

House Bill 2211

Sponsored by Representative VIAL (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**.

Requires all candidates for partisan office, regardless of political party affiliation or nonaffiliation, to appear on same unified primary election ballot, with two candidates receiving most votes advancing to general election ballot.

Refers Act to people for their approval or rejection at next regular general election held throughout this state.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; amending ORS 188.120, 248.008, 249.088, 249.091,
3 253.540, 253.565, 253.690, 254.056, 254.115, 254.370, 254.470 and 260.695; repealing ORS 254.025
4 and 254.365; and providing that this Act shall be referred to the people for their approval or
5 rejection.

6 The Legislative Assembly finds as follows:

7 (1) All voters should have the full and equal ability, at every election, to choose those whom
8 they believe are best suited to govern them.

9 (2) Competitive and open elections that encourage thoughtful debate and maximum participation
10 are healthy for democracy and strengthen citizens' trust in their government.

11 (3) Citizens should be able to register and affiliate with any legal political party, or none at all,
12 according to their beliefs and without any coercion or diminishment of their rights as voters.

13 (4) Political parties should be able to endorse and support any qualified candidate, or none at
14 all, according to the beliefs and choices of their members and without any compulsion or
15 diminishment of their rights through operations of law.

16 (5) A primary election process that advances the two candidates receiving the most votes to the
17 general election ballot, and that allows every qualified voter to vote on which candidate to advance,
18 helps to ensure the election of officials supported by a majority of the electorate, thereby promoting
19 citizen confidence in their government.

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

21 **SECTION 1. Short title. This 2017 Act may be cited as the Open Primary Act of 2017.**

22 **SECTION 2. Sections 3 to 6 of this 2017 Act are added to and made a part of ORS chapter
23 249.**

24 **SECTION 3. Statement of intent. The intent of the Open Primary Act of 2017 is to create
25 a fully open, equitable and fair election system that will be applied to specific federal and
26 state elected offices currently elected on a partisan basis. The Open Primary Act of 2017 will
27 abolish the current practice of relying on political party members or party officials in closed
28 primary elections or conventions to nominate candidates for these offices, while prohibiting
29 the participation of nonaffiliated electors entirely, and replace it with a system through
30 which all electors may participate on an equal basis, in all phases of the selection process.**

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 This means changing the current system of primary election contests for these offices so
 2 that all electors have the equal ability to select two finalist candidates to appear on the
 3 general election ballot, regardless of the political party affiliation, or lack of party affiliation,
 4 of the elector or candidate.

5 **SECTION 4. Definition.** As used in sections 3 to 6 of this 2017 Act, “voter choice office”
 6 means the office of United States Senator, Representative in Congress, Governor, Secretary
 7 of State, State Treasurer, Attorney General, state Senator and state Representative and any
 8 other state, county, city or district office that is not a nonpartisan office nor an office for
 9 which nominations to the general election by political parties are expressly authorized by
 10 law.

11 **SECTION 5. Particular provisions for voter choice offices.** (1) Except as provided in a
 12 home rule charter or subsection (2) of this section, for voter choice offices, the two candi-
 13 dates receiving the highest number of votes at the primary election shall be the sole candi-
 14 dates who advance to the general election.

15 (2) If three or more candidates for a voter choice office are on the ballot for a primary
 16 election and a vacancy occurs in a nomination to the office after the primary election and
 17 before the 61st day before the general election, the qualified candidate who received the next
 18 highest number of votes at the primary election, if any, shall be the replacement nominee.
 19 The chief elections officer, as defined in ORS 254.005, shall file the name of the replacement
 20 nominee with each appropriate county clerk.

21 **SECTION 6. Filing and nominating processes for voter choice offices.** Except as provided
 22 in this 2017 Act, all provisions of state law that apply to the filing and nomination processes
 23 for candidates for nonpartisan offices also apply to voter choice offices.

24 **SECTION 7.** Sections 8 to 10 of this 2017 Act are added to and made a part of ORS
 25 chapter 254.

26 **SECTION 8. Definition.** As used in this chapter, “voter choice office” means the office
 27 of United States Senator, Representative in Congress, Governor, Secretary of State, State
 28 Treasurer, Attorney General, state Senator and state Representative and any other state,
 29 county, city or district office that is not a nonpartisan office nor an office for which nomi-
 30 nations to the general election by political parties are expressly authorized by law.

31 **SECTION 9. Election ballots for voter choice offices.** (1) The provisions of this section
 32 are intended to provide electors access to information in the public record about candidates
 33 for voter choice offices and the political parties that endorse those candidates, without in-
 34 fringing on the rights of political parties and their members to organize and associate.

