

# House Bill 3643

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**.

Modifies certain provisions relating to state initiative measures that require appropriation or expenditure of public moneys.

Takes effect only if House Joint Resolution 40 (2011) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed in House Joint Resolution 40 (2011).

## A BILL FOR AN ACT

1  
2 Relating to initiative measures; creating new provisions; amending ORS 250.035, 250.044, 250.125 and  
3 250.127; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 250.**

6 **SECTION 2. (1) The Secretary of State shall review a state measure to be initiated to  
7 determine whether the measure complies with the procedural requirements of section 1,  
8 Article IV of the Oregon Constitution. The secretary may not review a state measure to be  
9 initiated for substantive constitutional or legal sufficiency.**

10 **(2) Before obtaining signatures on a petition for a state measure to be initiated, a chief  
11 petitioner of the measure shall submit to the Secretary of State an estimate of:**

12 **(a) The appropriation or expenditure of public moneys required by the measure, if en-  
13 acted; and**

14 **(b) If the measure requires the appropriation or expenditure of public moneys, an esti-  
15 mate of the sufficiency of the new tax or fee, or the increase in the rate of an existing tax  
16 or fee, included as part of the measure.**

17 **(3) The chief petitioner shall also submit documentation to support an estimate described  
18 in subsection (2) of this section. The secretary may consider the estimate and documenta-  
19 tion submitted to determine whether the measure is in compliance with the procedural re-  
20 quirements of section 1 (2)(e), Article IV of the Oregon Constitution.**

21 **SECTION 3. ORS 250.035 is amended to read:**

22 **250.035. (1) The ballot title of any measure, other than a state measure, to be initiated or re-  
23 ferred shall consist of:**

24 **(a) A caption of not more than 10 words which reasonably identifies the subject of the measure;**

25 **(b) A question of not more than 20 words which plainly phrases the chief purpose of the measure  
26 so that an affirmative response to the question corresponds to an affirmative vote on the measure;  
27 and**

28 **(c) A concise and impartial statement of not more than 175 words summarizing the measure and  
29 its major effect.**

30 **(2) The ballot title of any state measure to be initiated or referred shall consist of:**

**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 (a) A caption of not more than 15 words that reasonably identifies the subject matter of the  
 2 state measure. The caption of an initiative or referendum amendment to the Constitution shall begin  
 3 with the phrase, "Amends Constitution," which shall not be counted for purposes of the 15-word  
 4 caption limit;

5 (b) A simple and understandable statement of not more than 25 words that describes the result  
 6 if the state measure is approved. The statement required by this paragraph shall include either the  
 7 phrase, "I vote" or "vote yes," or a substantially similar phrase, which may be placed at any point  
 8 within the statement;

9 (c) A simple and understandable statement of not more than 25 words that describes the result  
 10 if the state measure is rejected. The statement required by this paragraph shall not describe ex-  
 11 isting statutory or constitutional provisions in a way that would lead an average elector to believe  
 12 incorrectly that one of those provisions would be repealed by approval of the state measure, if ap-  
 13 proval would not have that result. Any thing or action described both in the statement required by  
 14 paragraph (b) of this subsection and in the statement required by this paragraph shall be described  
 15 using the same terms in both statements, to the extent practical. Any different terms must be terms  
 16 that an average elector would understand to refer to the same thing or action. The statement shall  
 17 include either the phrase, "I vote" or "vote no," or a substantially similar phrase, which may be  
 18 placed at any point within the statement; and

19 (d) A concise and impartial statement of not more than 125 words summarizing the state meas-  
 20 ure and its major effect.

21 **(3) The ballot title of a state measure to be initiated that includes as part of the measure**  
 22 **a new tax or fee, or an increase in the rate of an existing tax or fee, as required by section**  
 23 **1 (2)(e), Article IV of the Oregon Constitution, shall contain the statement, "If approved, the**  
 24 **measure will be paid for from \_\_\_\_\_.", with a description of the new or increased tax or fee**  
 25 **printed in the blank space.**

26 [(3)] (4)(a) The statements required by subsection (2)(b) and (c) of this section shall be written  
 27 so that, to the extent practicable, the language of the two statements is parallel.

28 [(4)] (b) The statement required by subsection (2)(b) of this section shall be written so that an  
 29 affirmative response to the statement corresponds to an affirmative vote on the state measure.

