

House Bill 3239

Sponsored by Representative BARRETO

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 Citizens' Initiative Review Commission, rather than Attorney General, to fulfill duties relating to receiving, drafting, returning and reviewing ballot titles.

Establishes citizen committees within commission to fulfill commission's duties relating to ballot titles.

Designates Attorney General as responsible for fulfilling commission's duties relating to ballot titles if commission has insufficient funds to carry out duties.

A BILL FOR AN ACT

1
2 Relating to ballot titles; creating new provisions; and amending ORS 250.045, 250.052, 250.062,
3 250.065, 250.067, 250.075, 250.085 and 250.143.

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 250.139 to**
6 **250.143.**

7 **SECTION 2. (1) The Citizens' Initiative Review Commission shall convene a separate cit-**
8 **izen committee to draft a ballot title for each prospective petition to initiate or refer a state**
9 **measure under Article IV, section 1, of the Oregon Constitution, and for each measure re-**
10 **ferred by the Legislative Assembly for which the commission is required to prepare a ballot**
11 **title.**

12 **(2)(a) The commission shall select citizens for each committee from a representative**
13 **sample of anonymous electors, using survey sampling methods that, to the extent practica-**
14 **ble, give every elector a similar chance of being selected. Each citizen committee shall con-**
15 **sist of not fewer than 18 and not more than 24 electors.**

16 **(b) The commission shall ensure, to the extent practicable and legally permissible, that**
17 **the demographic makeup of each citizen committee fairly reflects the population of the**
18 **electorate of this state as a whole, with respect to the following characteristics, prioritized**
19 **in the following order:**

20 **(A) The location of the elector's residence.**

21 **(B) The elector's party affiliation, if any.**

22 **(C) The elector's voting history.**

23 **(D) The elector's age.**

24 **(c) In addition to the criteria described in paragraph (b) of this subsection, the commis-**
25 **sion may also consider:**

26 **(A) The elector's gender.**

27 **(B) The elector's ethnicity.**

28 **(C) Any other criteria.**

29 **(3) The commission shall, from moneys in the account established under ORS 182.470:**

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) Compensate each elector for each day served on a citizen committee in an amount
 2 established by the commission by rule;

3 (b) Reimburse each elector who serves on a citizen committee for travel expenses in ac-
 4 cordance with reimbursement policies determined by the commission by rule; and

5 (c) Provide for costs required to convene and conduct a citizen committee.

6 (4)(a) Each citizen committee shall meet to review the prospective petition or
 7 legislatively referred measure and to fulfill the commission's duties set forth in ORS 250.045,
 8 250.052, 250.062, 250.065, 250.067, 250.075 and 250.085.

9 (b) Each citizen committee shall conduct public hearings at which the citizen committee
 10 shall receive testimony or other information from both proponents and opponents of the
 11 prospective petition or legislatively referred measure. Unless otherwise determined by a
 12 majority of the citizen committee members, equal time shall be allotted to proponents and
 13 opponents of a prospective petition or legislatively referred measure.

14 (c) The chief petitioners of a prospective petition shall designate two persons to provide
 15 information in favor of the prospective petition to the citizen committee. If the chief
 16 petitioners fail to timely designate two persons to appear before the citizen committee, the
 17 commission may designate two persons who support the prospective petition to provide in-
 18 formation in favor of the measure.

19 (d) The commission shall designate two persons who oppose the prospective petition or
 20 legislatively referred measure to provide information in opposition to the prospective petition
 21 or legislatively referred measure.

22 (e) The commission, by rule, may specify additional criteria regarding the public
 23 hearings.

24 (5) The commission shall provide each citizen committee with any complaints regarding
 25 the citizen committee not later than the third day after the citizen committee convenes.

26 (6) The commission shall, by rule, establish qualifications for moderators for each citizen
 27 committee. A moderator must have experience in mediation and shall complete a training
 28 course established by the commission.

29 (7) The commission shall contract with two moderators for each citizen committee and
 30 shall compensate each moderator for service.

31 (8) If the commission determines under ORS 250.149 that the account established under
 32 ORS 182.470 to carry out all the duties, functions and powers of the commission has insuffi-
 33 cient moneys to carry out the duties set forth under this section and ORS 250.045, 250.052,
 34 250.062, 250.065, 250.067, 250.075 and 250.085, the Attorney General shall be responsible for
 35 fulfilling the commission's duties under ORS 250.045, 250.052, 250.062, 250.065, 250.067, 250.075
 36 and 250.085.