35 (2) For each primary election that includes a voter choice office, the county clerk shall
 36 print on the ballot:

37 (a)(A) If the candidate for a voter choice office is registered as affiliated with a political
 38 party on the 70th day before the date of the election, following the name of the candidate,
 39 the statement “Registration: _____” (name of political party); or

40 (B) If the candidate for a voter choice office is not registered as affiliated with a political
 41 party on the 70th day before the date of the election, following the name of the candidate,
 42 the statement “Registration: not a member of a party” or, if the candidate chooses, no
 43 statement concerning the candidate’s party registration status;

44 (b) The statement: “A candidate’s political party registration shown on this ballot for
 45 voter choice offices indicates the candidate’s party registration status as of 70 days prior to

1 the election. It does not imply the endorsement of the political party identified.”; and

2 (c) For each candidate for a voter choice office, following the name of the candidate, the
 3 name of any political party that has officially endorsed the candidate, preceded by the phrase
 4 “Endorsed by:”. The county clerk shall print only those endorsements that have been re-
 5 ceived and accepted by the candidate and for which the chief elections officer has received
 6 notice not later than the 61st day before the date of the election.

7 (3) For each general election that includes a voter choice office, the county clerk shall
 8 print on the ballot:

9 (a)(A) If the candidate for a voter choice office is registered as affiliated with a political
 10 party on the 70th day before the date of the election, following the name of the candidate,
 11 the statement “Registration: _____” (name of political party); or

12 (B) If the candidate for a voter choice office is not registered as affiliated with a political
 13 party on the 70th day before the date of the election, following the name of the candidate,
 14 the statement “Registration: not a member of a party” or, if the candidate chooses, no
 15 statement concerning the candidate’s party registration status;

16 (b) The statement: “A candidate’s political party registration shown on this ballot for
 17 voter choice offices indicates the candidate’s party registration status as of 70 days prior to
 18 the election. It does not imply the endorsement of the political party identified.”; and

19 (c) For each candidate for a voter choice office, following the name of the candidate, the
 20 name of any political party that has officially endorsed the candidate, preceded by the phrase
 21 “Endorsed by:”. The county clerk shall print only those endorsements that have been re-
 22 ceived and accepted by the candidate and for which the chief elections officer has received
 23 notice not later than the 61st day before the date of the election.

24 (4) The Secretary of State may adopt rules to implement this section.

25 (5) As used in this section, “political party” means a party qualified as a major or minor
 26 political party in this state under ORS chapter 248.

27 **SECTION 10. Election process for voter choice offices.** Except as provided in this 2017
 28 Act, all provisions of state law that apply to elections and ballots for nonpartisan offices also
 29 apply to voter choice offices.

30 **SECTION 11. Severability.** Section 9 of this 2017 Act and each of its subsections, para-
 31 graphs and subparagraphs is severable from this 2017 Act. If section 9 of this 2017 Act or any
 32 subsection, paragraph or subparagraph in section 9 of this 2017 Act is held unconstitutional,
 33 the remaining parts of this 2017 Act shall remain in force.

34 **SECTION 12.** ORS 188.120 is amended to read:

35 188.120. (1) If a vacancy in election or office of Representative in Congress or United States
 36 Senator occurs before the 61st day before the general election, the Governor shall call a special
 37 election to fill that vacancy. If a vacancy in election or office of United States Senator occurs after
 38 the 62nd day before the general election but on or before the general election, and if the term of
 39 that office is not regularly filled at that election, the Governor shall call a special election to fill
 40 the vacancy as soon as practicable after the general election.

41 (2) If a special election to fill the vacancy in election or office of Representative in Congress
 42 or United States Senator is called before the 80th day after the vacancy occurs, *[each major political*
 43 *party shall select its nominee for the office and certify the name of the nominee to the Secretary of State.*
 44 *The Secretary of State shall place the name of the nominee on the ballot]* **nominations to the election**
 45 **shall take the form of a declaration of candidacy or nominating petition, which may be filed**

1 **by any otherwise eligible elector.**

2 (3) If a special election to fill the vacancy in election or office of Representative in Congress
 3 or United States Senator is called after the 79th day after the vacancy occurs, a special primary
 4 election shall be conducted by the Secretary of State for the purpose of nominating [*a candidate of*
 5 *each major political party*] **candidates to the special election called to fill the vacancy.** A decla-
 6 ration of candidacy or nominating petition may be filed not later than the 10th day following the
 7 issuance of the writ of election.

