

House Bill 3140

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**.

Establishes People's Primary election. Permits individual who either qualifies for nomination to partisan public office of major political party or who files certificate of nomination made by individual electors to qualify as candidate.

Provides that official People's Primary election ballot be sent to all electors not affiliated with any political party and to electors affiliated with political party who request ballot.

Establishes that winners of People's Primary election can have designation placed on general election ballot.

A BILL FOR AN ACT

1
2 Relating to primary elections; creating new provisions; and amending ORS 254.135, 254.365, 254.370
3 and 254.470.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 249.**

6 **SECTION 2. (1) At each primary election, the Secretary of State shall conduct a People's
7 Primary election in the manner set forth in this section.**

8 **(2) The People's Primary election shall allow electors to nominate an individual for each
9 partisan public office that will appear on the general election ballot.**

10 **(3) In order to qualify as a candidate for nomination to a partisan public office in the
11 People's Primary election, an individual shall:**

12 **(a) File with the Secretary of State, on a form prepared by the secretary by rule, a
13 statement indicating a desire to appear as a candidate for a specified partisan public office
14 on the People's Primary election ballot; and**

15 **(b)(A) Fulfill all requirements necessary to appear as a candidate for the specified parti-
16 san public office on the primary election ballot of a major political party; or**

17 **(B) File a certificate of nomination made by individual electors. A certificate of nomi-
18 nation filed under this subparagraph must:**

19 **(i) Comply with the requirements set forth in ORS 249.740; and**

20 **(ii) Include the information set forth in ORS 249.720.**

21 **(4) Notwithstanding ORS 249.722 or any other provision of law, to qualify as a candidate
22 in the People's Primary election, an individual shall complete the filings required under
23 subsection (3) of this section not sooner than the 250th day and not later than the 70th day
24 before the date of the primary election.**

25 **(5) An individual who has qualified as a candidate for nomination under subsection (3)
26 of this section may withdraw the individual's candidacy in the manner set forth in ORS
27 249.170.**

28 **(6) Except as provided in ORS 249.048, an individual who wins the nomination for a par-**

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 **tisan public office in the People’s Primary election is qualified to appear on the ballot as a**
2 **candidate for that office at the general election.**

3 **(7) The Secretary of State may adopt rules necessary to implement this section.**

4 **SECTION 3. Section 4 of this 2017 Act is added to and made a part of ORS chapter 254.**

5 **SECTION 4. (1) The official People’s Primary election ballot shall be styled “Official**
6 **People’s Primary Nominating Ballot.” and shall state:**

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

8 **(b) The date of the primary election.**

9 **(c) The names of all candidates for nomination at the primary election who have qualified**
10 **for the People’s Primary under section 2 of this 2017 Act and who have not died, withdrawn**
11 **or become disqualified.**

12 **(2) The People’s Primary election ballot may include any city, county or nonpartisan of-**
13 **fice or the number, ballot title and financial estimates under ORS 250.125 of any measure.**

14 **(3) The ballot may not contain the name of any person other than those referred to in**
15 **subsections (1) and (2) of this section. The name of each candidate who has qualified for the**
16 **People’s Primary under section 2 of this 2017 Act shall be printed on the ballot in but one**
17 **place. In the event that two or more candidates for the same nomination or office have the**
18 **same or similar surnames, the location of their places of residence shall be printed with their**
19 **names to distinguish one from another.**

20 **(4) The Secretary of State may adopt rules necessary to implement this section.**

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

22 **254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the**
23 **designation of places of deposit for the ballots cast in an election. The rules shall also specify the**
24 **dates and times the places of deposit must be open and the security requirements for the places of**
25 **deposit. At a minimum, the places designated under this section shall be open on the date of the**
26 **election for a period of eight or more hours, but must be open until at least 8 p.m. At each place**
27 **of deposit designated under this section, the county clerk shall prominently display a sign stating**
28 **that the location is an official ballot drop site.**

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

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

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

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

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

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

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

10 **(d) The county clerk shall mail the official People’s Primary election ballot to each elec-**
 11 **tor who is not affiliated with any political party as of the 21st day before the date of the**
 12 **election.**

13 **(e) The county clerk shall mail the official People’s Primary election ballot to an elector**
 14 **affiliated with a political party if the elector has applied for the ballot as provided in this**
 15 **subsection.**

16 **(f) An elector affiliated with a political party who wishes to vote in the People’s Primary**
 17 **election shall apply to the county clerk in writing. Except for electors described in subsection**
 18 **(4) of this section, and subject to ORS 247.203, the application must be received by the county**
 19 **clerk not later than 5 p.m. of the 21st day before the date of the election.**

20 [(d)] (g) If the primary election ballot includes city, county or nonpartisan offices or measures,
 21 the county clerk shall mail to each elector who is not eligible to vote for party candidates **or in**
 22 **the People’s Primary** a ballot limited to those offices and measures for which the elector is eligible
 23 to vote.

