

House Bill 4174

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**.

Requires elections officials to follow certain security procedures relating to ballots.
Modifies laws relating to ballots for absent electors.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to ballots; creating new provisions; amending ORS 253.065, 253.070, 253.080, 253.515,
3 253.540, 253.550, 253.565, 253.575, 253.585, 253.700, 253.710, 254.074, 254.483, 254.660 and 260.665;
4 repealing ORS 253.015, 253.030, 253.045, 253.055 and 253.135; and declaring an emergency.

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

6 **SECTION 1.** ORS 254.074 is amended to read:

7 254.074. (1) Each county clerk shall file a county elections security plan with the Secretary of
8 State not later than:

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

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

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

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

13 (b) Security procedures for transporting ballots;

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

15 (d) Security procedures for processing ballots;

16 (e) Security procedures governing election observers;

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

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

20 **(h) The number and location of all video surveillance cameras where ballots may be tal-**
21 **lied;**

22 *[(h)]* (i) Security procedures for scanning ballots into a vote tally system before the date of the
23 election, if applicable; and

24 *[(i)]* (j) Post-election ballot security.

25 **(3) For each election, at the time the county clerk proclaims the results of an election,**
26 **the clerk shall submit to the Secretary of State a record of:**

27 **(a) The total number of ballots printed by the county.**

28 **(b) The total number of ballots received by the county.**

29 **(c) The number of ballots mailed to voters by a vendor.**

30 **(d) The number of ballots issued to a person at the office of the county clerk.**

31 **(e) The number of ballots returned undeliverable.**

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 **(f) The number of rejected ballot envelopes.**
- 2 **(g) The number of tallied ballots.**
- 3 **(h) The number of ballots used for duplication.**
- 4 **(i) The number of test ballots.**
- 5 **(j) The number of archived ballots.**

6 [(3)] **(4)** A **record or** security plan developed and filed under this section is confidential and not
7 subject to disclosure under ORS 192.410 to 192.505.

8 [(4)] **(5)** A county clerk may not scan ballots as described in ORS 254.478 unless the Secretary
9 of State reviews and approves a security plan [*under*] **described in subsection (2) of** this section.

10 **SECTION 2.** ORS 254.483 is amended to read:

11 254.483. [*Immediately after 8 p.m. on the day of an election:*]

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

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

15 **(1) Each county clerk is responsible for the safekeeping and disposition of ballots.**

16 **(2) At the end of voting on the day of the election, the county clerk shall:**

17 **(a) For each duplicate ballot, mark the ballot as a duplicate ballot.**

18 **(b) For each unused ballot:**

19 **(A) Mark the ballot as an unused ballot; or**

20 **(B) Seal and secure the ballot.**

21 **(3) As soon as practicable after the results of the election are proclaimed, the county**
22 **clerk shall destroy all unused ballots.**

23 **SECTION 3.** ORS 253.065 is amended to read:

24 253.065. (1) For electors with mailing addresses outside this state, the county clerk shall deliver
25 [*an absentee*] **a** ballot:

26 (a) Not later than the 45th day before the election to each long term absent elector; and

27 (b) Not sooner than the 29th day before the election to each **absent** elector with a mailing ad-
28 dress outside this state who is not a long term absent elector.

29 [(2)] *For electors with mailing addresses in this state, except if requested by the elector, absentee*
30 *ballots delivered by mail shall be delivered:]*

31 [(a)] *For primary elections and general elections, or any statewide special election for which a*
32 *voters' pamphlet is prepared, not sooner than the date the Secretary of State first mails the voters'*
33 *pamphlet under ORS 251.175; or]*

34 [(b)] *In the case of an election for which a statewide voters' pamphlet is not required to be prepared,*
35 *not sooner than the 20th day before the date of the election.]*

36 [(3)] *The ballot may be delivered to the absent elector in the office of the clerk, by postage prepaid*
37 *mail or by any other appropriate means.]*

38 [(4)] **(2)** The clerk shall deliver with the ballot instructions for marking and returning the ballot,
39 a return identification envelope and a secrecy envelope. The back of the envelope shall include a
40 statement to be signed by the absent elector, stating that the elector:

41 (a) Is qualified to vote;

42 (b) Unless prevented by physical disability, has personally marked the ballot; and

43 (c) Has not unnecessarily exhibited the marked ballot to any other person.