8 (4) **Special elections and special primary elections conducted under this section shall be**
 9 **as provided for voter choice offices generally, except that the Secretary of State may accept**
 10 **nominating petitions, declarations of candidacy and endorsements according to a schedule for**
 11 **filing set by the secretary, and except that, in the case of a special election held under sub-**
 12 **section (1) of this section, the ballot shall include the names of all qualified candidates who**
 13 **have filed declarations of candidacy or nominating petitions.**

14 (5) As used in this section, “voter choice office” has the meaning given that term in
 15 section 4 of this 2017 Act.

16 **SECTION 13.** Section 14 of this 2017 Act is added to and made a part of ORS chapter 236.

17 **SECTION 14. Vacancies in voter choice offices.** (1) As used in this section, “voter choice
 18 office” has the meaning given that term in section 4 of this 2017 Act.

19 (2) **Notwithstanding ORS 171.051, 171.060, 171.068, 236.100, 236.215 and 236.217, whenever**
 20 **a vacancy exists in any voter choice office in this state and is to be filled by appointment, a**
 21 **person who is otherwise eligible may be appointed to fill the vacancy regardless of the**
 22 **person’s affiliation or lack of affiliation with a political party, and whenever a vacancy exists**
 23 **in any voter choice office in this state and is to be filled by election, the election procedures**
 24 **for voter choice offices shall be followed.**

25 **SECTION 15.** Section 16 of this 2017 Act is added to and made a part of ORS 171.051 to
 26 **171.064.**

27 **SECTION 16. State legislative vacancies.** In the case of a vacancy in the office of state
 28 Senator or state Representative that is to be filled by an appointing authority as provided in
 29 ORS 171.051, the following apply:

30 (1) **Notwithstanding ORS 171.051, an otherwise eligible person may be appointed to fill the**
 31 **vacancy regardless of the person’s affiliation or lack of affiliation with a political party.**

32 (2) **Candidates for the remaining two years of the term of office of a state Senator under**
 33 **ORS 171.051 (4) shall be nominated as provided for that office in ORS chapter 249, except that**
 34 **the Secretary of State shall accept declarations of candidacy and nominating petitions ac-**
 35 **ording to a schedule for filing set by the secretary, but in any case not later than the 62nd**
 36 **day before the first general election to be held during that term of office.**

37 (3) **ORS 171.060 (1) does not apply to the appointment.**

38 (4) **The procedure described in ORS 171.060 (2) for a vacancy in the office of state Senator**
 39 **or state Representative not affiliated with a major political party applies to the appointment.**

40 **SECTION 17.** ORS 254.056 is amended to read:

41 254.056. (1) The general election shall be held on the first Tuesday after the first Monday in
 42 November of each even-numbered year. Except as provided in ORS 254.650, at the general election
 43 officers of the state and subdivisions of the state, members of Congress and electors of President
 44 and Vice President of the United States as are to be elected in that year shall be elected.

45 (2) The primary election shall be held on the third Tuesday in May of each even-numbered year.

1 At the primary election [*precinct committeepersons shall be elected and major political party candi-*
 2 *dates shall be nominated for offices to be filled at the general election held in that year*]:

3 **(a) Nonpartisan candidates shall be nominated or elected by all electors, as described in**
 4 **ORS chapter 249;**

5 **(b) Voter choice office candidates shall be nominated by all electors, as described in ORS**
 6 **chapter 249, for offices to be filled at the general election held in that year;**

7 **(c) In a presidential election year, delegates to nominating conventions for the offices of**
 8 **President and Vice President of the United States shall be selected as provided in ORS**
 9 **chapters 248 and 249, and precinct committeepersons shall be elected by members of major**
 10 **political parties; and**

11 **(d) Notwithstanding paragraph (c) of this subsection and ORS 248.015 (1) and (5), if the**
 12 **number of candidates having filed for precinct committeeperson is equal to or less than the**
 13 **number of positions to be filled at the primary election, no election for precinct committee-**
 14 **person shall be held and all candidates having filed shall be issued a certificate of election**
 15 **under ORS 248.023.**

16 **SECTION 18.** ORS 254.115 is amended to read:

17 254.115. (1) The official primary election ballot shall be styled “[*Official*] Primary [*Nominating*]
 18 Ballot [*for the _____ Party.*]” and shall state:

19 (a) The name of the county for which it is intended.

20 (b) The date of the primary election.

21 (c) The names of all candidates for nomination **or election** at the primary election **to nonpar-**
 22 **tisan, voter choice or other offices** whose nominating petitions or declarations of candidacy have
 23 been made and filed, and who have not died, withdrawn or become disqualified.

