

# House Bill 3287

Sponsored by Representative BUEHLER

## 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**.

Permits major political parties to establish membership duration requirements for primary candidates by certified party rule filed with Secretary of State.

Permits major political parties to determine by certified party rule whether persons not affiliated with party can win party nomination by write-in vote or whether write-in candidates must receive certain percentage of votes to be nominated.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to primary elections of major political parties; creating new provisions; amending ORS  
3 249.046, 254.365 and 254.500; and declaring an emergency.

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

5 **SECTION 1.** ORS 249.046 is amended to read:

6 249.046. (1) **Not later than the 70th day before the primary election, a major political party**  
7 **may file with the Secretary of State a certified copy of the current party rule establishing**  
8 **the period of time for which a candidate must be a member of the party in order to be en-**  
9 **titled to receive the nomination of that party.**

10 (2)(a) **Unless a major political party files a certified rule under subsection (1) of this**  
11 **section, [if] a candidate who** has not been a member of the major political party for at least 180  
12 days before the deadline for filing a nominating petition or declaration of candidacy[, *the candidate*  
13 *shall*] **is not [be] entitled to receive the nomination of that major political party.**

14 (b) If a candidate's registration becomes inactive, the inactive status shall not constitute a lapse  
15 of membership in the party if, immediately before the registration became inactive, the candidate  
16 was a member of the party and was not a member of any other political party within the 180 days  
17 preceding the deadline for filing a nominating petition or declaration of candidacy.

18 (c) The requirement that the candidate be qualified by length of membership does not apply to  
19 any candidate whose 18th birthday falls within the period of 180 days or to a write-in candidate.

20 **SECTION 2.** ORS 254.365 is amended to read:

21 254.365. (1) An elector is not qualified or permitted to vote at any primary election for any  
22 candidate of a major political party, and it is unlawful for the elector to offer to do so, unless:

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

25 (b) The elector is registered as not being affiliated with any political party and wishes to vote  
26 in the primary election of a major political party that has provided under subsection (3) of this  
27 section for a primary election that admits electors not affiliated with any political party.

28 (2) Except as provided in ORS 254.470 (3), any elector offering to vote at the primary election  
29 shall be given a ballot of the major political party with which the elector is registered as being af-

**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 filiated. The elector may not be given a ballot of any other political party at that primary election.  
 2 An elector not affiliated with any political party and offering to vote at the primary election shall  
 3 be given the ballot of the major political party in whose primary election the elector wishes to vote  
 4 if that party has provided under subsection (3) of this section for a primary election that admits  
 5 electors not affiliated with any political party. An elector not affiliated with any political party who  
 6 is given a ballot of the major political party associates with the party for the purpose of voting in  
 7 that primary election.

8 (3)[(a)] Not later than the 90th day before the date of the primary election, a major political  
 9 party may file with the Secretary of State a certified copy of the current party rule:

10 (a) Allowing an elector not affiliated with any political party to vote in the party’s primary  
 11 election. The party may not repeal the rule as filed during the 90 days before the primary election.  
 12 The rule shall continue to be effective after the date of the primary election until the party gives  
 13 written notice to the Secretary of State that the rule has been repealed. *[Except as provided in*  
 14 *paragraph (b) of this subsection,]* A party rule under this *[subsection]* **paragraph** may limit the candi-  
 15 dates for whom an elector who is not affiliated with any political party may vote[.], **with the**  
 16 **exception that the party rule shall allow any elector who is permitted to vote for the most**  
 17 **numerous branch of the Legislative Assembly also to vote in federal legislative elections,**  
 18 **consistent with section 2, Article I, and the Seventeenth Amendment to the United States**  
 19 **Constitution.**

20 (b) **Prohibiting a write-in candidate who is not affiliated with the major political party**  
 21 **from being eligible to receive the nomination of the major political party.**

22 (c) **Establishing a minimum percentage of the total votes cast that must be received by**  
 23 **a write-in candidate who is not affiliated with the major political party in order for the**  
 24 **write-in candidate to receive the nomination of the party.**

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

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

31 **SECTION 3.** ORS 254.500 is amended to read:

32 254.500. (1) This section governs the tally of votes cast for persons whose names were not  
 33 printed on the ballot but are written in by electors. All such write-in votes for each office on the  
 34 ballot shall be tallied together, except as follows:

35 (a) If the total number of write-in votes for candidates for the same nomination or office equals  
 36 or exceeds the number of votes cast for any candidate for the same nomination or office on the  
 37 ballot who appears to have been nominated or elected, the county clerk shall tally all write-in votes  
 38 cast for the office to show the total number of votes cast for each write-in candidate.

39 (b) If no names of candidates are printed on the ballot for an office, the county clerk shall tally  
 40 the votes cast for each candidate for the office who received a vote.

41 **(2) In primary elections for major political parties, elections officials may not tally**  
 42 **write-in votes cast for candidates who are not eligible to receive the nomination of the major**  
 43 **political party under certified rules submitted to the Secretary of State by the major political**  
 44 **party under ORS 254.365.**

45 [(2)] (3) No person other than the county clerk, a member of a counting board or any other

1 elections official designated by the county clerk may tally write-in votes.

2 **SECTION 4. The amendments to ORS 249.046, 254.365 and 254.500 by sections 1 to 3 of this**  
3 **2015 Act first apply to primary elections held on or after the effective date of this 2015 Act.**

4 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**  
5 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
6 **on its passage.**

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