44 [(5)] *Notwithstanding subsections (1) and (2) of this section, if the county clerk receives an applica-*
45 *tion for an absentee ballot after the fifth day before an election, the county clerk need not mail the*

1 *ballot for that election but may deliver the ballot by making it available in the office of the clerk.]*

2 [(6)] (3) An **absent** elector may obtain a replacement ballot if the ballot **delivered under this**
 3 **section** is destroyed, spoiled, lost or not received by the elector. The county clerk shall keep a re-
 4 cord of each replacement ballot provided under this subsection.

5 [(7)] (4) A replacement ballot **provided under subsection (3) of this section** may be mailed or
 6 shall be made available in the office of the county clerk.

7 [(8)] (5) If the county clerk determines that an **absent** elector to whom a replacement ballot has
 8 been issued at the request of the elector has voted more than once, the county clerk shall [*not*]
 9 count [*any*] **only the first** ballot [*cast by the elector*] **received by the clerk and provide the**
 10 **elector's name to the Secretary of State for further review.** If the county clerk is required to
 11 reissue ballots due to a change on the ballot for any reason, that ballot shall be counted in lieu of
 12 any previous ballot issued unless:

13 (a) Only the original ballot was voted and returned; or

14 (b) The county clerk issued a supplemental ballot that is not a complete replacement of the or-
 15 iginal ballot.

16 **SECTION 4.** ORS 253.070 is amended to read:

17 253.070. [*Upon receipt of a ballot the absent elector shall mark it and comply with the instructions*
 18 *provided with the ballot. The absent elector may return the marked ballot to the office of the clerk,*
 19 *by any appropriate means. The]* A ballot **from an absent elector** must be received by a county clerk
 20 not later than 8 p.m. of the day of the election. [*If a county clerk receives a ballot for an elector who*
 21 *does not reside in the clerk's county, the ballot shall be forwarded to the county clerk of the county in*
 22 *which the elector resides not later than the eighth day after the election.]*

23 **SECTION 5.** ORS 253.080 is amended to read:

24 253.080. (1) Upon receipt of an envelope containing a marked [*absentee*] ballot **from an absent**
 25 **elector**, the clerk shall keep it safely in the office and, before delivering the ballot for counting,
 26 shall compare the signature of the absent elector [*which*] **that** appears on the back of the
 27 [*absentee*] ballot envelope with that upon the [*applicant's*] **elector's** registration card. If the signa-
 28 tures appear to be the same, the **clerk shall mark the** envelope [*shall be marked in order*] to indi-
 29 cate that the ballot may be counted.

30 (2) Except as otherwise provided in this chapter, [*the absentee*] ballots **for absent electors** shall
 31 be counted and returns shall be made, as nearly as possible, in the same manner as for other ballots
 32 cast at the election.

33 **SECTION 6.** ORS 253.515 is amended to read:

34 253.515. Except as otherwise provided in ORS 253.500 to 253.640, procedures relating to long
 35 term absent electors' ballots [*and special absentee ballots*] shall be as nearly as possible the same
 36 as [*for other absentee ballots*] **procedures for other absent electors' ballots.**

37 **SECTION 7.** ORS 253.540 is amended to read:

38 253.540. (1) Any long term absent elector may secure [*an absentee*] **a** ballot by submitting an
 39 application as specified in subsection (2) of this section to the clerk of the county of the long term
 40 absent elector's residence, or to the Secretary of State. If the application is addressed to the Sec-
 41 retary of State, the secretary shall forward it to the appropriate county clerk.

42 (2) An application for [*an absentee*] **a** ballot by a long term absent elector shall be made in the
 43 form of a written request. The application shall be valid for every subsequent election until the
 44 elector otherwise notifies the clerk or is no longer an elector of the county. The application shall
 45 be signed by the applicant and contain:

- 1 (a) The name and current mailing address of the applicant;
- 2 (b) A statement that the applicant is a citizen of the United States;
- 3 (c) A statement that the applicant will be 18 years of age or older on the date of the election;
- 4 (d) A statement that for more than 20 days preceding the election the applicant's home residence
- 5 has been in this state, and giving the address of the last home residence;
- 6 (e) A statement of the facts that qualify the applicant as a long term absent elector or as the
- 7 spouse or a dependent of a long term absent elector;
- 8 (f) A statement that the applicant is not requesting a ballot from any other state and is not
- 9 voting in any other manner in the election except by the requested [*absentee*] ballot; and
- 10 (g) If the applicant desires to vote in a primary election, a designation of the applicant's political
- 11 party affiliation or a statement that the applicant is not affiliated with any political party. An ap-
- 12 plicant not affiliated with any political party may request a ballot for a major political party. The
- 13 applicant shall be sent the ballot for the political party that the applicant requested if that political
- 14 party has provided under ORS 254.365 for a primary election that admits electors not affiliated with
- 15 any political party.