24 [*(d) The names of candidates for election as precinct committeeperson.*]

25 [*(e) The names of candidates for the party nomination for President of the United States who*
 26 *qualified for the ballot under ORS 249.078.*]

27 **(d) In a presidential election year, the name of each candidate for a political party nom-**
 28 **ination for President of the United States who has qualified for the ballot under ORS 249.078,**
 29 **and the names of candidates for election as precinct committeepersons, if required. Only**
 30 **votes cast by members of the applicable political party shall be tallied and published for any**
 31 **such contest.**

32 (2) The primary election ballot may include any city, county or nonpartisan office or the number,
 33 ballot title and financial estimates under ORS 250.125 of any measure.

34 (3) The ballot may not contain the name of any person other than those referred to in sub-
 35 sections (1) and (2) of this section. The name of each candidate for whom a nominating petition or
 36 declaration of candidacy has been filed shall be printed on the ballot in but one place. In the event
 37 that two or more candidates for the same nomination or office have the same or similar surnames,
 38 the location of their places of residence shall be printed with their names to distinguish one from
 39 another.

40 **SECTION 19.** Sections 20 and 21 of this 2017 Act are added to and made a part of ORS
 41 chapter 248.

42 **SECTION 20. Political party nominations.** Notwithstanding ORS 248.006, 248.007 and
 43 248.008, at the primary election, a political party otherwise authorized by law to nominate
 44 candidates through the primary election may nominate candidates only for an office for
 45 which nominations to the general election by political parties are expressly authorized by

1 law.

2 **SECTION 21. Term of office of precinct committeeperson.** Notwithstanding ORS 248.015,
 3 **the term of office of a precinct committeeperson elected under ORS 248.015 before the ef-**
 4 **fective date of this 2017 Act is four years and expires on the 24th day after the date of the**
 5 **primary election held in a presidential election year at which the precinct committeeperson**
 6 **was last elected.**

7 **SECTION 22.** ORS 248.008 is amended to read:

8 248.008. (1) An affiliation of electors becomes a minor political party in the state, a county or
 9 other electoral district, qualified to make nominations for public office in that electoral district and
 10 in any other electoral district wholly contained within the electoral district, when the affiliation of
 11 electors has acted as described in either paragraph (a) or (b) of this subsection:

12 (a)(A) When the affiliation of electors has filed with the Secretary of State a petition with the
 13 signatures of at least a number of electors equal to one and one-half percent of the total votes cast
 14 in the electoral district for all candidates for Governor at the most recent election at which a candi-
 15 dicate for Governor was elected to a full term.

16 (B) The petition must contain only original signatures and must be filed not later than two years
 17 following the date the prospective petition is filed. The petition must state the intention to form a
 18 new political party and designate a name for the political party.

19 (C) Before circulating the petition, the chief sponsor of the petition must file with the Secretary
 20 of State a signed copy of the prospective petition. The chief sponsor must include with the pro-
 21 spective petition a statement declaring whether one or more persons will be paid money or other
 22 valuable consideration for obtaining signatures of electors on the petition. After the prospective
 23 petition is filed, the chief sponsor must notify the filing officer not later than the 10th day after the
 24 chief sponsor first has knowledge or should have had knowledge that:

25 (i) Any person is being paid for obtaining signatures, when the statement included with the
 26 prospective petition declared that no person would be paid for obtaining signatures of electors.

27 (ii) No person is being paid for obtaining signatures, when the statement included with the
 28 prospective petition declared that one or more persons would be paid for obtaining signatures of
 29 electors.

30 (D) The circulator shall certify on each signature sheet that the circulator witnessed the signing
 31 of the signature sheet by each individual whose signature appears on the signature sheet and that
 32 the circulator believes each individual is an elector registered in the electoral district.

33 (E) The Secretary of State shall verify whether the petition contains the required number of
 34 signatures of electors. The Secretary of State may not accept a petition for filing if it contains less
 35 than 100 percent of the required number of signatures. The Secretary of State by rule shall desig-
 36 nate a statistical sampling technique to verify whether a petition contains the required number of
 37 signatures of electors. A petition may not be rejected for the reason that it contains less than the
 38 required number of signatures unless two separate sampling processes both establish that the peti-
 39 tion lacks the required number of signatures. The second sampling must contain a larger number
 40 of signatures than the first sampling. The Secretary of State may employ professional assistance to
 41 determine the sampling technique. The statistical sampling technique may be the same as that
 42 adopted under ORS 250.105.

43 (b) When the affiliation of electors has polled for any one of its candidates for any public office
 44 in the electoral district at least one percent of the total votes cast in the electoral district for all
 45 candidates for:

1 (A) Presidential elector at the last general election at which candidates for President and Vice
 2 President of the United States were listed on the ballot; or

3 (B) Any single state office to be voted upon in the state at large [*for which nominations by pol-*
 4 *itical parties are permitted by law*] at the most recent **primary or general** election at which a candi-
 5 dicate for the office was elected to a full term.

