

A-Engrossed
Senate Bill 28

Ordered by the Senate March 19
Including Senate Amendments dated March 19

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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.

Clarifies that county clerk may use elector's registration record, rather than physical registration card, to authenticate signatures.

Permits elections official to deliver form updating information on members of district boards by method other than certified mail.

Specifies that designated filing officer, rather than county clerk, in all situations, is responsible for responding to public record requests relating to identity of elector whose ballot is challenged for specified reasons.

A BILL FOR AN ACT

1
2 Relating to duties of elections officers; amending ORS 253.080, 253.690, 254.431, 254.470 and 255.069.

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

4 **SECTION 1.** ORS 253.080 is amended to read:

5 253.080. (1) Upon receipt of an envelope containing a marked ballot from an absent elector, the
6 clerk shall keep it safely in the office and, before delivering the ballot for counting, shall compare
7 the signature of the absent elector that appears on the back of the ballot envelope with that upon
8 the elector's registration [*card*] **record**. [*If the signatures appear to be the same, the clerk shall mark*
9 *the envelope to indicate that the ballot may be counted.*]

10 (2) Except as otherwise provided in this chapter, ballots for absent electors shall be counted and
11 returns shall be made, as nearly as possible, in the same manner as for other ballots cast at the
12 election.

13 **SECTION 2.** ORS 253.690 is amended to read:

14 253.690. (1) A military or overseas elector described in ORS 253.510 may cast a ballot using a
15 facsimile machine or by electronic mail as provided in this section. Notwithstanding ORS 254.470 (8),
16 a ballot cast under this section shall be counted only if the ballot:

17 (a) Is received in the office of the county clerk not later than 8 p.m. on the day of the election;

18 (b) Is accompanied by a return identification envelope containing the signature of the elector
19 and a signed waiver described in subsection (2) of this section; and

20 (c) The signature is verified as provided in subsection (4) of this section.

21 (2) Each elector who casts a ballot under this section shall complete and submit a waiver de-
22 scribed in this subsection. The elector shall attest to the information supplied on the waiver by
23 signing the completed waiver. The Secretary of State by rule shall design the form of the waiver,
24 which shall include all of the following:

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 (a) Space for the elector to provide the elector's full name, residence or mailing address, an
2 electronic mail address, phone or facsimile number where the elector may be contacted and any
3 other necessary information.

4 (b) A waiver in substantially the following form:
5 _____
6

7 I, _____, acknowledge that by casting my voted ballot using a facsimile machine or by
8 electronic mail I have waived my right to a secret ballot.
9 _____
10

11 (c) A statement to notify the elector that the elector's ballot will not be counted unless the
12 elector has complied with the provisions of this section.

13 (d) Space for the elector to provide the elector's signature to attest to the information supplied.

14 (3)(a) If a ballot is cast under this section using a facsimile machine, the return identification
15 envelope and waiver shall also be submitted using a facsimile machine.

16 (b) If a ballot is cast under this section by electronic mail, the return identification envelope
17 and waiver shall also be submitted by electronic mail.

18 (4) The county clerk shall verify the signature of each elector on the return identification en-
19 velope transmitted by facsimile machine or electronic mail under this section with the signature on
20 the elector's registration [*card*] **record**, according to the procedure provided by rules adopted by the
21 Secretary of State.

22 (5) The Secretary of State shall adopt rules to administer this section and to ensure the secrecy
23 of ballots cast using a facsimile machine or by electronic mail to the greatest extent possible.

24 **SECTION 3.** ORS 254.470 is amended to read:

25 254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the
26 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
27 dates and times the places of deposit must be open and the security requirements for the places of
28 deposit. At a minimum, the places designated under this section shall be open on the date of the
29 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place
30 of deposit designated under this section, the county clerk shall prominently display a sign stating
31 that the location is an official ballot drop site.

32 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, the county clerk shall mail
33 by nonforwardable mail an official ballot with a return identification envelope and a secrecy envel-
34 ope not sooner than the 20th day before the date of an election and not later than the 14th day
35 before the date of the election, to each active elector of the electoral district as of the 21st day
36 before the date of the election.

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

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

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

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

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

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

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

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

21 (5) The ballot shall contain the following warning:
22

23
24 Any person who, by use of force or other means, unduly influences an elector to vote in any
25 particular manner or to refrain from voting is subject to a fine.
26

27
28 (6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign
29 the return identification envelope supplied with the ballot and comply with the instructions provided
30 with the ballot.

