

Senate Bill 830

Sponsored by Senator FERRIOLI

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**.

Prohibits certain actions relating to ballots, ballot deposit sites, voting machines and vote tally systems.

Eliminates culpable mental state element in certain election law violations.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; and amending ORS 246.550, 247.171, 247.420, 247.940,
3 247.945, 254.470, 254.478, 260.675, 260.695 and 260.715.

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

5 **SECTION 1.** ORS 246.550 is amended to read:

6 246.550. (1) The Secretary of State shall publicly examine all makes of voting machines or vote
7 tally systems submitted to the secretary and determine whether the machines or systems comply
8 with the requirements of ORS 246.560, and can safely be used by electors.

9 (2) Any person owning or interested in a voting machine or vote tally system may submit it to
10 the secretary for examination. For the purpose of assistance in examining the machine or system
11 the secretary may employ not more than three individuals who are expert in one or more of the
12 fields of data processing, mechanical engineering and public administration. The compensation of
13 these assistants shall be paid by the person submitting the machine or system.

14 (3) Not later than the 30th day after completing the examination, the secretary shall approve
15 or reject the voting machine or vote tally system. If the secretary approves the machine or system,
16 the secretary shall make a report on the machine or system, together with a written or printed de-
17 scription, drawings and photographs clearly identifying the machine or system and its operation.
18 Upon request, the secretary shall send a copy of the report to any governing body within the state.

19 (4) Any voting machine or vote tally system approved by the secretary may be used for con-
20 ducting elections. A machine or system rejected by the secretary may not be used at any election.
21 If a machine or system is changed after the machine or system has been approved by the secretary,
22 the secretary is not required to reexamine or reapprove the machine or system if the secretary de-
23 termines that the change does not impair the accuracy, efficiency or capacity of the machine or
24 system.

25 (5) If, after consulting with county clerks, the secretary determines that a voting machine or
26 vote tally system approved by the secretary does not comply with the requirements of ORS 246.560,
27 the secretary may revoke the approval. If the secretary revokes approval, the machine or system
28 may not be used in any election.

29 **(6) Care, service or maintenance of a voting machine or vote tally system may not be**
30 **performed by a person who is affiliated with or a member of a political party.**

31 **SECTION 2.** ORS 247.171 is amended to read:

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.

1 247.171. (1) Except as provided in this subsection, the Secretary of State shall design, prepare
2 and distribute state voter registration cards. The Secretary of State shall also distribute federal
3 registration cards. Any person may apply in writing to the Secretary of State for permission to print,
4 copy or otherwise prepare and distribute the registration cards designed by the Secretary of State.
5 The secretary may revoke any permission granted under this subsection at any time. All registration
6 cards shall be distributed to the public without charge.

7 (2) The Secretary of State shall approve any voter registration application form developed for
8 use by the Department of Transportation under ORS 247.017 or by any other agency designated a
9 voter registration agency under ORS 247.208.

10 (3) Each voter registration card designed or approved by the Secretary of State shall describe
11 the penalties for [*knowingly*] supplying false information on the registration card and shall contain
12 space for a person to provide the following information:

13 (a) Full name;

14 (b) Residence address, mailing address or any other information necessary to locate the resi-
15 dence of the person offering to register to vote;

16 (c) The name of the political party with which the person is affiliated, if any;

17 (d) Date of birth;

18 (e) An indication that the person is a citizen of the United States; and

19 (f) A signature attesting to the fact that the person is qualified to be an elector.

20 (4) Any form containing a voter registration card may also include space for a person to provide:

21 (a) A telephone number where the person may be contacted; and

22 (b) If previously registered to vote in this state, the name then supplied by the person and the
23 county and, if known, the address of previous registration.

24 (5) A person shall not supply any **false** information under subsection (3) or (4) of this section
25 [*knowing it to be false*].

26 (6) A county clerk or other person accepting registration cards shall not request any informa-
27 tion unless it is authorized by state or federal law.

28 (7) A person shall attest to the information supplied on the voter registration card by signing
29 the completed registration card.

30 (8) Any completed and signed registration card described in subsection (3) of this section shall
31 be the official registration card of the elector.