6 (2) After satisfying either subsection (1)(a) or (b) of this section, the minor political party may
 7 nominate candidates for election at the next [*general*] **primary** election **for a voter choice office,**
 8 **as defined in section 4 of this 2017 Act, or general election for President and Vice President**
 9 **of the United States.**

10 (3) A filing officer may not accept a certificate of nomination of a candidate nominated by a
 11 minor political party for a subsequent **primary or** general election unless the minor political party
 12 has maintained status as a minor political party as described in subsection (4) of this section.

13 (4) In order to maintain status as a minor political party for a subsequent **primary or** general
 14 election:

15 (a) Following each general election, at any time during the period beginning on the date of the
 16 next primary election and ending on the 90th day before the next general election, a number of
 17 electors equal to at least one-half of one percent of the total number of registered electors in this
 18 state must be registered as members of the party; or

19 (b)(A) Following each general election, at any time during the period beginning on the date of
 20 the next primary election and ending on the 90th day before the next general election, a number
 21 of electors equal to at least one-tenth of one percent of the total votes cast in the state or electoral
 22 district for all candidates for Governor at the most recent **primary or general** election at which
 23 a candidate for Governor was elected to a full term must be registered as members of the party; and

24 (B) At least once in a four-year period, a candidate or candidates of the party must poll at least
 25 one percent of the total votes cast in the electoral district for all candidates for:

26 (i) Presidential elector at the last general election at which candidates for President and Vice
 27 President of the United States were listed on the ballot; or

28 (ii) Any single state office to be voted upon in the state at large [*for which nominations by pol-*
 29 *itical parties are permitted by law*] at the most recent **primary or general** election at which a candi-
 30 dicate for the office was elected to a full term.

31 (5) An affiliation of electors that fails to maintain status as a minor political party ceases to be
 32 a minor political party on the 90th day before the date of the next general election.

33 (6) During the period beginning on the date of the primary election and ending on the 90th day
 34 before the date of the general election, the Secretary of State shall determine at least once each
 35 month whether registration requirements to maintain status as a minor political party have been
 36 satisfied.

37 (7) If a minor political party changes its name, only those electors who register on or after the
 38 effective date of the name change as members of the party under the new party name shall be
 39 counted as members of the party.

40 (8) An affiliation of electors or a minor political party may not nominate a candidate who is the
 41 nominee of another political party at the same election in order to satisfy the one percent require-
 42 ment referred to in subsection (1)(b) or (4)(b)(B) of this section.

43 (9) For purposes of this section, “subsequent general election” means any **primary or** general
 44 election that is held after the first general election following qualification as a minor political party
 45 under subsection (1) of this section.

1 **SECTION 23.** ORS 249.088 is amended to read:

2 249.088. (1) Except as provided in ORS 249.091, at the nominating election held on the date of
3 the primary election:

4 (a) **Electors may vote for one or more candidates listed on the primary election ballot for
5 a nonpartisan office. An elector may vote for as many of the listed candidates as the elector
6 chooses and in so doing may cast a vote for more than one candidate for a single nonpartisan
7 office, provided that the elector does not cast more than one vote for any individual candi-
8 date.**

9 [(a)] (b) Unless **only one** [a] candidate for **the** nonpartisan office receives [a majority of the votes
10 cast for the office] **votes from a majority of the electors**, the two candidates who receive the
11 highest number of votes are nominated.

12 [(b)] (c) If [a] **only one** candidate for **the** nonpartisan office receives [a majority of votes cast for
13 the office] **votes from a majority of the electors**, that candidate is elected.

14 (2) The application of this section is subject to the provisions of a home rule charter.

15 **SECTION 24.** ORS 249.091 is amended to read:

16 249.091. (1) If a nominating petition or declaration of candidacy is filed by no more than two
17 candidates for the office of sheriff, county treasurer or county clerk or by no more than two candi-
18 dates to fill a vacancy in a nonpartisan office:

19 (a) The candidate or candidates are nominated; and

20 (b) The name or names of the candidate or candidates may not be printed on the ballot at the
21 nominating election.

22 (2) If a nominating petition or declaration of candidacy is filed by more than two candidates for
23 the office of sheriff, county treasurer or county clerk or by more than two candidates to fill a va-
24 cancy in a nonpartisan office:

25 (a) Unless **only one** [a] candidate **for the nonpartisan office** receives [a majority of the votes
26 cast for the office] **votes from a majority of the electors**, the two candidates who receive the
27 highest number of votes are nominated.

