

House Bill 2061

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim 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**.

Gives nonaffiliated electors ability to vote in primary election of major political party of elector's choice.

A BILL FOR AN ACT

1
2 Relating to voting in primary elections; creating new provisions; and amending ORS 253.540, 253.565,
3 254.365, 254.370 and 254.470.

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

5 **SECTION 1.** ORS 254.365 is amended to read:

6 254.365. (1) An elector is not qualified or permitted to vote at any primary election for any
7 candidate of a major political party, and it is unlawful for the elector to offer to do so, unless:

8 (a) The elector is registered as being affiliated with one of the major political parties nominating
9 or electing its candidates for public office at the primary election; or

10 (b) The elector is registered as not being affiliated with any political party, *[and]* wishes to vote
11 in the primary election of a major political party **and has applied to vote in the primary election**
12 **of a major political party in the manner set forth in ORS 254.470** *[that has provided under sub-*
13 *section (3) of this section for a primary election that admits electors not affiliated with any political*
14 *party]*.

15 (2) *[Except as provided in ORS 254.470 (3),]* Any elector offering to vote at the primary election
16 shall be given a ballot of the major political party with which the elector is registered as being af-
17 filiated. The elector may not be given a ballot of any other political party at that primary election.
18 An elector **who is** not affiliated with any political party, *[and offering]* **who offers** to vote at the
19 primary election **and who has complied with the procedures set forth in ORS 254.470** shall be
20 given the ballot of the major political party in whose primary election the elector **has applied to**
21 **vote** *[wishes to vote if that party has provided under subsection (3) of this section for a primary*
22 *election that admits electors not affiliated with any political party]*. An elector not affiliated with any
23 political party who is given a ballot of the major political party associates with the party for the
24 purpose of voting in that primary election.

25 *[(3)(a) Not later than the 90th day before the date of the primary election, a major political party*
26 *may file with the Secretary of State a certified copy of the current party rule allowing an elector not*
27 *affiliated with any political party to vote in the party's primary election. The party may not repeal the*
28 *rule as filed during the 90 days before the primary election. The rule shall continue to be effective after*
29 *the date of the primary election until the party gives written notice to the Secretary of State that the*
30 *rule has been repealed. Except as provided in paragraph (b) of this subsection, a party rule under this*
31 *subsection may limit the candidates for whom an elector who is not affiliated with any political party*

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 *may vote.]*

2 *[(b) The party rule shall allow any elector who is permitted to vote for the most numerous branch*
 3 *of the Legislative Assembly also to vote in federal legislative elections, consistent with section 2, Article*
 4 *I, and the Seventeenth Amendment to the United States Constitution.]*

5 [(4)] (3) If the primary election ballot includes city, county or nonpartisan offices or measures,
 6 and it is given to an elector who is not eligible to vote for party candidates, the ballot shall be
 7 marked “non-affiliated.”

8 **SECTION 2.** ORS 253.540 is amended to read:

9 253.540. (1) Any military or overseas elector may secure a ballot by submitting an application
 10 as specified in subsection (2) of this section to the clerk of the county of the military or overseas
 11 elector’s residence, or to the Secretary of State. If the application is addressed to the Secretary of
 12 State, the secretary shall forward it to the appropriate county clerk.

13 (2) An application for a ballot by a military or overseas elector shall be made in the form of a
 14 written request. The application shall be valid for every subsequent election until the elector oth-
 15 erwise notifies the clerk or is no longer an elector of the county. The application shall be signed
 16 by the applicant and contain:

17 (a) The name and current mailing address of the applicant;

18 (b) A statement that the applicant is a citizen of the United States;

19 (c) A statement that the applicant will be 18 years of age or older on the date of the election;

20 (d) A statement that for more than 20 days preceding the election the applicant’s home residence
 21 has been in this state, and giving the address of the last home residence;

22 (e) A statement of the facts that qualify the applicant as a military or overseas elector or as the
 23 spouse or a dependent of a military or overseas elector;

24 (f) A statement that the applicant is not requesting a ballot from any other state and is not
 25 voting in any other manner in the election except by the requested ballot; and

26 (g) If the applicant desires to vote in a primary election, a designation of the applicant’s political
 27 party affiliation or a statement that the applicant is not affiliated with any political party. An ap-
 28 plicant not affiliated with any political party may request a ballot for a major political party **in the**
 29 **manner set forth in ORS 254.470.** The applicant shall be sent the ballot for the political party that
 30 the applicant requested *[if that political party has provided under ORS 254.365 for a primary election*
 31 *that admits electors not affiliated with any political party].*

32 **SECTION 3.** ORS 253.565 is amended to read:

33 253.565. (1) Any military or overseas elector may secure a special ballot for a primary election
 34 or general election by making an application under this section if the elector believes that:

35 (a) The elector will be residing, stationed or working outside the territorial limits of the United
 36 States and the District of Columbia; and

37 (b) The elector will be unable to vote and return a regular ballot by normal mail delivery within
 38 the period provided for regular absent electors.