32 **SECTION 3.** ORS 247.420 is amended to read:

33 247.420. (1) A county clerk shall give a ballot marked "Presidential only" to any person eligible
34 under ORS 247.410 who personally appears in the office of the county clerk, completes a registration
35 card and verifies eligibility to vote under ORS 247.410.

36 (2) [*No person shall*] **A person may not** supply any **false** information under subsection (1) of
37 this section[, *knowing it to be false*].

38 **SECTION 4.** ORS 247.940 is amended to read:

39 247.940. (1)(a) Not later than the 21st day before any primary election, general election or spe-
40 cial congressional election, a major political party qualified under ORS 248.006 or its affiliate within
41 the county or a minor political party qualified under ORS 248.008 may request from the county clerk
42 a list of active electors, as described in ORS 247.013, of the county.

43 (b) Except as provided in this section, the list shall contain the name, party affiliation, residence
44 or mailing address and precinct name or number of each active elector and shall be arranged in
45 groups by election precinct. The list may not contain any information about participants in the

1 Address Confidentiality Program established under ORS 192.820 to 192.868.

2 (c) A major political party or its affiliate within the county or a minor political party may make
3 no more than two separate requests under this subsection.

4 (2) If the county clerk receives a request under subsection (1) of this section, the clerk shall
5 deliver the list not later than:

6 (a) Ten days after receiving the request; or

7 (b) The date requested, provided that the date requested is more than 10 days after the request
8 was made and at least 10 days before the date of any primary election, general election or special
9 congressional election.

10 (3) The county clerk may not charge for preparation or delivery of the list supplied under this
11 section.

12 **(4) The county clerk may only distribute or otherwise make available a list of electors**
13 **that indicates whether an elector cast a ballot in an election after 8 p.m. on the date of the**
14 **election.**

15 **SECTION 5.** ORS 247.945 is amended to read:

16 247.945. (1) The county clerk, upon request before the 45th day before a primary, general or
17 special election, shall deliver to any person a list of electors. The list may not contain any infor-
18 mation about participants in the Address Confidentiality Program established under ORS 192.820 to
19 192.868. The lists shall be prepared in the manner requested, limited only to the capabilities of the
20 Secretary of State or the county clerk.

21 (2) The county clerk shall collect and pay into the county treasury a charge for the actual cost
22 of supplying lists under subsection (1) of this section.

23 (3) The county clerk shall keep a record of all persons to whom a list of electors is delivered
24 under this section.

25 (4) Upon request, the Secretary of State shall deliver to any person a statewide list of electors.
26 The secretary shall charge a fee of \$500 for delivering a list under this subsection. The list may not
27 contain any information about participants in the Address Confidentiality Program established under
28 ORS 192.820 to 192.868.

29 **(5) The Secretary of State or the county clerk may only distribute or otherwise make**
30 **available a list of electors that indicates whether an elector cast a ballot in an election after**
31 **8 p.m. on the date of the election.**

32 **SECTION 6.** ORS 254.470 is amended to read:

33 254.470. (1)(a) The Secretary of State by rule shall establish requirements and criteria for the
34 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
35 dates and times the places of deposit must be open and the security requirements for the places of
36 deposit.

37 (b) At a minimum, the places designated under this section *[shall]* **must** be:

38 (A) Open *[on the date of the election]* **each day beginning 14 days before the date of the**
39 **election and ending the date of the election** for a period of eight or more hours, *but must be*
40 *open]* **per day and** until at least 8 p.m. **on the date of the election.**

41 (B) **Located in an area that is accessible to the general public and open to observers.**

42 (c) At each place of deposit designated under this section, the county clerk shall prominently
43 display a sign stating that the location is an official ballot drop site.

44 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, the county clerk shall mail
45 by nonforwardable mail an official ballot with a return identification envelope and a secrecy envel-

1 ope not sooner than the 18th day before the date of an election and not later than the 14th day
 2 before the date of the election, to each active elector of the electoral district as of the 21st day
 3 before the date of the election.