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

29 (5) The ballot shall contain the following warning:

31
 32 Any person who, by use of force or other means, unduly influences an elector to vote in any
 33 particular manner or to refrain from voting is subject to a fine.

34
 35
 36 (6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign
 37 the return identification envelope supplied with the ballot and comply with the instructions provided
 38 with the ballot.

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

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

44 (d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector, the
 45 person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later

1 than two days after receiving the ballot.

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

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

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

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

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

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

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

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

26 **SECTION 6.** ORS 254.365 is amended to read:

27 254.365. (1) **Except for votes cast in the People's Primary election established in section**
 28 **2 of this 2017 Act**, an elector is not qualified or permitted to vote at any primary election for any
 29 candidate of a major political party, and it is unlawful for the elector to offer to do so, unless:

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

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

35 (2) Except as provided in ORS 254.470 (3), any elector offering to vote at the primary election
 36 shall be given a ballot of the major political party with which the elector is registered as being af-
 37 filiated. The elector may not be given a ballot of any other political party at that primary election.
 38 An elector not affiliated with any political party and offering to vote at the primary election shall
 39 be given the ballot of the major political party in whose primary election the elector wishes to vote
 40 if that party has provided under subsection (3) of this section for a primary election that admits
 41 electors not affiliated with any political party. An elector not affiliated with any political party who
 42 is given a ballot of the major political party associates with the party for the purpose of voting in
 43 that primary election.

44 (3)(a) Not later than the 90th day before the date of the primary election, a major political party
 45 may file with the Secretary of State a certified copy of the current party rule allowing an elector

1 not affiliated with any political party to vote in the party’s primary election. The party may not
 2 repeal the rule as filed during the 90 days before the primary election. The rule shall continue to
 3 be effective after the date of the primary election until the party gives written notice to the Secre-
 4 tary of State that the rule has been repealed. Except as provided in paragraph (b) of this subsection,
 5 a party rule under this subsection may limit the candidates for whom an elector who is not affiliated
 6 with any political party may vote.

7 (b) The party rule shall allow any elector who is permitted to vote for the most numerous
 8 branch of the Legislative Assembly also to vote in federal legislative elections, consistent with sec-
 9 tion 2, Article I, and the Seventeenth Amendment to the United States Constitution.

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

13 **SECTION 7.** ORS 254.370 is amended to read:

14 254.370. The county clerk shall maintain:

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

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

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

22 **(4) A record of all electors registered as not being affiliated with any political party who**
 23 **vote in the People’s Primary election;**

24 **(5) A record of all electors affiliated with a major political party who elect under ORS**
 25 **254.470 to receive a People’s Primary election ballot; and**

26 ~~[(4)]~~ **(6)** A record of all electors registered as not being affiliated with any political party who
 27 vote in the general election.

28 **SECTION 8.** ORS 254.135 is amended to read:

29 254.135. (1) The official general or special election ballot shall be styled “Official Ballot” and
 30 shall state:

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

32 (b) The date of the election.

33 (c) The names of all candidates for offices to be filled at the election whose nominations have
 34 been made and accepted and who have not died, withdrawn or become disqualified. The ballot may
 35 not contain the name of any other person.

36 (d) The number, ballot title and financial estimates under ORS 250.125 of any measure to be
 37 voted on at the election.

38 (2) The names of candidates for President and Vice President of the United States shall be
 39 printed in groups together, under their political party designations. The names of the electors may
 40 not be printed on the general election ballot. A vote for the candidates for President and Vice
 41 President is a vote for the group of presidential electors supporting those candidates and selected
 42 as provided by law. The general election ballot shall state that electors of President and Vice
 43 President are being elected and that a vote for the candidates for President and Vice President shall
 44 be a vote for the electors supporting those candidates.