39 (2) A military or overseas elector shall make the application for a special ballot in the form of
 40 a written request. The elector shall submit the application before the date of the applicable election
 41 to the clerk of the county of the military or overseas elector’s residence or to the Secretary of State.
 42 If the application is addressed to the Secretary of State, the secretary shall forward it to the ap-
 43 propriate county clerk. The application shall be signed by the applicant and contain:

44 (a) The name and current mailing address of the applicant;

45 (b) A designation of the election for which the applicant requests a special ballot;

1 (c) A statement that the applicant is a citizen of the United States;

2 (d) A statement that the applicant will be 18 years of age or older on the date of the election;

3 (e) A statement that for more than 20 days preceding the election the applicant's home residence
4 has been in this state, and giving the address of the last home residence;

5 (f) A statement of the facts that qualify the applicant as a military or overseas elector or as the
6 spouse or a dependent of a military or overseas elector;

7 (g) A statement of the facts that qualify the applicant to vote by means of a special ballot;

8 (h) 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 special ballot; and

10 (i) If the applicant requests a ballot for a primary election, a designation of the applicant's pol-
11 itical party affiliation or a statement that the applicant is not affiliated with any political party.
12 An applicant not affiliated with any political party may request a ballot for a major political party
13 **in the manner set forth in ORS 254.470**. The applicant shall be sent the ballot for the political
14 party that the applicant requested [*if that political party has provided under ORS 254.365 for a pri-
15 mary election that admits electors not affiliated with any political party*].

16 (3) An application for a special ballot shall be valid only for the election specified in the appli-
17 cation.

18 (4) The county clerk shall list on the special ballot the offices and measures scheduled to appear
19 on the regular ballot, if known when the ballot is prepared, and provide space in which the elector
20 may write in the elector's preference.

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

24 **SECTION 4.** ORS 254.370 is amended to read:

25 254.370. The county clerk shall maintain:

26 (1) A monthly registration record of all electors registered as not being affiliated with any pol-
27 itical party;

28 (2) At each primary election, a record of the number of electors who voted from each major
29 political party;

30 (3) A record of all electors registered as not being affiliated with any political party who vote
31 in a primary election of a major political party [*that has provided under ORS 254.365 for a primary
32 election that admits electors not affiliated with any political party*]; and

33 (4) A record of all electors registered as not being affiliated with any political party who vote
34 in the general election.

35 **SECTION 5.** ORS 254.470 is amended to read:

36 254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the
37 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
38 dates and times the places of deposit must be open and the security requirements for the places of
39 deposit. At a minimum, the places designated under this section shall be open on the date of the
40 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place
41 of deposit designated under this section, the county clerk shall prominently display a sign stating
42 that the location is an official ballot drop site.

43 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, the county clerk shall mail
44 by nonforwardable mail an official ballot with a return identification envelope and a secrecy envel-
45 ope not sooner than the 20th day before the date of an election and not later than the 14th day

1 before the date of the election, to each active elector of the electoral district as of the 21st day
2 before the date of the election.

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

8 (c) In the case of ballots to be mailed to addresses outside this state to electors who are not
9 military or overseas electors, the county clerk may mail the ballots not sooner than the 29th day
10 before the date of the election.

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

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

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

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

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

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

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

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

39 (6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign
40 the return identification envelope supplied with the ballot and comply with the instructions provided
41 with the ballot.

42 (b) The elector may return the marked ballot to the county clerk by United States mail or by
43 depositing the ballot at the office of the county clerk, at any place of deposit designated by the
44 county clerk or at any location described in ORS 254.472 or 254.474.

45 (c) The ballot must be returned in the return identification envelope. If the elector returns the

1 ballot by mail, the elector must provide the postage.

2 (d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector, the
 3 person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later
 4 than two days after receiving the ballot.

5 (e) A ballot must be received at the office of the county clerk, at the designated place of deposit
 6 or at any location described in ORS 254.472 or 254.474 not later than the end of the period deter-
 7 mined under subsection (1) of this section on the date of the election.

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

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

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

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

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

20 (9) The county clerk shall verify the signature of each elector on the return identification en-
 21 velope with the signature on the elector's registration card, according to the procedure provided by
 22 rules adopted by the Secretary of State. If the county clerk determines that an elector to whom a
 23 replacement ballot has been issued has voted more than once, the county clerk shall count only one
 24 ballot cast by that elector.

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

29 **SECTION 6. The amendments to ORS 253.540, 253.565, 254.365, 254.370 and 254.470 by**
 30 **sections 1 to 5 of this 2015 Act first apply to primary elections held on or after the effective**
 31 **date of this 2015 Act.**

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