4 (b) If the county clerk determines that an active elector of the electoral district as of the 21st
 5 day before the date of the election does not receive daily mail service from the United States Postal
 6 Service, the county clerk shall mail by nonforwardable mail an official ballot with a return iden-
 7 tification envelope and a secrecy envelope to the elector not sooner than the 20th day before the
 8 date of an election and not later than the 18th day before the date of the election.

9 (c) In the case of ballots to be mailed to addresses outside this state to electors who are not
 10 long-term absent electors, the county clerk may mail the ballots not sooner than the 29th day before
 11 the date of the election.

12 (3) For an election held on the date of a primary election:

13 (a) The county clerk shall mail the official ballot of a major political party to each elector who
 14 is registered as being affiliated with the major political party as of the 21st day before the date of
 15 the election.

16 (b) The county clerk shall mail the official ballot of a major political party to an elector not
 17 affiliated with any political party if the elector has applied for the ballot as provided in this sub-
 18 section and that party has provided under ORS 254.365 for a primary election that admits electors
 19 not affiliated with any political party.

20 (c) An elector not affiliated with any political party who wishes to vote in the primary election
 21 of a major political party shall apply to the county clerk in writing. The application shall indicate
 22 which major political party ballot the elector wishes to receive. Except for electors described in
 23 subsection (4) of this section, and subject to ORS 247.203, the application must be received by the
 24 county clerk not later than 5 p.m. of the 21st day before the date of the election.

25 (d) If the primary election ballot includes city, county or nonpartisan offices or measures, the
 26 county clerk shall mail to each elector who is not eligible to vote for party candidates a ballot
 27 limited to those offices and measures for which the elector is eligible to vote.

28 (4) For each elector who updates a voter registration after the deadline in ORS 247.025, the
 29 county clerk shall make the official ballot, the return identification envelope and the secrecy en-
 30 velope available either by mail or at the county clerk's office or at another place designated by the
 31 county clerk. An elector to whom this subsection applies must request a ballot from the county
 32 clerk.

33 (5) The ballot shall contain the following warning:
 34 _____
 35

36 Any person who, by use of force or other means, unduly influences an elector to vote in any
 37 particular manner or to refrain from voting is subject to a fine.
 38 _____
 39

40 (6) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign
 41 the return identification envelope supplied with the ballot and comply with the instructions provided
 42 with the ballot. The elector may return the marked ballot to the county clerk by United States mail
 43 or by depositing the ballot at the office of the county clerk, at any place of deposit designated by
 44 the county clerk or at any location described in ORS 254.472 or 254.474. The ballot must be returned
 45 in the return identification envelope. If the elector returns the ballot by mail, the elector must

1 provide the postage. A ballot must be received at the office of the county clerk, at the designated
 2 place of deposit or at any location described in ORS 254.472 or 254.474 not later than the end of the
 3 period determined under subsection (1) of this section on the date of the election.

4 (7) An elector may obtain a replacement ballot if the ballot is destroyed, spoiled, lost or not
 5 received by the elector. Replacement ballots shall be issued and processed as described in this
 6 section and ORS 254.480. The county clerk shall keep a record of each replacement ballot provided
 7 under this subsection. Notwithstanding any deadline for mailing ballots in subsection (2) of this
 8 section, a replacement ballot may be mailed, made available in the office of the county clerk or made
 9 available at one central location in the electoral district in which the election is conducted. The
 10 county clerk shall designate the central location. A replacement ballot need not be mailed after the
 11 fifth day before the date of the election.

12 (8) A ballot shall be counted only if:

13 (a) It is returned in the return identification envelope;

14 (b) The envelope is signed by the elector to whom the ballot is issued; and

15 (c) The signature is verified as provided in subsection (9) of this section.

16 (9) The county clerk shall verify the signature of each elector on the return identification en-
 17 velope with the signature on the elector's registration card, according to the procedure provided by
 18 rules adopted by the Secretary of State. **The county clerk may not observe any information in-**
 19 **dicating an elector's political party affiliation while verifying signatures under this sub-**
 20 **section.**

21 (10) If the county clerk determines that an elector to whom a replacement ballot has been issued
 22 has voted more than once, the county clerk shall count only one ballot cast by that elector.

