

## SB 229 B STAFF MEASURE SUMMARY

### House Committee On Rules

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**Action Date:** 07/01/17

**Action:** Do pass with amendments to the A-Eng bill, and be referred to Ways and Means. (Printed B-Eng).

**Vote:** 5-1-3-0

**Yeas:** 5 - Holvey, Nosse, Rayfield, Smith Warner, Williamson

**Nays:** 1 - McLane

**Exc:** 3 - Barreto, Hack, Kennemer

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Erin Seiler, LPRO Analyst

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#### WHAT THE MEASURE DOES:

Requires person elected to county office to receive certificate of election prior to filing oath of office. Allows electronic submission of elections documents. Alters notification and filing deadlines related to major political party precinct committee person election procedures, ballot title certification, petition template alteration requests, statement of arguments and major political party membership status determinations. Increases timeframe for canvass of city ballot measure results to no later than 40 days after election. Requires Secretary of State (SOS) and municipal and district elections officers to send a copy of prospective ballot measure to appropriate state or municipal attorney. Authorizes district attorneys to make clerical corrections to ballot titles.

Permits SOS to perform signature verification duties and directs SOS to establish process for verifying petition signatures. Directs SOS to establish process, by rule, permitting chief petitioners of state initiative, referendum or recall to request modifications to petition templates and to provide prospective petition templates. Allows SOS to select batches of ballots, rather than entire precincts, for hand counting election contests. Declares certified statement to be sufficient evidence of validity of ballot with unsigned return envelope and directs SOS to develop form for certified statements. Clarifies violations regarding sale or purchase of official ballot and related materials must include actual intent to commit violation. Requires candidates exceeding the \$750 expenditure and contribution threshold during calendar year to file contribution and expenditure statements in alignment with currently prescribed timeframes. Permits candidate who exceeds \$750 limit, but who does not expect contributions or expenditures to exceed \$3,500 during calendar year, to file statement of limited expenditures in lieu of campaign finance statements. Extends requirements and prohibitions that currently apply to excess campaign contributions and donations to include those received by candidate or public office holder's principal campaign committee. Permits use of campaign moneys for expenses related to legal proceedings that result from campaign activities: of candidate or official duties of public official; of political committee; or of petition committee. Requires recall committees to disclose expenditure and contribution information beginning on day recall petition is filed. Requires petition committees to report initial assets that occur prior to creation of committee in ORESTAR. Permits SOS to provide electronic notification of proposed penalties for campaign finance violations. Adds write-in candidates to definition of candidate.

Sets January 23, 2018 as date for statewide special election for any Act passed by Seventy-ninth Legislative Assembly and referred to voters by referendum petition. Establishes joint legislative committee (Committee) comprised of three Senators and three Representatives, to prepare ballot title and explanatory statement to be included in voters' pamphlet. Provides for judicial review by Oregon Supreme Court of ballot title and explanatory statement. Stipulates that ballot title modified by Attorney General, as result of judicial review, is not subject to judicial review. Provides Secretary of State (SOS) with authority to adopt rules necessary to conduct election including deadlines for

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submission of information for voters' pamphlet. Appropriates General Fund to Emergency Board to be allocated to SOS, if special statewide election is held. Declares emergency, effective on passage.

### **ISSUES DISCUSSED:**

- Technical changes to election statutes
- Providing district attorney authority to correct clerical errors in ballot title
- Statutory definition of "clerical error"
- Possible measures subject to referendum petition
- Ballot title process for measures subject to special statewide election
- Voter turn out during special election
- Relationship between January special and February 2018 Legislative Session

### **EFFECT OF AMENDMENT:**

Sets January 23, 2018 as date for statewide special election for any Act passed by Seventy-ninth Legislative Assembly and referred to voters by referendum petition. Establishes joint legislative committee (Committee) comprised of three Senators and three Representatives, to prepare ballot title and explanatory statement to be included in voters' pamphlet. Provides for judicial review by Oregon Supreme Court of ballot title and explanatory statement. Stipulates that ballot title modified by Attorney General, as result of judicial review, is not subject to judicial review. Provides Secretary of State (SOS) with authority to adopt rules necessary to conduct election including deadlines for submission of information for voters' pamphlet. Appropriates General Fund to Emergency Board to be allocated to SOS, if special statewide election is held. Declares emergency, effective on passage.