28 (b) If [a] **only one** candidate **for the nonpartisan office** receives [a majority of the votes cast
29 for the office] **votes from a majority of the electors**, that candidate alone is nominated.

30 (3) The application of this section is subject to the provisions of a home rule charter.

31 **SECTION 25. Repeals. ORS 254.025 and 254.365 are repealed.**

32 **SECTION 26.** ORS 253.540 is amended to read:

33 253.540. (1) Any military or overseas elector may secure a ballot by submitting an application
34 as specified in subsection (2) of this section to the clerk of the county of the military or overseas
35 elector's residence, or to the Secretary of State. If the application is addressed to the Secretary of
36 State, the secretary shall forward it to the appropriate county clerk.

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

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

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

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

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

1 (e) A statement of the facts that qualify the applicant as a military or overseas elector or as the
2 spouse or a dependent of a military or overseas elector; **and**

3 (f) A statement that the applicant is not requesting a ballot from any other state and is not
4 voting in any other manner in the election except by the requested ballot. [; and]

5 *[(g) If the applicant desires to vote in a primary election, a designation of the applicant's political
6 party affiliation or a statement that the applicant is not affiliated with any political party. An applicant
7 not affiliated with any political party may request a ballot for a major political party. The applicant
8 shall be sent the ballot for the political party that the applicant requested if that political party has
9 provided under ORS 254.365 for a primary election that admits electors not affiliated with any political
10 party.]*

11 **SECTION 27.** ORS 253.565 is amended to read:

12 253.565. (1) Any military or overseas elector may secure a special ballot for a primary election
13 or general election by making an application under this section if the elector believes that:

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

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

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

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

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

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

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

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

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

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

32 (h) A statement that the applicant is not requesting a ballot from any other state and is not
33 voting in any other manner in the election except by the requested special ballot. [; and]

34 *[(i) If the applicant requests a ballot for a primary election, a designation of the applicant's poli-
35 tical party affiliation or a statement that the applicant is not affiliated with any political party. An
36 applicant not affiliated with any political party may request a ballot for a major political party. The
37 applicant shall be sent the ballot for the political party that the applicant requested if that political
38 party has provided under ORS 254.365 for a primary election that admits electors not affiliated with
39 any political party.]*

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

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

45 (5) The elector may write in the name of any eligible candidate for each office to be filled or for

1 which nominations will be made at the election, and may vote on any measure submitted at the
2 election.

3 **SECTION 28.** ORS 254.370 is amended to read:

4 254.370. The county clerk shall maintain[:]

5 [(1)] a monthly registration record of all electors registered as not being affiliated with any
6 political party.[:]

7 [(2) *At each primary election, a record of the number of electors who voted from each major poli-*
8 *tical party;*]

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

12 [(4) *A record of all electors registered as not being affiliated with any political party who vote in*
13 *the general election.*]

14 **SECTION 29.** ORS 254.470 is amended to read:

15 254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the
16 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
17 dates and times the places of deposit must be open and the security requirements for the places of
18 deposit. At a minimum, the places designated under this section shall be open on the date of the
19 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place
20 of deposit designated under this section, the county clerk shall prominently display a sign stating
21 that the location is an official ballot drop site.

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

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

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

35 [(3) *For an election held on the date of a primary election:*]

36 [(a) *The county clerk shall mail the official ballot of a major political party to each elector who is*
37 *registered as being affiliated with the major political party as of the 21st day before the date of the*
38 *election.*]

39 [(b) *The county clerk shall mail the official ballot of a major political party to an elector not af-*
40 *filiated with any political party if the elector has applied for the ballot as provided in this subsection*
41 *and that party has provided under ORS 254.365 for a primary election that admits electors not affil-*
42 *iated with any political party.*]

43 [(c) *An elector not affiliated with any political party who wishes to vote in the primary election of*
44 *a major political party shall apply to the county clerk in writing. The application shall indicate which*
45 *major political party ballot the elector wishes to receive. Except for electors described in subsection (4)*

1 of this section, and subject to ORS 247.203, the application must be received by the county clerk not
 2 later than 5 p.m. of the 21st day before the date of the election.]

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

6 [(4)] (3) For each elector who updates a voter registration after the deadline in ORS 247.025, the
 7 county clerk shall make the official ballot, the return identification envelope and the secrecy en-
 8 velope available either by mail or at the county clerk’s office or at another place designated by the
 9 county clerk. An elector to whom this subsection applies must request a ballot from the county
 10 clerk.

