

Senate Bill 398

Sponsored by Senator GEORGE (Presession filed.)

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**.

Allows any elector to file action in circuit court when elector believes elections official has failed to comply with elections law. Allows attorney fees.

A BILL FOR AN ACT

1
2 Relating to elections; amending ORS 246.820.

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

4 **SECTION 1.** ORS 246.820 is amended to read:

5 246.820. (1)(a) Whenever it appears to the Secretary of State that a county clerk, city elections
6 officer or [a] local elections official has failed to comply with an interpretation of any election law
7 made by the secretary [*of State*] under ORS 246.110 or has failed to comply with a rule, directive
8 or instruction made by the secretary [*of State*] under ORS 246.120, 246.140 or 246.150, the secretary
9 [*of State*] may apply to the appropriate circuit court for an order to compel the county clerk, city
10 elections officer or local elections official to comply.

11 [(2)] (b) The court shall dispose of the matter [*under subsection (1) of this section*] as soon as
12 possible, but in any case not later than the fifth day after the Secretary of State applies for an order.

13 (2)(a) **Whenever it appears to an elector that the Secretary of State or a county clerk,
14 city elections officer or local elections official has failed to comply with any election law, or
15 with any rule, directive or instruction made by the secretary under ORS 246.120, 246.140 or
16 246.150, the elector may file an action in the circuit court of the county where the elector
17 is registered to vote seeking an order to compel the secretary, county clerk, city elections
18 officer or local elections official to comply.**

19 (b) **The court shall dispose of an action filed by an elector under this subsection as
20 quickly as possible. If the court does not reach a decision within 10 calendar days of the filing
21 of the action, a default judgment shall be entered in favor of the elector.**

22 (c) **If the elector prevails in the action, or receives a default judgment under this section,
23 the elector may recover attorney fees, costs and expenses incurred in bringing the action.**

24 (d) **If the Secretary of State or a county clerk, city elections officer or local elections
25 official comes into compliance, or agrees to come into compliance, with any election law, or
26 with any rule, directive or instruction made by the secretary under ORS 246.120, 246.140 or
27 246.150, after the secretary, county clerk, city elections officer or local elections official is
28 contacted by an elector who alleges the secretary, county clerk, city elections officer or local
29 elections official has violated an election law, rule, directive or instruction, the elector may
30 recover attorney fees, costs and expenses incurred in bringing the allegations.**

31 (3) The remedy provided in this section is cumulative and does not exclude any other remedy

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 against **the Secretary of State or** a county clerk, city elections officer or local elections official
2 who fails to comply with an interpretation of any election law or the rule, directive or instruction.
3 _____