16 **SECTION 8.** ORS 253.550 is amended to read:

17 253.550. Whenever provision is made for absentee voting by a statute of the United States, in-
 18 cluding the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff (Public Law
 19 99-410), an application for [*an absentee*] a ballot made under that law may be given the same effect
 20 as an application for [*an absentee*] a ballot made under ORS 253.500 to 253.640.

21 **SECTION 9.** ORS 253.565 is amended to read:

22 253.565. (1) Any long term absent elector may secure a special [*absentee*] ballot for a primary
 23 election or general election by making an application under this section if the elector believes that:

- 24 (a) The elector will be residing, stationed or working outside the territorial limits of the United
- 25 States and the District of Columbia; and
- 26 (b) The elector will be unable to vote and return a regular [*absentee*] ballot by normal mail de-
- 27 livery within the period provided for regular [*absentee ballots*] **absent electors**.

28 (2) A long term absent elector shall make the application for a special [*absentee*] ballot in the
 29 form of a written request. The elector shall submit the application before the date of the applicable
 30 election to the clerk of the county of the long term absent elector's residence or to the Secretary
 31 of State. If the application is addressed to the Secretary of State, the secretary shall forward it to
 32 the appropriate county clerk. The application shall be signed by the applicant and contain:

- 33 (a) The name and current mailing address of the applicant;
- 34 (b) A designation of the election for which the applicant requests a special [*absentee*] ballot;
- 35 (c) A statement that the applicant is a citizen of the United States;
- 36 (d) A statement that the applicant will be 18 years of age or older on the date of the election;
- 37 (e) A statement that for more than 20 days preceding the election the applicant's home residence
- 38 has been in this state, and giving the address of the last home residence;
- 39 (f) A statement of the facts that qualify the applicant as a long term absent elector or as the
- 40 spouse or a dependent of a long term absent elector;
- 41 (g) A statement of the facts that qualify the applicant to vote by means of a special [*absentee*]
- 42 ballot;
- 43 (h) A statement that the applicant is not requesting a ballot from any other state and is not
- 44 voting in any other manner in the election except by the requested special [*absentee*] ballot; and
- 45 (i) If the applicant requests a ballot for a primary election, a designation of the applicant's pol-

1 itical party affiliation or a statement that the applicant is not affiliated with any political party.
 2 An applicant not affiliated with any political party may request a ballot for a major political party.
 3 The applicant shall be sent the ballot for the political party that the applicant requested if that
 4 political party has provided under ORS 254.365 for a primary election that admits electors not af-
 5 filiated with any political party.

6 (3) An application for a special [*absentee*] ballot shall be valid only for the election specified in
 7 the application.

8 (4) The county clerk shall list on the special [*absentee*] ballot the offices and measures scheduled
 9 to appear on the regular ballot, if known when the ballot is prepared, and provide space in which
 10 the elector may write in the elector’s preference.

11 (5) The elector may write in the name of any eligible candidate for each office to be filled or for
 12 which nominations will be made at the election, and may vote on any measure submitted at the
 13 election.

14 **SECTION 10.** ORS 253.575 is amended to read:

15 253.575. (1) Upon receipt of an application made under ORS 253.565, if the applicant’s residence
 16 is in the county, the county clerk, without regard to whether the applicant is an elector of the
 17 county, shall mail to the applicant a special [*absentee*] ballot, instructions for filling in and returning
 18 the ballot and an envelope to use for the return. The name, official title and office address of the
 19 clerk shall appear on the front of the envelope. On the back shall appear a statement to be signed
 20 by the absent elector, stating that the elector:

- 21 (a) Is qualified to vote;
- 22 (b) Unless prevented by physical disability, has personally marked the ballot; and
- 23 (c) Has not unnecessarily exhibited the marked ballot to any other person.

24 (2) The completed and signed application submitted under ORS 253.565 shall constitute a valid
 25 registration for the applicant.