30 [(5)] (c) The statement required by subsection (2)(c) of this section shall be written so that an  
 31 affirmative response to the statement corresponds to a negative vote on the state measure.

32 [(6)] (d) In the statements required by subsection (2)(b), (c) and (d) of this section, reasonable  
 33 discretion shall be allowed in the use of articles and conjunctions, but the statements shall not omit  
 34 articles and conjunctions that are necessary to avoid confusion to or misunderstanding by an aver-  
 35 age elector.

36 **SECTION 4.** ORS 250.125 is amended to read:

37 250.125. (1) When a state measure involves expenditure of public moneys by the state, reduction  
 38 of expenditure of public moneys by the state, reduction of state revenues or raising of funds by the  
 39 state by imposing any tax or incurring any indebtedness, the financial estimate committee created  
 40 under this section shall estimate:

41 (a) The amount of direct expenditure, direct reduction of expenditure, direct reduction in state  
 42 revenues, direct tax revenue or indebtedness and interest that will be required to meet the pro-  
 43 visions of the measure if it is enacted; [and]

44 (b) The aggregate amount of direct expenditure, direct reduction of expenditure, direct reduction  
 45 in revenues, direct tax revenue or indebtedness and interest that will be required by any city,

1 county or district to meet the provisions of the measure if it is enacted[.]; and

2 **(c) In addition to the estimate under paragraph (a) of this subsection, in the case of a**  
 3 **measure described in section 1 (2)(e), Article IV of the Oregon Constitution, the amount of**  
 4 **direct revenue that will be generated from a new tax or fee, or the increase in the rate of**  
 5 **an existing tax or fee, included as part of the measure, if the measure is enacted.**

6 (2) For a state measure for which an estimate is required to be prepared under subsection (1)  
 7 of this section, the financial estimate committee may also estimate the amount of direct expenditure,  
 8 direct reduction of expenditure, direct reduction in revenues, direct tax revenue or indebtedness and  
 9 interest that will result for the state or any city, county or district if the measure is not enacted.  
 10 The financial estimate committee may make an estimate under this subsection if the Legislative  
 11 Assembly has enacted a law that will apply only if the measure for which the estimate is prepared  
 12 is not enacted.

13 (3) For a state measure for which an estimate is required to be prepared under subsection (1)  
 14 of this section, the financial estimate committee shall consult with the Legislative Revenue Officer  
 15 to determine if the measure has potentially significant indirect economic or fiscal effects. If the  
 16 committee determines that the indirect economic or fiscal effects of the measure are significant and  
 17 can be estimated, the Legislative Revenue Officer shall prepare on behalf of the committee an im-  
 18 partial estimate of the indirect economic or fiscal effects of the measure. The Legislative Revenue  
 19 Officer shall use the best available economic models and data to produce the estimate. The financial  
 20 estimate committee shall incorporate relevant parts of the estimate prepared by the Legislative Re-  
 21 venue Officer into the estimate prepared by the committee under subsection (1) of this section.

22 **(4)(a) For an initiated state measure that includes as part of the measure, a new tax or**  
 23 **fee, or an increase in the rate of an existing tax or fee, the financial estimate committee**  
 24 **shall consult with the Legislative Revenue Officer to determine whether the revenue from**  
 25 **the new or increased tax or fee is sufficient to cover the immediate and future costs of the**  
 26 **measure, if enacted. The Legislative Revenue Officer shall prepare on behalf of the com-**  
 27 **mittee an impartial estimate of the revenue of the new or increased tax or fee and an im-**  
 28 **partial estimate of the economic or fiscal effects of the measure. The Legislative Revenue**  
 29 **Officer shall use the best available economic models and data to produce the estimates.**

30 **(b) The financial estimate committee shall determine whether the revenue from the new**  
 31 **or increased tax or fee is sufficient to cover the immediate and future costs of the measure.**  
 32 **The new or increased tax or fee may be considered sufficient to cover the costs of the**  
 33 **measure only if there is at least some overlap in the estimated amount of revenue from the**  
 34 **new or increased tax or fee and the estimated amount of the immediate and future costs of**  
 35 **the measure, if enacted.**

36 **(c) The financial estimate committee shall incorporate its determination into the esti-**  
 37 **mate prepared by the committee under subsection (1) of this section.**

38 [(4)] (5) Except as provided in subsection [(5)] (6) of this section, the estimates described in  
 39 subsections (1) and (2) of this section shall be printed in the voters' pamphlet and on the ballot. The  
 40 estimates shall be impartial, simple and understandable and shall include the following information:

