

Attention Senate Rules Chair & Members  
RE: HB 2199A for hearing 5.22.13  
FROM: Ruth Bendl & Sharon Cornish

5.21.13

As long time volunteer observers of the electoral process, we urge a NO vote on HB 2199A.

We were horrified when we learned about the NON-compliance with ORS 254.483 (pertaining to the mandate about the destruction of unused ballots), shortly after the November 2010 election,

We were further dismayed when our requests for Compliance with this mandate, to our Washington County Commissioners were denied because of instructions NOT to comply from the State elections office.

It has always been the "Golden Rule" not to have unused ballots at the election offices after the ballot count is underway. Which is why the protection and compliance with ORS 254.483 is so essential.

Preparing the unused ballots for destruction on election day evening is assigned to the temporary hire election board members who are available by law, as early as 7 days prior to election day. They have plenty of timer, while waiting for ballots to arrive from drop sites and the post office, to tabulate and record both the ballots returned as undeliverable, and the extra ballots provided by the mailing house.

Suggestions;

1. The election boards could be requested to stamp a % of each of the ballot styles with the header "Duplicate" for use if damaged/probllem ballots need duplication.
2. The mailing house that prepares and mails out ballots could be instructed to include a ballot stamped "duplicate ballot" for disabled vioters who are sent a larger ballot which can't go through the election computer.
3. Washington County delays all ballot duplications and enhancement procedures until after election day, at which time volunteer observers sit at the election board tables to monitor that process. It's a rule that should be adopted statewide.

In closing please preserve the integrity and confidence in the electoral process, by opposing the proposals in HB 2199A. Also, please review the attachments verifying statements included above.

Ruth Bendl Ph. 503-644-0596

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mined under ORS 254.470 (2) on the date of the election.

(5) Upon receiving a voted replacement ballot, the county clerk shall verify that a completed and signed replacement ballot request form has been received by the county clerk or is included with the voted replacement ballot. If a request form has been completed and signed by the elector and received by the county clerk, the county clerk shall process the ballot. If the request form is not completed or signed by the elector or received by the county clerk, the county clerk may not process the ballot. [2001 c.965 §27]

**254.482 Persons authorized to watch receiving and counting of votes in elections conducted by mail.** (1) This section applies only to elections conducted by mail.

(2) After the date that ballots are mailed as provided in ORS 254.470, the county clerk, if requested, shall permit authorized persons to be at the office of the county clerk to watch the receiving and counting of votes. The authorization shall be in writing, shall be signed by an officer or its county affiliate of a political party, a candidate or the county clerk and shall be filed with the county clerk. The county clerk shall permit only so many persons as watchers under this subsection as will not interfere with an orderly procedure at the office of the county clerk. [2001 c.805 §3]

#### POST-ELECTION PROCEDURES

**254.483 Procedures after polls close; poll book; unused ballots.** Immediately after the close of the polls:

(1) The names of electors who voted shall be counted and the number written in the poll book.

(2) If the election board has unused ballots in its custody that can be used for another election:

(a) The board, by an examination of the poll book, shall determine the number of ballots voted and the number of ballots spoiled. These totals shall be written in the poll book; and

(b) The board shall count the unused ballots in its custody and shall write this number in the poll book.

(3) The election board shall destroy all unused ballots which are printed or identified for a particular election.

(4) The board chairperson and clerks shall certify the accounting as written in the poll book by signing the poll book.

(5) At a polling place in which ballot labels are used, the election board shall seal the ballot labels closed.

(6) The county clerk shall destroy all unused absentee and regular ballots in the county clerk's possession.

(7) Each county shall provide for the security of, and shall account for, unused ballots. [Formerly 254.475]

**254.485 Tally of ballots; test of vote tally system.** (1) Ballots may be tallied by a vote tally system or by a counting board. A counting board may tally ballots at the precinct or in the office of the county clerk. In any event, the ballots shall be tallied and returned by precinct.

(2) If a vote tally system is used, the county clerk shall repeat the public certification test described under ORS 254.235 (1). The test shall be conducted on the date of the election and prior to beginning the tally of ballots. The test may be observed by persons described in ORS 254.235 (2). The county clerk shall certify the results of the test.

(3) If a vote tally system is used or if a counting board has been appointed, the tally of ballots may begin before the polls close.

(4) If ballots are tallied by a counting board, after the tally has begun it shall continue until completed. A counting board shall tally without adjournment and in the presence of the clerks and persons authorized to attend. However, the board may be relieved by another board if the tally is not completed after 12 hours.

(5) A counting board shall audibly announce the tally as it proceeds. The board shall use only pen and ink to tally.