26 (3) If the county clerk receives an application for a special [*absentee*] ballot on or after the 45th
 27 day before the election specified in the application, the county clerk shall treat the application as
 28 an application made under ORS 253.540.

29 (4) A long term absent elector may obtain a replacement ballot if the ballot is destroyed, spoiled,
 30 lost or not received by the elector. The county clerk shall keep a record of each replacement ballot
 31 provided under this subsection.

32 (5) Notwithstanding subsection (3) of this section, a replacement ballot may be mailed or shall
 33 be made available in the office of the county clerk.

34 (6) If the county clerk determines that a long term absent elector to whom a replacement ballot
 35 has been issued at the request of the elector has voted more than once, the county clerk shall not
 36 count any ballot cast by the elector. If the county clerk is required to reissue ballots due to a
 37 change on the ballot for any reason, that ballot shall be counted in lieu of any previous ballot issued
 38 unless:

- 39 (a) Only the original ballot was voted and returned; or
- 40 (b) The county clerk issued a supplemental ballot that is not a complete replacement of the or-
 41 iginal ballot.

42 **SECTION 11.** ORS 253.585 is amended to read:

43 253.585. (1) The Secretary of State may receive ballots from long term absent electors.

44 (2) If the Secretary of State receives a ballot cast by a long term absent elector, the Secretary
 45 of State shall deliver the ballot to the county clerk or elections officer of the county in which the

1 elector who cast the ballot is registered.

2 (3) A ballot received by the Secretary of State under this section not later than 8 p.m. of the
3 day of the election shall be considered to have been received by the [8 p.m. deadline specified]
4 **county clerk as described** in ORS 253.070.

5 **SECTION 12.** ORS 253.700 is amended to read:

6 253.700. (1) The county clerk, an elections official or any elector shall challenge the [absentee]
7 ballot of any person offering to vote as an absent elector whom the clerk, official or elector knows
8 or suspects not to be qualified as an elector. The person's ballot may be challenged at any time
9 before the ballot is removed from its return envelope for processing.

10 (2) A challenge to [an absentee] a ballot of a person offering to vote shall be made under oath
11 or affirmation before the clerk and shall be in writing on a numbered challenge form. The statement
12 shall contain the name and residence address of the challenger, the name of the person challenged
13 and a statement of the facts upon which the challenge is based. Any elections official may adminis-
14 ter the oath or affirmation required under this subsection.

15 **SECTION 13.** ORS 253.710 is amended to read:

16 253.710. [No person shall] **A person may not** alter any information supplied on an application
17 for [an absentee] a ballot **for an absent elector** except:

18 (1) An elections officer in the performance of official duties.

19 (2) [The applicant] **The person who supplies the information on the application for a ballot**
20 **for the purpose of voting as an absent elector.**

21 **SECTION 14.** ORS 254.660 is amended to read:

22 254.660. (1) Notwithstanding ORS [253.045 and] 253.065, for a special election called under ORS
23 254.655, [long-term absentee] ballots shall be mailed **to long term absent electors** not later than the
24 30th day before the date of the election. County clerks shall make [other absentee] ballots available
25 **to other absent electors** not later than the 28th day before the date of the special election.

26 (2) Notwithstanding ORS 254.545, not later than 5 p.m. of the third day after the date of the
27 special election, the county clerk shall deliver to the Secretary of State a copy of the abstracts for
28 the offices voted upon at the special election. The abstract for election of Governor shall be deliv-
29 ered separately to the secretary as provided in section 4, Article V of the Oregon Constitution.

30 (3) [Notwithstanding ORS 253.135,] Not later than 5 p.m. of the first day after the date of the
31 special election, a county clerk who received a ballot originating in another county shall forward
32 the ballot by overnight mail or delivery or by the most expeditious means available to the county
33 clerk of the county from which the ballot originated.

34 (4) Notwithstanding ORS 254.555, not later than 5 p.m. of the fourth business day after the date
35 of the special election, the Secretary of State shall issue a proclamation declaring the election of
36 candidates to offices or shall order recounts of the votes cast as provided in ORS 258.280.

37 (5)(a) Notwithstanding ORS 258.161, a recount may not be conducted for any special election
38 under this section unless the recount is required by ORS 258.280.