45 (3)(a) The name of each candidate nominated shall be printed on the ballot in but one place,

1 without regard to how many times the candidate may have been nominated. The name of a political
2 party, or names of political parties, shall be printed with the name of a candidate for other than
3 nonpartisan office according to the following rules:

4 (A) For a candidate not affiliated with a political party who is nominated by a minor political
5 party, the name of the minor political party shall be printed with the name of the candidate;

6 **(B) For a candidate not affiliated with a political party who wins the People's Primary
7 election, a designation indicating that the candidate won the People's Primary election shall
8 be printed with the name of the candidate;**

9 [(B)] (C) For a candidate not affiliated with a political party who is nominated by more than
10 one minor political party, the names of not more than three minor political parties selected by the
11 candidate shall be printed with the name of the candidate;

12 **(D) For a candidate not affiliated with a political party who wins the People's Primary
13 election and is nominated by one or more minor political parties, the candidate shall select
14 to be printed with the name of the candidate:**

15 **(i) The names of not more than three minor political parties; or**

16 **(ii) The names of not more than two minor political parties and a designating indicating
17 that the candidate won the People's Primary election;**

18 [(C)] (E) For a candidate who is a member of a political party who is nominated by a political
19 party of which the candidate is not a member, the name of the political party that nominated the
20 candidate shall be printed with the name of the candidate;

21 **(F) For a candidate who is a member of a political party who wins the People's Primary
22 election but is not nominated by the political party of which the candidate is a member, a
23 designation indicating that the candidate won the People's Primary election shall be printed
24 with the name of the candidate;**

25 [(D)] (G) For a candidate who is a member of a political party who is nominated by more than
26 one political party of which the candidate is not a member, the names of not more than three poli-
27 tical parties selected by the candidate shall be printed with the name of the candidate;

28 **(H) For a candidate who is a member of a political party who wins the People's Primary
29 election and is nominated by one or more political parties of which the candidate is not a
30 member, the candidate shall select to be printed with the name of the candidate:**

31 **(i) The names of not more than three political parties; or**

32 **(ii) The names of not more than two political parties and a designation indicating that
33 the candidate won the People's Primary election;**

34 [(E)] (I) For a candidate who is nominated only by a political party of which the candidate is
35 a member, the name of the political party of which the candidate is a member shall be printed with
36 the name of the candidate; *and*

37 [(F)] (J) For a candidate who is nominated by a political party of which the candidate is a
38 member and by any political party or parties of which the candidate is not a member, the name of
39 the political party of which the candidate is a member and the names of not more than two other
40 political parties selected by the candidate shall be printed with the name of the candidate[.];

41 **(K) Except as provided in subparagraph (L) of this paragraph, for a candidate who is
42 nominated by a political party of which the candidate is a member and who wins the People's
43 Primary election, the name of the political party of which the candidate is a member and a
44 designation indicating that the candidate won the People's Primary election shall be printed
45 with the name of the candidate;**

1 **(L) For a candidate who is nominated by a political party of which the candidate is a**
2 **member and who both wins the People’s Primary election and is nominated by any political**
3 **party or parties of which the candidate is not a member, the candidate shall select to be**
4 **printed with the name of the candidate the name of the political party of which the candidate**
5 **is a member and:**

6 **(i) The names of not more than two other political parties; or**

7 **(ii) The name of one other political party and a designation indicating that the candidate**
8 **won the People’s Primary election; and**

9 **(M) The Secretary of State by rule shall determine the form of the designation for a**
10 **candidate who wins the People’s Primary election that will appear on the ballot under this**
11 **paragraph.**

12 (b) If a candidate is required to select the name of a political party to be printed on the ballot
13 under paragraph (a) of this subsection, the candidate shall notify the filing officer of the selection
14 not later than the 61st day before the day of the election.

15 (c) The word “incumbent” shall be printed with the name of each candidate for the Supreme
16 Court, Court of Appeals, Oregon Tax Court or circuit court who is designated the incumbent by the
17 Secretary of State under ORS 254.085.

18 (d) The word “nonaffiliated” shall be printed with the name of each candidate who is not affil-
19 iated with a political party and who is nominated by an assembly of electors or individual electors.

20 (e) If two or more candidates for the same office have the same or similar surnames, the location
21 of their places of residence shall be printed with their names to distinguish one from another.

22 (4) Notwithstanding subsection (3)(a) of this section, the name of a candidate nominated for more
23 than one district office that is to be filled at the same election shall be separately printed upon the
24 ballot for each district office for which the candidate is nominated.

25 **SECTION 9. Sections 2 and 4 of this 2017 Act and the amendments to ORS 254.135,**
26 **254.365, 254.370 and 254.470 by sections 5 to 8 of this 2017 Act apply to primary elections held**
27 **on or after the effective date of this 2017 Act.**

28