11 [(5)] (4) The ballot shall contain the following warning:

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

17 [(6)(a)] (5)(a) Upon receipt of any ballot described in this section, the elector shall mark the
 18 ballot, sign the return identification envelope supplied with the ballot and comply with the in-
 19 structions provided with the ballot.

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

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

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

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

32 [(7)] (6) An elector may obtain a replacement ballot if the ballot is destroyed, spoiled, lost or
 33 not received by the elector. Replacement ballots shall be issued and processed as described in this
 34 section and ORS 254.480. The county clerk shall keep a record of each replacement ballot provided
 35 under this subsection. Notwithstanding any deadline for mailing ballots in subsection (2) of this
 36 section, a replacement ballot may be mailed, made available in the office of the county clerk or made
 37 available at one central location in the electoral district in which the election is conducted. The
 38 county clerk shall designate the central location. A replacement ballot need not be mailed after the
 39 fifth day before the date of the election.

40 [(8)] (7) A ballot shall be counted only if:

- 41 (a) It is returned in the return identification envelope;
- 42 (b) The envelope is signed by the elector to whom the ballot is issued; and
- 43 (c) The signature is verified as provided in subsection [(9)] (8) of this section.

44 [(9)] (8) The county clerk shall verify the signature of each elector on the return identification
 45 envelope with the signature on the elector’s registration record, according to the procedure provided

1 by rules adopted by the Secretary of State. If the county clerk determines that an elector to whom
2 a replacement ballot has been issued has voted more than once, the county clerk shall count only
3 one ballot cast by that elector.

4 [(10)] (9) At 8 p.m. on election day, electors who are at the county clerk’s office, a place of de-
5 posit designated under subsection (1) of this section or any location described in ORS 254.472 or
6 254.474 and who are in line waiting to vote or deposit a voted ballot shall be considered to have
7 begun the act of voting.

8 **SECTION 30.** ORS 253.690 is amended to read:

9 253.690. (1) A military or overseas elector described in ORS 253.510 may cast a ballot using a
10 facsimile machine or by electronic mail as provided in this section. Notwithstanding ORS 254.470
11 [(8)] (7), a ballot cast under this section shall be counted only if the ballot:

- 12 (a) Is received in the office of the county clerk not later than 8 p.m. on the day of the election;
- 13 (b) Is accompanied by a return identification envelope containing the signature of the elector
14 and a signed waiver described in subsection (2) of this section; and
- 15 (c) The signature is verified as provided in subsection (4) of this section.

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

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

23 (b) A waiver in substantially the following form:

24 _____
25
26 I, _____, acknowledge that by casting my voted ballot using a facsimile machine or by
27 electronic mail I have waived my right to a secret ballot.
28 _____

29
30 (c) A statement to notify the elector that the elector’s ballot will not be counted unless the
31 elector has complied with the provisions of this section.

32 (d) Space for the elector to provide the elector’s signature to attest to the information supplied.

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

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

37 (4) The county clerk shall verify the signature of each elector on the return identification en-
38 velope transmitted by facsimile machine or electronic mail under this section with the signature on
39 the elector’s registration record, according to the procedure provided by rules adopted by the Sec-
40 retary of State.

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

43 **SECTION 31.** ORS 260.695 is amended to read:

44 260.695. (1)(a) If a person prints or circulates an imitation of the ballot or sample ballot:

45 (A) The imitation ballot or sample ballot and the back of any return envelope enclosed with the

1 ballot or sample ballot shall state the following: “THIS IS NOT A REAL BALLOT. DO NOT USE
 2 TO VOTE.” The statement on the imitation ballot or sample ballot shall be in bold print that is at
 3 least two times as large as the majority of the text on the ballot or sample ballot or 20-point type,
 4 whichever is larger. The statement on the back of a return envelope shall be in bold print that is
 5 at least 36-point type.

6 (B) The word “UNOFFICIAL” must be superimposed on the imitation ballot or sample ballot so
 7 that the word extends diagonally across the ballot from one margin of the text to the other. The
 8 superimposed word may be printed in lighter ink than other text on the ballot or sample ballot.

9 (b) For purposes of this subsection, an imitation of the ballot or sample ballot includes an imi-
 10 tation of a portion of the ballot or sample ballot.

11 (2) A person may not do any electioneering, including circulating any cards or handbills, or so-
 12 liciting of signatures to any petition, within any building in which any state or local government
 13 elections office designated for the deposit of ballots under ORS 254.470 is located, or within 100 feet
 14 measured radially from any entrance to the building. A person may not do any electioneering by
 15 public address system located more than 100 feet from an entrance to the building if the person is
 16 capable of being understood within 100 feet of the building. The electioneering need not relate to
 17 the election being conducted. This subsection applies during the business hours of the building or,
 18 if the building is a county elections office, during the hours the office is open to the public, during
 19 the period beginning on the date that ballots are mailed to electors as provided in ORS 254.470 and
 20 ending on election day at 8 p.m. or when all persons waiting in line at the building who began the
 21 act of voting as described in ORS 254.470 [(10)] (9) by 8 p.m. have finished voting.