39 (b) If a recount for any special election is required by ORS 258.280, the Secretary of State shall
40 complete the recount as expeditiously as possible to minimize disruption to the sessions of the Leg-
41 islative Assembly and shall issue a proclamation declaring the election of a candidate to office upon
42 completion of the recount.

43 (6) The cost of all special elections called under ORS 254.655 shall be paid by the state.

44 (7) The ballot at a special election described in this section may not contain:

45 (a) Any measure; or

1 (b) Any candidate other than those candidates for which a special election is necessary.

2 (8) If there is a vacancy in the nomination of a candidate at a special election called under ORS
3 254.655, the vacancy in the nomination shall be filled in the manner provided in ORS chapter 249
4 and the special election shall be held as scheduled.

5 (9) When the office of state Senator or state Representative is vacant at the beginning of a
6 session of the Legislative Assembly due to a special election called under ORS 254.655, the vacancy
7 may not be filled as provided in ORS 171.051 unless, before entering upon the duties of the office
8 to which the person was elected, the person elected at the special election dies, resigns or is de-
9 clared disqualified by the house to which the person was elected.

10 (10) The Secretary of State may adopt rules governing the procedures for conducting a special
11 election required by ORS 254.650.

12 **SECTION 15.** ORS 260.665 is amended to read:

13 260.665. (1) As used in this section, "undue influence" means force, violence, restraint or the
14 threat of it, inflicting injury, damage, harm, loss of employment or other loss or the threat of it, or
15 giving or promising to give money, employment or other thing of value.

16 (2) A person, acting either alone or with or through any other person, may not directly or in-
17 directly subject any person to undue influence with the intent to induce any person to:

18 (a) Register or vote;

19 (b) Refrain from registering or voting;

20 (c) Register or vote in any particular manner;

21 (d) Be or refrain from or cease being a candidate;

22 (e) Contribute or refrain from contributing to any candidate, political party or political com-
23 mittee;

24 (f) Render or refrain from rendering services to any candidate, political party or political com-
25 mittee;

26 (g) Challenge or refrain from challenging a person offering to vote;

27 (h) Apply or refrain from applying for [*an absentee ballot*] **a ballot as an absent elector**; or

28 (i) Sign or refrain from signing a prospective petition or an initiative, referendum, recall or
29 candidate nominating petition.

30 (3) A person may not solicit or accept money or other thing of value as an inducement to act
31 as prohibited by subsection (2) of this section.

32 (4) This section does not prohibit:

33 (a) The employment of persons to render services to candidates, political parties or political
34 committees;

35 (b) The public distribution by candidates, political parties or political committees of sample
36 ballots or other items readily available to the public without charge, even though the distributor
37 incurs costs in the distribution;

38 (c) Public or nonpromissory statements by or on behalf of a candidate of the candidate's in-
39 tentions or purposes if elected;

40 (d) A promise by a candidate to employ any person as administrative assistant, secretary or
41 other direct personal aide;

42 (e) Free custody and care of minor children of persons during the time those persons are absent
43 from those children for voting purposes;

44 (f) For persons voting, free transportation to and from places designated for the deposit of bal-
45 lots under ORS 254.470 or to and from locations described in ORS 254.472 or 254.474; but no means

1 of advertising, solicitation or inducement to influence the vote of persons transported may be used
2 with that transportation;

3 (g) Individuals or political committees from providing refreshments incidental to a gathering in
4 support of or in opposition to a candidate, political committee or measure; or

5 (h) The public distribution of registration cards by a person approved by the Secretary of State
6 under ORS 247.171 to print, copy or otherwise prepare and distribute registration cards, even though
7 the distributor incurs costs in the distribution.

8 **SECTION 16. ORS 253.015, 253.030, 253.045, 253.055 and 253.135 are repealed.**

9 **SECTION 17. The amendments to ORS 253.065, 253.070, 253.080, 253.515, 253.540, 253.550,
10 253.565, 253.575, 253.585, 253.700, 253.710, 254.074, 254.483, 254.660 and 260.665 by sections 1 to
11 15 of this 2012 Act and the repeal of ORS 253.015, 253.030, 253.045, 253.055 and 253.135 by sec-
12 tion 16 of this 2012 Act apply to ballots for elections held on or after the effective date of this
13 2012 Act.**

14 **SECTION 18. This 2012 Act being necessary for the immediate preservation of the public
15 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect
16 on its passage.**

17 _____