23 [(10)] (11) At 8 p.m. on election day, electors who are at the county clerk's office, a place of
 24 deposit designated under subsection (1) of this section or any location described in ORS 254.472 or
 25 254.474 and who are in line waiting to vote or deposit a voted ballot shall be considered to have
 26 begun the act of voting.

27 **SECTION 7.** ORS 254.478 is amended to read:

28 254.478. (1) [*Subject to ORS 260.705 and*] Not sooner than [*the seventh day before*] **8 p.m. on** the
 29 date of an election, the county clerk may:

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

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

34 **(2) The county clerk may not separate the return identification or secrecy envelope of a**
 35 **ballot from the ballot until immediately before the ballot is scanned into a vote tally system.**

36 [(2)] (3) The county clerk may take any other actions that are necessary to count ballots deliv-
 37 ered by mail.

38 **SECTION 8.** Section 9 of this 2011 Act is added to and made a part of ORS chapter 254.

39 **SECTION 9.** (1) **In an election conducted by mail, a person, except an elections official**
 40 **in performance of duties, may not establish a place of deposit for ballots cast in the election.**

41 **(2) Each place of deposit for ballots cast in an election designated under ORS 254.470 shall**
 42 **be staffed by elections officials during all hours that the place of deposit is open.**

43 **(3) Elections officials shall count each ballot delivered to a place of deposit designated**
 44 **under ORS 254.470 at the place of deposit and shall count the ballots again when the ballots**
 45 **are transferred from the place of deposit to the office of the county clerk.**

1 **SECTION 10.** ORS 260.695, as amended by section 1, chapter 35, Oregon Laws 2010, is amended
2 to read:

3 260.695. (1)(a) If a person prints or circulates an imitation of the ballot or sample ballot:

4 (A) The imitation ballot or sample ballot and the back of any return envelope enclosed with the
5 ballot or sample ballot shall state the following: “THIS IS NOT A REAL BALLOT. DO NOT USE
6 TO VOTE.” The statement on the imitation ballot or sample ballot shall be in bold print that is at
7 least two times as large as the majority of the text on the ballot or sample ballot or 20-point type,
8 whichever is larger. The statement on the back of a return envelope shall be in bold print that is
9 at least 36-point type.

10 (B) The word “UNOFFICIAL” must be superimposed on the imitation ballot or sample ballot so
11 that the word extends diagonally across the ballot from one margin of the text to the other. The
12 superimposed word may be printed in lighter ink than other text on the ballot or sample ballot.

13 (b) For purposes of this subsection, an imitation of the ballot or sample ballot includes an imi-
14 tation of a portion of the ballot or sample ballot.

15 (2) A person may not do any electioneering, including circulating any cards or handbills, or so-
16 liciting of signatures to any petition, within any building in which any state or local government
17 elections office designated for the deposit of ballots under ORS 254.470 is located, or within 100 feet
18 measured radially from any entrance to the building. A person may not do any electioneering by
19 public address system located more than 100 feet from an entrance to the building if the person is
20 capable of being understood within 100 feet of the building. The electioneering need not relate to
21 the election being conducted. This subsection applies during the period beginning on the date that
22 ballots are mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or
23 when all persons waiting in line at the building who began the act of voting as described in ORS
24 254.470 [(10)] (11) by 8 p.m. have finished voting.

25 (3) A person may not obstruct an entrance of a building in which ballots are issued or a place
26 designated for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS
27 254.474 is located. This subsection applies during the period beginning on the date that ballots are
28 mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all
29 persons waiting in line at the building or location who began the act of voting as described in ORS
30 254.470 [(10)] (11) by 8 p.m. have finished voting.

31 (4) A person may not vote or offer to vote in any election knowing the person is not entitled
32 to vote.

33 (5) A person may not make a false statement about the person’s inability to mark a ballot.

34 (6) A person, except an elections official in performance of duties or another person providing
35 assistance to an elector as described in ORS 254.445, may not ask a person at any place designated
36 for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472 or 254.474
37 for whom that person intends to vote, or examine or attempt to examine the person’s ballot.