22 (3) A person may not obstruct an entrance of a building in which ballots are issued or a place
 23 designated for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS
 24 254.474 is located. This subsection applies during the period beginning on the date that ballots are
 25 mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all
 26 persons waiting in line at the building or location who began the act of voting as described in ORS
 27 254.470 [(10)] (9) by 8 p.m. have finished voting.

28 (4) A person may not vote or offer to vote in any election knowing the person is not entitled
 29 to vote.

30 (5) A person may not make a false statement about the person’s inability to mark a ballot.

31 (6) A person, except an elections official in performance of duties or another person providing
 32 assistance to an elector as described in ORS 254.445, may not ask a person at any place designated
 33 for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472 or 254.474
 34 for whom that person intends to vote, or examine or attempt to examine the person’s ballot.

35 (7) An elections official, other than in the performance of duties, may not disclose to any person
 36 any information by which it can be ascertained for whom any elector has voted.

37 (8) A person, except an elections official in performance of duties, may not do anything to a
 38 ballot to permit identification of the person who voted.

39 (9) An elector may not willfully leave at any place designated for the deposit of ballots under
 40 ORS 254.470 or at any location described in ORS 254.472 or 254.474 anything that will show how the
 41 elector’s ballot was marked.

42 (10) A person, except an elections official in performance of duties, may not remove a ballot
 43 from any place designated for the deposit of ballots under ORS 254.470 or any location described in
 44 ORS 254.472 or 254.474.

45 (11) A person, except an elections official in performance of duties or a person authorized by

1 that official, may not willfully deface, remove, alter or destroy a posted election notice.

2 (12) A person, except an elections official in performance of duties, may not willfully remove,
 3 alter or destroy election equipment or supplies, or break the seal or open any sealed package con-
 4 taining election supplies.

5 (13) A person, except an elections official in performance of duties, may not provide elections
 6 advice or attempt to collect voted ballots within any building in which any state or local govern-
 7 ment elections office designated for the deposit of ballots under ORS 254.470 is located, or within
 8 100 feet measured radially from any entrance to the building.

9 (14) A person, except an elections official in performance of duties, may not establish a location
 10 to collect ballots voted by electors unless:

11 (a) The person prominently displays at the location a sign stating: "NOT AN OFFICIAL BAL-
 12 LOT DROP SITE"; and

13 (b) The sign is printed in all capital letters in bold 50-point type.

14 **SECTION 32. Captions. The section captions used in this 2017 Act are provided only for**
 15 **the convenience of the reader and do not become part of the statutory law of this state or**
 16 **express any legislative intent in the enactment of this 2017 Act.**

17 **SECTION 33. Effect. Sections 3 to 6, 8 to 11, 14, 16, 20 and 21 of this 2017 Act, the**
 18 **amendments to ORS 188.120, 248.008, 249.088, 249.091, 253.540, 253.565, 253.690, 254.056, 254.115,**
 19 **254.370, 254.470 and 260.695 by sections 12, 17, 18, 22 to 24 and 26 to 31 of this 2017 Act and**
 20 **the repeal of ORS 254.025 and 254.365 by section 25 of this 2017 Act:**

21 (1) Apply only to appointments and elections to public office occurring on or after the
 22 date specified in section 35 of this 2017 Act;

23 (2) Apply to a certificate of nomination, nominating petition or declaration of candidacy
 24 filed before the date specified in section 35 of this 2017 Act for an election to a voter choice
 25 office to be conducted on or after the date specified in section 35 of this 2017 Act;

26 (3) Apply only to vacancies occurring during terms of office where the person originally
 27 elected for the term during which the vacancy occurred was elected for that term after the
 28 date specified in section 35 of this 2017 Act; and

29 (4) Are not intended to require a change in the composition of any committee or com-
 30 mission described in ORS 137.658 or 244.250.

31 **SECTION 34. The Eightieth Legislative Assembly shall enact any legislation that may be**
 32 **necessary to carry out the provisions of this 2017 Act during the 2019 regular session.**

33 **SECTION 35. This 2017 Act first applies to elections held after January 1, 2020.**

34 **SECTION 36. This 2017 Act shall be submitted to the people for their approval or re-**
 35 **jection at the next regular general election held throughout this state.**

36