41 (a) A statement of the amount of financial effect on state or local government expenditures, re-  
 42 venues or indebtedness, expressed as a specific amount or as a range of amounts;

43 (b) A statement of any recurring annual amount of financial effect on state or local government  
 44 expenditures, revenues or indebtedness;

45 (c) A description of the most likely financial effect or effects of the adoption of the measure;

1 [and]

2 (d) If an estimate is made under subsection (2) of this section, a description of the most likely  
 3 financial effect or effects if the measure is not enacted[.]; and

4 (e) **In the case of a measure described in subsection (4) of this section, a statement as**  
 5 **to whether the new tax or fee, or the increase in the rate of an existing tax or fee, included**  
 6 **as part of the measure, is sufficient to cover the immediate and future costs of the measure,**  
 7 **if enacted.**

8 [(5)] (6) If the financial estimate committee determines that the measure will have no financial  
 9 effect on state or local government expenditures, revenues or indebtedness or that the financial ef-  
 10 fect on state or local government expenditures, revenues or indebtedness will not exceed \$100,000,  
 11 the committee shall prepare and file with the Secretary of State a statement declaring that the  
 12 measure will have no financial effect or that the financial effect will not exceed \$100,000. The  
 13 statement shall be printed in the voters' pamphlet and on the ballot.

14 [(6)] (7) In addition to the estimates described in subsections (1) and (2) of this section, if the  
 15 financial estimate committee considers it necessary, the committee may prepare and file with the  
 16 Secretary of State an impartial, simple and understandable statement explaining the financial effects  
 17 of the measure. The statement may not exceed 500 words. The statement shall be printed in the  
 18 voters' pamphlet with the measure to which it relates.

19 [(7)] (8) The Legislative Administration Committee shall provide any administrative staff assist-  
 20 ance required by the financial estimate committee to facilitate the work of the financial estimate  
 21 committee under this section or ORS 250.127.

22 [(8)] (9) The financial estimate committee is created, consisting of the Secretary of State, the  
 23 State Treasurer, the Director of the Oregon Department of Administrative Services, the Director  
 24 of the Department of Revenue and a representative of a city, county or district with expertise in  
 25 local government finance. The representative of a city, county or district shall be selected by the  
 26 four other members of the financial estimate committee and shall serve for a term of two years that  
 27 begins on March 1 of the odd-numbered year.

28 **SECTION 5.** ORS 250.044 is amended to read:

29 250.044. (1) An action that challenges the constitutionality of a measure initiated by the people  
 30 or referred to the people for a vote must be commenced in the Circuit Court for Marion County if:

31 (a) The action is filed by a plaintiff asserting a claim for relief that challenges the  
 32 constitutionality of a state statute or an amendment to the Oregon Constitution initiated by the  
 33 people or referred to the people under section 1 (1) to (4), Article IV of the Oregon Constitution;

34 (b) The action is commenced on or after the date that the Secretary of State certifies that the  
 35 challenged measure has been adopted by the electors and within 180 days after the effective date  
 36 of the measure; and

37 (c) The action may not be commenced in the Oregon Tax Court.

38 (2) An action under subsection (1) of this section must be within the jurisdiction of circuit courts  
 39 and must present a justiciable controversy. The plaintiff in an action subject to the requirements  
 40 of this section must serve a copy of the complaint on the Attorney General.

41 (3) If an action subject to the requirements of this section is filed in a court other than the  
 42 Circuit Court for Marion County, the other court, on its own motion or the motion of any party to  
 43 the action, shall dismiss the action or transfer the action to the Circuit Court for Marion County.

44 (4) This section does not apply to any civil or criminal proceeding in which the constitutionality  
 45 of a state statute or provision of the Oregon Constitution is challenged in a responsive pleading.

1 (5) If a judgment in an action subject to the requirements of this section holds that a challenged  
 2 measure is invalid in whole or in part, a party to the action may appeal the judgment only by filing  
 3 a notice of appeal directly with the Supreme Court within the time and in the manner specified in  
 4 ORS chapter 19 for civil appeals to the Court of Appeals. Any party filing a notice of appeal under  
 5 this subsection must note in the notice of appeal that the case is subject to this subsection.