37 **SECTION 3.** ORS 250.065 is amended to read:

38 250.065. (1) When a prospective petition for a state measure to be referred is filed with the
 39 Secretary of State, the secretary shall authorize the circulation of the petition using the final
 40 measure summary of the latest version of the printed, engrossed measure in lieu of the ballot title.
 41 On the next business day after the referendum petition has been filed containing the required num-
 42 ber of verified signatures, the Secretary of State shall send two copies of the prospective petition
 43 to the [Attorney General] **Citizens' Initiative Review Commission.**

44 (2) When an approved prospective petition for a state measure to be initiated is filed with the
 45 Secretary of State, the secretary immediately shall send two copies of it to the [Attorney General]

1 **commission.**

2 (3) Not later than the fifth business day after receiving the copies of the prospective petition for
 3 a state measure to be initiated, the [Attorney General] **commission** shall provide a draft ballot title
 4 for the state measure to be initiated and return one copy of the prospective petition and the ballot
 5 title to the Secretary of State.

6 (4) Not later than the 10th business day after receiving the copies of the prospective petition for
 7 a state measure to be referred, the [Attorney General] **commission** shall provide a draft ballot title
 8 for the state measure to be referred and return one copy of the prospective petition and the draft
 9 ballot title to the Secretary of State.

10 **SECTION 4.** ORS 250.067 is amended to read:

11 250.067. (1) The Secretary of State, upon receiving a draft ballot title from the [Attorney
 12 General] **Citizens' Initiative Review Commission** under ORS 250.065 or 250.075, shall provide
 13 reasonable statewide notice of having received the draft ballot title and of the public's right to
 14 submit written comments as provided in this section. Written comments concerning a draft ballot
 15 title may be submitted to the secretary not later than the 10th business day after the secretary re-
 16 ceives the draft title from the [Attorney General] **commission**. On the next business day after the
 17 deadline for submitting comments, the secretary shall send a copy of all written comments to the
 18 [Attorney General] **commission**. The secretary shall maintain a record of written comments re-
 19 ceived.

20 (2)(a) If written comments are submitted to the secretary under subsection (1) of this section,
 21 the [Attorney General] **commission** shall consider the comments and certify to the secretary either
 22 the draft ballot title or a revised ballot title not later than the 10th business day after receiving the
 23 comments from the secretary.

24 (b) If no written comments are submitted to the secretary, the [Attorney General] **commission**
 25 shall certify the draft ballot title not later than the 20th business day after the secretary receives
 26 the draft title from the [Attorney General] **commission**. If the [Attorney General] **commission** de-
 27 termines that a draft ballot title described in this paragraph contains a clerical error, the [Attorney
 28 General] **commission** may correct the error before certifying the corrected draft ballot title to the
 29 secretary.

30 (c) If the [Attorney General] **commission** determines that a ballot title certified under this sub-
 31 section contains a clerical error, the [Attorney General] **commission** may correct the error and
 32 certify to the secretary a corrected ballot title not later than the 10th business day after the date
 33 the ballot title was certified.

34 (d) The secretary shall furnish the chief petitioner with a copy of each ballot title certified un-
 35 der this subsection.

36 (3) Unless the Supreme Court certifies a different ballot title, the latest ballot title certified by
 37 the [Attorney General] **commission** under subsection (2) of this section is the title to be printed in
 38 the voters' pamphlet and on the ballot.

39 (4) If a petition is filed with the Supreme Court as provided in ORS 250.085, the Secretary of
 40 State shall file with the Supreme Court a copy of the written comments received as part of the re-
 41 cord on review of the ballot title.

42 (5) The secretary by rule shall specify the means for providing reasonable statewide notice for
 43 submitting comments on a draft ballot title.

44 (6) As used in this section, "clerical error" means a typographical, arithmetical or grammatical
 45 error or omission that is evident from the text of the draft or certified ballot title or by comparison

1 of the text of the draft or certified ballot title with a written explanation that was provided by the
 2 [Attorney General] **commission** and issued concurrently with the draft or certified ballot title.

