on behalf of the chief petitioner.

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

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

21 (c) A registration to obtain signatures on a state initiative petition or a prospective petition for
 22 a state measure to be initiated is valid until the date that is four months before the next general
 23 election.

24 (d) A registration to obtain signatures on a referendum or recall petition is valid until the date
 25 the petition is filed for signature verification.

26 (4) [A *person may not*] **Any person is eligible to** apply for registration under this section [if]
 27 **unless**, during the five-year period prior to the date of application, the person:

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

30 (b) Has had a civil penalty imposed under ORS 260.995 for a violation of this section or ORS
 31 260.262; or

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

34 (5)(a) To assist in determining the identity of an applicant or whether an applicant has been
 35 convicted **or served a sentence** for a criminal offense described in subsection (4) of this section,
 36 upon consent of the applicant and upon request of the secretary, the Department of State Police
 37 shall furnish to the secretary any information that the department may have in its possession from
 38 its central bureau of criminal identification, including but not limited to the Law Enforcement Data
 39 System established in ORS 181.730, other computerized information and any other information to
 40 which the department may have access. For purposes of receiving the information described in this
 41 subsection, the office of the Secretary of State is a “criminal justice agency” under ORS 181.010 to
 42 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555. Upon submitting an appli-
 43 cation for registration described in subsection (2) of this section, an applicant is deemed to have
 44 given the consent necessary for purposes of this subsection.

45 **(b) The secretary may issue a temporary provisional registration to an otherwise quali-**

1 **fied person under this section if the secretary determines that an extended period of time is**
 2 **necessary to determine the identity of an applicant or whether an applicant has been con-**
 3 **vinced or served a sentence for a criminal offense described in subsection (4) of this section.**

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

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

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

- 16 (a) Be a conventional photograph with a plain background;
- 17 (b) Show the face or the face, neck and shoulders of the applicant; and
- 18 (c) Be prepared and processed for printing as prescribed by the secretary.

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

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

- 27 (a) Establishing procedures for registering persons who may be paid money or other valuable
 28 consideration for obtaining signatures of electors on state initiative, referendum or recall petitions
 29 or prospective petitions for state measures to be initiated; and
- 30 (b) Establishing a training program for persons who may be paid money or other valuable con-
 31 sideration for obtaining signatures of electors on state initiative, referendum or recall petitions or
 32 prospective petitions for state measures to be initiated.

33 **SECTION 2.** ORS 260.262 is amended to read:

34 260.262. (1)(a) As used in this section, “accounts” means:

35 [(a)] (A) Any contract entered into by a chief petitioner of an initiative or referendum petition
 36 and any person for purposes of obtaining signatures on the initiative or referendum petition or on
 37 a prospective petition for a state measure to be initiated[;].

38 [(b)] (B) Any employment manual or training materials provided to persons who obtain signa-
 39 tures on the petition or prospective petition[;].

40 [(c)] (C) [Payroll] Records for each employee obtaining signatures on the petition or prospective
 41 petition [showing hours worked, number of signatures collected and amounts paid;] **containing:**

- 42 (i) **The name, address and occupation of the employee.**
- 43 (ii) **The actual hours worked each week and each pay period by the employee.**
- 44 (iii) **The number of signatures collected by the employee.**

45 [(d)] (D) Records identifying the amount and purpose of each payment made by the chief

1 petitioner or any contractor, as defined in ORS 260.563, to any subcontractor, as defined in ORS
 2 260.563, obtaining signatures on the petition or prospective petition[; *and*].

3 [(e)] **(E)** Copies of signature sheets circulated by persons who are being paid to obtain signa-
 4 tures on the petition or prospective petition.

5 **(b) “Contractor” has the meaning given that term in ORS 260.563.**

6 **(c) “Subcontractor” has the meaning given that term in ORS 260.563.**

7 (2) For purposes of enforcing section 1b, Article IV of the Oregon Constitution, [a] **any** chief
 8 petitioner, **contractor or subcontractor**, of an initiative or referendum petition who pays any
 9 person money or other valuable consideration to obtain signatures on the petition or prospective
 10 petition shall keep detailed accounts. The accounts shall be current as of not later than the seventh
 11 calendar day after the date a payment is made to a person for obtaining signatures on the petition
 12 or prospective petition.

13 **(3)(a) Once every six months, or upon ceasing to gather more signatures on a petition**
 14 **or prospective petition, whichever is sooner, each chief petitioner, contractor or subcon-**
 15 **tractor described in subsection (2) of this section shall submit to the Secretary of State all**
 16 **accounts described in this section. The secretary shall adopt rules prescribing the manner**
 17 **and dates by which accounts must be filed under this subsection.**

18 **(b)** The Secretary of State shall review the accounts of each chief petitioner, **contractor and**
 19 **subcontractor** [*described in subsection (2) of this section*] in the manner [*and according to a regular*
 20 *schedule*] adopted by the secretary by rule.