### **BACKGROUND:**

Senate Bill 229-B makes various technical, administrative, clarifying and conforming changes to requirements related to elections, ballot measures and campaign finance.

#### Elections

Currently, county election officials provide candidates with the certificate of election and retain a copy for their records. Senate Bill 229-B specifies that the elected individual must have received a certificate of election prior to filing an oath of office. ORS 246.021 provides that specified election documents may be filed with the appropriate elections officer either by submitting a physical copy or transmitting a copy by fax. Senate Bill 229-B additionally permits the use of electronic mail for submission of these documents.

#### Ballots

ORS 260.715 prohibits the sale, purchase, or offer of sale or purchase, of any official ballot or associated envelope for any item of valuable consideration. Senate Bill 229-B adds that such violations must include an actual intent to sell, purchase or offer to sell or purchase, an official ballot or related materials. Oregon law requires the Secretary of State (SOS) to notify counties and election precincts concerning elections contests requiring a hand count within three days after the general election. The scope of the hand count depends on the margin of victory between the two candidates receiving the largest number of votes in the county. Senate Bill 229-B permits the SOS to select batches of ballots at random, rather than entire precincts, for hand counting election contests, prescribes criteria for ballot batches and requires that county clerks be notified of hand counts 15 days, rather than three days, after the election. Current statute requires that elector signatures included on recall and candidate petitions be verified by appropriate county clerk for authenticity and to determine if a recall petition or candidate has received the requisite number of signatures for inclusion on the ballot (ORS 249.008 and 249.078). Senate Bill 229-B permits the SOS to perform duties related to the verification of signatures and further directs the SOS to establish a process for verifying a petition has received the requisite number of signatures. The SOS is required to prepare official cover and signature sheet templates for each state initiative, referendum and recall petition, and templates must be provided by prescribed deadlines dependent on the type of petition being filed (ORS 250.052). Currently, a chief petitioner may submit a request to the SOS for alterations to templates no later than five business days after the deadline for the issuance of templates, and the SOS must approve or reject a request within five business days of receipt. Senate Bill 229-B

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eliminates the current prescribed timeframe for template alteration requests and permits the SOS to establish a process, by rule, for chief petitioners to request modifications to templates. Additionally, the measure requires the SOS to prepare official templates for each prospective petition.

### Campaign Finance

Currently, a candidate who serves as their own treasurer and who does not anticipate receiving an aggregate of contributions or making aggregate expenditures of more than \$750 during a calendar year, is not required to file a statement of organization, establish a single exclusive campaign account or file statements in ORESTAR. However, if at any time during the calendar year subsequent to the filing of a nomination petition, declaration of candidacy or certification of nomination, the aggregate \$750 contribution or expenditure threshold is exceeded, the exemption no longer applies and the candidate must file required campaign finance documentation. Senate Bill 229-B specifies that candidates exceeding the \$750 threshold are required to file statements in alignment with currently prescribed time-frames for filing campaign finance statements, and further permits a candidate who has exceeded the \$750 expenditure and contribution limit, but who does not expect contributions or expenditures to exceed \$3,500 during the calendar year, to file a statement indicating such in lieu of filing campaign finance statements. Additionally, Senate Bill 229-B states that a contribution must be deposited into a committee campaign account no later than seven business days after receipt, rather than seven calendar days. ORS 260.078 requires candidates, candidate's principal campaign committees and political committees who show an unexpected balance of contributions that were not previously reported in a statement as an initial asset prior to the creation of the committee in the ORESTAR system to account for such contributions in future prescribed statements.

Senate Bill 229-B adds petition committees to those required to report initial assets that have occurred prior to creation of a committee in the ORESTAR system. According to ORS 260.407, contributions received by a candidate or their principal campaign committee that are in excess of an amount necessary to offset expenditures, and any other donated funds, may be used to defray any expenses associated with the duties of an office holder, may be transferred to specified organizations or political committees or may be used for any other lawful purpose. A candidate or their principal campaign committee's excess contributions and donations are prohibited from conversion for personal use or for paying expenses associated with certain civil or criminal penalties and legal proceedings related to campaign finance violations. Senate Bill 229-B applies requirements and prohibitions with regard to the use of excess contributions and donations to principal campaign committees of public office holders and candidates in general, and expands the permissible use of contributions to include payment of expenses in connection with legal proceedings related to elections and campaign finance.