6 (6) If a judgment in an action subject to the requirements of this section holds that a challenged  
 7 measure is valid, a party to the action may appeal the judgment by filing a notice of appeal in the  
 8 Court of Appeals within the time and in the manner specified in ORS chapter 19 for civil appeals.  
 9 Notwithstanding ORS 19.405 (1), the party may move the Court of Appeals to certify the appeal to  
 10 the Supreme Court, and the Court of Appeals acting in its sole discretion may so certify the appeal.  
 11 If the Court of Appeals certifies the appeal to the Supreme Court, the Supreme Court shall accept  
 12 or deny acceptance of the certification as provided in ORS 19.405 (2).

13 **(7) Any action asserting a claim for relief that challenges the constitutionality of a**  
 14 **measure under section 1 (2)(e), Article IV of the Oregon Constitution, must be commenced**  
 15 **no later than one year after the date the measure takes effect.**

16 **SECTION 6.** ORS 250.127 is amended to read:

17 250.127. (1) Not later than the 99th day before a special election held on the date of a primary  
 18 election or any general election at which any state measure is to be submitted to the people, the  
 19 financial estimate committee created under ORS 250.125 shall prepare and file with the Secretary  
 20 of State the estimates described in ORS 250.125 and, if the committee considers it necessary, a  
 21 statement explaining the financial effects of the measure as described in ORS 250.125 [(6)] (7). The  
 22 financial estimate committee may begin preparation of the estimates and statement on the date that  
 23 a petition is accepted for verification of signatures under ORS 250.105 or the date that a measure  
 24 referred by the Legislative Assembly is filed with the Secretary of State, whichever is applicable.

25 (2) Not later than the 95th day before the election, the Secretary of State shall hold a hearing  
 26 in Salem upon reasonable statewide notice to receive suggested changes to the estimates or state-  
 27 ment or to receive other information. At the hearing any person may submit suggested changes or  
 28 other information orally or in writing. Written suggestions or other information also may be sub-  
 29 mitted at any time before the hearing.

30 (3) The financial estimate committee shall consider suggestions and any other information sub-  
 31 mitted under subsection (2) of this section, and may file revised estimates or a revised statement  
 32 with the Secretary of State not later than the 90th day before the election.

33 (4) Except as provided in subsection (5) of this section, the original estimates and statement and  
 34 any revised estimates or statement shall be approved by a majority of the members of the financial  
 35 estimate committee. If a member does not concur, the estimates or statement shall show only that  
 36 the member dissents. The Secretary of State shall certify final estimates and a final statement not  
 37 later than the 90th day before the election at which the measure is to be voted upon. All estimates  
 38 and statements prepared under ORS 250.125 and this section shall be made available to the public.

39 (5) If a majority of the members of the financial estimate committee do not approve the esti-  
 40 mates or statement, the Secretary of State alone shall prepare, file and certify the estimates or  
 41 statement not later than the 88th day before the election at which the measure is to be voted upon  
 42 with the data upon which the estimates or statement is based.

43 (6) The support or opposition of any member of the financial estimate committee to the original  
 44 or revised estimates or statement shall be indicated in the minutes of any meeting of the committee.  
 45 Meetings of the financial estimate committee shall be open to the public. Designees of the members

1 of the financial estimate committee may attend any meetings of the committee in the place of the  
2 members, but the designees may not vote to approve or oppose any estimates or statement.

3 (7) A failure to prepare, file or certify estimates or a statement under ORS 250.125, this section  
4 or ORS 250.131 does not prevent the inclusion of the measure in the voters' pamphlet or placement  
5 of the measure on the ballot.

6 (8) If the estimates are not delivered to the county clerk by the 61st day before the election, the  
7 county clerk may proceed with the printing of ballots. The county clerk is not required to reprint  
8 ballots to include the estimates or to provide supplemental information that includes the estimates.

9 **SECTION 7. Section 2 of this 2011 Act and the amendments to ORS 250.035, 250.044,  
10 250.125 and 250.127 by sections 3 to 6 of this 2011 Act apply to state measures to be initiated  
11 that, if filed with the required number of signatures of electors, will be submitted to the  
12 people at an election held on or after the first Tuesday after the first Monday in November  
13 2014.**

14 **SECTION 8. This 2011 Act does not take effect unless the amendment to the Oregon  
15 Constitution proposed by House Joint Resolution 40 (2011) is approved by the people at the  
16 next regular general election held throughout this state. This 2011 Act takes effect on the  
17 effective date of that constitutional amendment.**

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