38 (7) A person may not show the person’s own marked ballot to another person to reveal how it
39 was marked.

40 (8) An elections official, other than in the performance of duties, may not disclose to any person
41 any information by which it can be ascertained for whom any elector has voted.

42 (9) A person, except an elections official in performance of duties, may not do anything to a
43 ballot to permit identification of the person who voted.

44 (10) An elector may not [willfully] leave at any place designated for the deposit of ballots under
45 ORS 254.470 or at any location described in ORS 254.472 or 254.474 anything that will show how the

1 elector's ballot was marked.

2 (11) A person, except an elections official in performance of duties, may not remove a ballot
3 from any place designated for the deposit of ballots under ORS 254.470 or any location described in
4 ORS 254.472 or 254.474.

5 (12) A person, except an elections official in performance of duties or a person authorized by
6 that official, may not [*willfully*] deface, remove, alter or destroy a posted election notice.

7 (13) A person, except an elections official in performance of duties, may not [*willfully*] remove,
8 alter or destroy election equipment or supplies, or break the seal or open any sealed package con-
9 taining election supplies.

10 (14) A person, except an elections official in performance of duties, may not provide elections
11 advice or attempt to collect voted ballots within any building in which any state or local govern-
12 ment elections office designated for the deposit of ballots under ORS 254.470 is located, or within
13 100 feet measured radially from any entrance to the building.

14 [(15) A person, except an elections official in performance of duties, may not establish a location
15 to collect ballots voted by electors unless:]

16 [(a) The person prominently displays at the location a sign stating: "NOT AN OFFICIAL BAL-
17 LOT DROP SITE"; and]

18 [(b) The sign is printed in all capital letters in bold 50-point type.]

19 **(15) A person may not handle the ballot of an elector unless the person is an elections**
20 **official or employee of the United States Postal Service in performance of duties, or a rela-**
21 **tive of the elector.**

22 **SECTION 11.** ORS 260.675 is amended to read:

23 260.675. (1) A person employed or authorized to print official ballots may not give, deliver or
24 [*knowingly*] permit any of the ballots to be taken by any person other than the official under whose
25 direction the ballots are printed.

26 (2) A person may not [*knowingly*] print, cause or permit to be printed any ballot in any other
27 form, with any other names, with names spelled or names of the candidates arranged in any other
28 way than that directed by the official under whose direction the ballots are printed.

29 (3) An official having the duty of distributing ballots, and any persons acting for that official,
30 may not [*knowingly*] distribute or cause to be distributed any ballots in any other manner than as
31 provided under the election laws.

32 **SECTION 12.** ORS 260.715 is amended to read:

33 260.715. (1) A person may not [*knowingly*] make a false statement, oath or affidavit when a
34 statement, oath or affidavit is required under the election laws.

35 (2) A person may not request a ballot in a name other than the person's own name.

36 (3) A person may not vote or attempt to vote more than once at any election held on the same
37 date.

38 (4) A person may not vote or attempt to vote both in an election held in this state and in an-
39 other state on the same date.

40 (5) A person, except an elections official in performance of duties, may not [*willfully*] alter or
41 destroy a ballot cast at an election or the returns of an election.

42 (6) A person may not [*willfully*] place a fraudulent ballot among the genuine ballots.

43 (7) A person may not falsely write anything purporting to be written by an elections official in
44 performance of duties on the ballot.

45 (8) A person may not commit theft of a ballot or tally or return sheet, or [*willfully*] hinder or

1 delay the delivery of the tally or return sheet to the county clerk, or fraudulently break open a
2 sealed tally or return sheet of the election.

3 (9) A person may not manufacture or [*knowingly*] use a fraudulent ballot return identification
4 envelope or secrecy envelope or sell, offer to sell, purchase or offer to purchase, for money or other
5 valuable consideration, any official ballot, replacement ballot, ballot return identification envelope
6 or secrecy envelope. As used in this subsection, “ballot return identification envelope” and “secrecy
7 envelope” mean those envelopes used to return ballots to the county clerk.

8