(6) No person other than the county clerk, a member of a counting board or any other elections official designated by the county clerk may tally ballots under this chapter. [1979 c.190 §270; 1995 c.607 §45; 1999 c.318 §37; 1999 c.410 §58; 2001 c.965 §23]

**254.495 Tally and return sheets; counting and tallying ballots.** The election board, to tally ballots, shall use the tally sheets and two copies of the return sheet. The completed sheets shall contain the offices on the ballot, the number and name of each candidate who received a vote, the total number of votes cast for each candidate and each measure voted upon, and the total number of votes cast for and against the measure. The tally and return sheets, when completed, shall be certified correct by the election board which kept them. [Formerly 250.471]

**254.500 Tally of write-in votes.** (1) This section governs the tally of votes cast for persons whose names were not printed on the ballot but are written in by electors. All such write-in votes for each office on the



**WASHINGTON COUNTY**  
**OREGON**

November 2, 2011

Ms. Ruth Bendl  
10980 SW Muirwood Drive  
Portland OR 97225

RE: October 25th, 2011 Inquiry at the Washington County Board of Commissioners Meeting

Ms. Bendl:

Assessment and Taxation has reviewed the election process comments that you raised during the Washington County Board of Commissioners meeting on October 25th, 2011. The process comments were:

1. Do not mail ballots to HAVA-non-compliance for the January 31<sup>st</sup> special federal election.
2. Protect the secrecy of ballot contents by requiring ballots to remain in sealed secrecy envelopes until election day morning.
3. Consider moving ballot drop-sites into government buildings, and having an employee assigned to help count ballots and sign for the numbers of ballots picked up. Also consider having the last pick-up from the drop-sites at 6:00 p.m. so that all ballots can be at the elections office by 8:00 p.m.
4. Please instruct the elections manager to comply with ORS 254.483 by having all unused ballots destroyed immediately after 8:00 p.m. on election day.

**Response to comment 1:** Under Oregon Revised Statutes (ORS) 247.012(4) "If a registration card is legible, accurate and contains, at a minimum, the registrant's name, residence address, date of birth and signature, the county clerk shall register the person." Through various discussions and conferences, the Secretary of State concluded a person could vote for state and local issues with the minimum requirements, but must provide the HAVA identification requirements if they wish to have a complete ballot for any Federal issue. Since the voter is registered, the Elections Office mails the ballot to the registered voter per ORS 254.470(2). The Federal issue will be counted if the voter meets HAVA identification requirements by 8.P.M on Election Day per federal law.

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**Response to comment 2:** According to ORS 254.478(1a), no sooner than seven days before the election, opening boards can open the secrecy envelope and remove the ballot. The secrecy of the ballot is maintained when the ballot is removed from the secrecy envelope. In accordance with a security plan approved by the Secretary of State under 254.074, the county clerk can begin scanning ballots into a vote tally system. Trend information cannot be developed. Additionally, under ORS 260.705, "A person may not make public the results of the tally of votes from any precinct until after 8 p.m. on the date of the election."

**Response to comment 3:** The Elections Office follows the process outlined in the Oregon State Vote by Mail Procedures Manual. At staffed locations, such as libraries, city halls, etc., the official ballot drop box must be locked or sealed and accessible only by authorized personnel or deputized staff. The box may be exchanged for locked or sealed empty box on a predetermined schedule or it may be re-locked or re-sealed when emptied by authorized personnel. The official ballot dropsite must be in view of on-site staff and transported only by election or deputized staff to the Elections Office on a predetermined schedule or as needed. For outdoor mailboxes the official ballot dropsite is accessible only by key in possession of authorized personnel. The Elections Office can establish a predetermined schedule (or more frequently if necessary) to empty the dropsite. Ballots are to be transferred in a locked or sealed ballot box, bag or pouch to the Elections Office. At a minimum, the places designated under this section shall be open on the date of the election for a period of eight or more hours, but must be open until at least 8 p.m. (ORS 254.470(1)).

**Response to comment 4:** According to the Secretary of State's office, there are contradictions in statute regarding this issue that stem from language dating back before vote-by-mail was implemented. They are seeking to resolve the contradictions in the next legislative session. For this November's election, we were advised by the Secretary of State to maintain the security and accounting of all ballots until the election is certified, per ORS 254.483(2). This is consistent with our current practice, and Washington County Counsel concurs with this advice.

Thank you for your continued interest in the elections process. If you have further questions about the elections process, please contact Mickie Kawai, Elections Division Manager, at 503-846-5800.

Sincerely,

  
Rich Hobernicht  
Director

Cc: Board of Commissioners  
Robert Davis / Sia Lindstrom