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

34 (c) The ballot must be returned in the return identification envelope. If the elector returns the
35 ballot by mail, the elector must provide the postage.

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

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

42 (7) An elector may obtain a replacement ballot if the ballot is destroyed, spoiled, lost or not
43 received by the elector. Replacement ballots shall be issued and processed as described in this
44 section and ORS 254.480. The county clerk shall keep a record of each replacement ballot provided
45 under this subsection. Notwithstanding any deadline for mailing ballots in subsection (2) of this

1 section, a replacement ballot may be mailed, made available in the office of the county clerk or made
 2 available at one central location in the electoral district in which the election is conducted. The
 3 county clerk shall designate the central location. A replacement ballot need not be mailed after the
 4 fifth day before the date of the election.

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

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

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

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

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

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

18 **SECTION 4.** ORS 255.069 is amended to read:

19 255.069. (1) Not later than the 115th day before a regular district election, or not later than the
 20 135th day before a district election held on the date of a primary election or general election, the
 21 elections officer shall deliver to each district elections authority[, *by certified mail,*] a form for up-
 22 dating information on members of district boards. The form shall include, at a minimum, the district
 23 offices to be filled or for which candidates are to be nominated or elected at the next district
 24 election and information concerning the candidates.

25 (2) Not later than the 105th day before a regular district election or not later than the 125th
 26 day before a district election held on the date of a primary election or general election, the district
 27 elections authority shall return to the elections officer the form for updating information on mem-
 28 bers of district boards.

29 (3) The elections officer shall prepare the notice required by ORS 255.075 by using the form
 30 completed by the district elections authority and any other information available. If the form is not
 31 returned by the district elections authority by the deadline specified in subsection (2) of this section,
 32 the elections officer shall prepare the notice for the district using the most current information
 33 available. If the form is returned by the district elections authority after the deadline, the elections
 34 officer shall prepare a corrected notice. The district shall be liable for any additional costs incurred
 35 in preparing and publishing a corrected notice.

36 (4) The elections officer shall retain the completed forms in a file maintained for that purpose.
 37 All forms shall be kept for a period of at least four years after the district election for which the
 38 form was completed.

39 (5) If a district is located in more than one county, the elections officer shall immediately certify
 40 the information contained on the form required under subsection (2) of this section to the county
 41 clerk of any other county in which the district is located.

42 (6) The Secretary of State by rule shall establish the forms and procedures the elections officer
 43 and the district elections authority shall use in maintaining adequate records for preparation of the
 44 form required under subsection (1) of this section.

45 **SECTION 5.** ORS 254.431, as amended by section 3, chapter 67, Oregon Laws 2014, and section

1 3, chapter 112, Oregon Laws 2014, is amended to read:

2 254.431. (1) If a ballot is challenged because it is returned in an unsigned return identification
3 envelope or because the signature of an elector on a return identification envelope does not match
4 the signature in the voter registration record for the elector, the county clerk shall mail to the
5 elector a notice that describes the nature of the challenge. The Secretary of State shall design a
6 standard form to be used in all notifications sent by county clerks under this subsection.

7 (2)(a) In order for the vote of the elector to be counted, the elector must provide evidence suf-
8 ficient to disprove the challenge not later than the 14th calendar day after the date of the election.

9 (b) If the elector does not provide evidence sufficient to disprove a challenge alleging that the
10 signature of the elector on a return identification envelope does not match the signature in the
11 voter registration record for the elector by the 14th calendar day after the date of the election, the
12 registration of the elector shall be considered inactive.

13 (3)(a) The [*county clerk*] **filing officer** may not release as a public record any information that
14 could be used to identify an elector whose ballot has been challenged under this section until the
15 eighth calendar day after the date of an election.

16 (b) Following the seventh calendar day after the date of an election, the [*county clerk*] **filing**
17 **officer** may disclose as a public record under ORS 192.410 to 192.505 the following information
18 about each elector whose ballot was challenged under this section:

19 (A) The name of the elector;

20 (B) The residence addresses of the elector; and

21 (C) The reason the elector's ballot is being challenged.

22 (4) **As used in this section, "filing officer" means:**

23 (a) **The Secretary of State, for federal or statewide elections and for elections to the of-**
24 **fice of state Senator or Representative; or**

25 (b) **The county clerk, for county, city or district elections.**
26