21 (4) In addition to the review conducted under subsection (3) of this section, the secretary, At-
 22 torney General or Commissioner of the Bureau of Labor and Industries may inspect the accounts
 23 of a chief petitioner, **contractor or subcontractor** described in subsection (2) of this section under
 24 reasonable circumstances at any time before the deadline for filing signatures on the petition or
 25 during the period specified for retention of the accounts under subsection (5) of this section. The
 26 right of inspection may be enforced by writ of mandamus issued by any court of competent juris-
 27 diction.

28 (5) A chief petitioner, **contractor or subcontractor** must preserve the accounts pertaining to
 29 an initiative or referendum petition or a prospective petition for a state measure to be initiated for
 30 at least two years after the deadline for filing the petition for verification of signatures or at least
 31 two years after the date the last statement is filed under ORS 260.118, whichever is later.

32 (6) If a chief petitioner, **contractor or subcontractor** does not produce accounts under sub-
 33 section (3) or (4) of this section:

34 (a) There is a rebuttable presumption that a violation of section 1b, Article IV of the Oregon
 35 Constitution, has occurred; and

36 (b) The chief petitioner, **contractor or subcontractor** may not obtain additional signatures on
 37 the petition or prospective petition until [*the chief petitioner is able to supply*] the accounts **are**
 38 **supplied** to the secretary, Attorney General or commissioner.

39 (7) Accounts are not subject to disclosure under ORS 192.410 to 192.505.

40 **SECTION 3.** ORS 260.556 is amended to read:

41 260.556. The Secretary of State may not include in a count under ORS 250.045 (3) or 250.105 or
 42 ORS chapter 249 for purposes of determining whether an initiative, referendum or recall petition or
 43 a prospective petition for a state measure to be initiated contains the required number of signatures
 44 of electors, any signatures obtained by a person who the secretary determines, during the five-year
 45 period prior to the date the signatures were obtained:

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

3 (2) Has had a civil penalty imposed under ORS 260.995 for a violation of ORS 250.048 or 260.262;
 4 or

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

7 **SECTION 4.** Section 5 of this 2011 Act is added to and made a part of ORS chapter 250.

8 **SECTION 5.** (1) The Secretary of State shall establish a toll-free telephone line that is
 9 available for the purpose of reporting a violation of an election law or rule adopted by the
 10 secretary under ORS chapters 246 to 260 by any person registered to pay or receive money
 11 or other valuable consideration for obtaining signatures of electors on a state initiative,
 12 referendum or recall petition or a prospective petition for a state measure under ORS
 13 250.048.

14 (2) Notwithstanding any other provision of law, the identity of any person making a re-
 15 port under this section is confidential. The secretary may proceed as if the secretary re-
 16 ceived a complaint under ORS 260.345.

17 (3) The toll-free telephone line required to be established under subsection (1) of this
 18 section shall be known as the Initiative and Referendum Hotline. The secretary shall prepare
 19 written notices that explain the purpose of the Initiative and Referendum Hotline and that
 20 prominently display the telephone number for the hotline. The notice shall be posted in all
 21 state offices. If a state office is open to members of the public, the notice shall be posted in
 22 a place where the public is most likely to see the notice.

23 (4) The secretary shall publicize the availability of the Initiative and Referendum Hotline
 24 through print and electronic media.

25 **SECTION 6.** (1)(a) The amendments to ORS 250.048 by section 1 of this 2011 Act apply to
 26 the payment or receipt of money or other valuable consideration for obtaining signatures of
 27 electors on a state initiative, referendum or recall petition or prospective petition for a state
 28 measure to be initiated that are obtained on or after January 1, 2012.

29 (b) The amendments to ORS 260.556 by section 3 of this 2011 Act apply to signatures ob-
 30 tained on or after January 1, 2012.

31 (2) The amendments to ORS 260.262 by section 2 of this 2011 Act apply to:

32 (a) Initiative and referendum petitions for which a prospective petition is filed on or after
 33 the effective date of this 2011 Act;

34 (b) Prospective petitions that are filed on or after the effective date of this 2011 Act; and

35 (c) Initiative and referendum petitions for which a prospective petition is filed prior to
 36 the effective date of this 2011 Act and that, if filed with the required number of signatures
 37 of electors, will be submitted to the people at an election held on or after the effective date
 38 of this 2011 Act. A chief petitioner of a petition described in this paragraph or a contractor
 39 or subcontractor for the chief petitioner shall maintain accounts under ORS 260.262 as
 40 amended by section 2 of this 2011 Act for activities that occur on or after the effective date
 41 of this 2011 Act.

42 **SECTION 7.** The Secretary of State may take any action before January 1, 2012, that is
 43 necessary to enable the secretary to exercise, on and after January 1, 2012, all the duties,
 44 functions and powers conferred upon the secretary by section 5 of this 2011 Act and ORS
 45 250.048 and 260.556 as amended by sections 1 and 3 of this 2011 Act.

1 **SECTION 8.** Section 5 of this 2011 Act and the amendments to ORS 250.048 and 260.556
2 by sections 1 and 3 of this 2011 Act become operative on January 1, 2012.

3 **SECTION 9.** This 2011 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
5 on its passage.
6