3 **SECTION 5.** ORS 250.075 is amended to read:

4 250.075. (1) When the Legislative Assembly refers a measure to the people, a ballot title for the
 5 measure may be prepared by the assembly. The ballot title shall be filed with the Secretary of State
 6 when the measure is filed with the Secretary of State.

7 (2) If the title is not prepared under subsection (1) of this section, when the measure is filed
 8 with the Secretary of State, the secretary shall send two copies of the referred measure to the [At-
 9 torney General] **Citizens' Initiative Review Commission**. Not later than the 30th day after the
 10 Legislative Assembly adjourns, the [Attorney General] **commission** shall provide a draft ballot title
 11 for the measure. The [Attorney General] **commission** shall send a copy of the draft ballot title to
 12 each member of the Legislative Assembly, and file with the Secretary of State a copy of the referred
 13 measure and the draft ballot title and a certificate of mailing of the draft ballot title to each mem-
 14 ber.

15 **SECTION 6.** ORS 250.045 is amended to read:

16 250.045. (1) Before circulating a petition to initiate or refer a state measure under section 1,
 17 Article IV, Oregon Constitution, the petitioner shall file with the Secretary of State a prospective
 18 petition. The prospective petition for a state measure to be initiated shall contain the signatures of
 19 at least 1,000 electors. The signature sheets must be attached to a full and correct copy of the
 20 measure to be initiated.

21 (2) Before obtaining signatures on a prospective petition for a state measure to be initiated, the
 22 chief petitioners shall file with the secretary a statement declaring whether one or more persons
 23 will be paid money or other valuable consideration for obtaining signatures of electors on the pro-
 24 spective petition. After a statement has been filed under this subsection, the chief petitioners shall
 25 notify the secretary not later than the 10th day after any of the chief petitioners first has knowledge
 26 or should have had knowledge that:

27 (a) Any person is being paid for obtaining signatures, when the statement filed under this sub-
 28 section declared that no such person would be paid.

29 (b) No person is being paid for obtaining signatures, when the statement filed under this sub-
 30 section declared that one or more such persons would be paid.

31 (3) The secretary by rule shall establish procedures for verifying whether a prospective petition
 32 for a state measure to be initiated contains the required number of signatures of electors.

33 (4) The secretary shall date and time stamp the prospective petition and specify the form on
 34 which the initiative or referendum petition shall be printed for circulation as provided in ORS
 35 250.052. The secretary shall retain the prospective petition.

36 (5) The chief petitioner may amend the state measure to be initiated that has been filed with the
 37 secretary without filing another prospective petition, if:

38 (a) The [Attorney General] **Citizens' Initiative Review Commission** certifies to the secretary
 39 that the proposed amendment will not substantially change the substance of the measure; and

40 (b) The deadline for submitting written comments on the draft title has not passed.

41 (6) The cover of an initiative or referendum petition shall designate the name and residence
 42 address of not more than three persons as chief petitioners and shall contain instructions for per-
 43 sons obtaining signatures of electors on the petition. The instructions shall be adopted by the sec-
 44 retary by rule. The cover of a referendum petition shall contain the final measure summary
 45 described in ORS 250.065 (1). If a petition seeking a different ballot title is not filed with the Su-

1 preme Court by the deadline for filing a petition under ORS 250.085, the cover of an initiative peti-
 2 tion shall contain the latest ballot title certified by the [Attorney General] **commission** under ORS
 3 250.067 (2). However, if the Supreme Court has reviewed the ballot title, the cover of the initiative
 4 petition shall contain the title certified by the court.

5 (7) The chief petitioners shall include with the prospective petition a statement declaring
 6 whether one or more persons will be paid money or other valuable consideration for obtaining sig-
 7 natures of electors on the initiative or referendum petition. After the prospective petition is filed,
 8 the chief petitioners shall notify the filing officer not later than the 10th day after any of the chief
 9 petitioners first has knowledge or should have had knowledge that:

10 (a) Any person is being paid for obtaining signatures, when the statement included with the
 11 prospective petition declared that no such person would be paid.

12 (b) No person is being paid for obtaining signatures, when the statement included with the pro-
 13 spective petition declared that one or more such persons would be paid.

14 (8)(a) Each sheet of signatures on an initiative petition shall contain the caption of the ballot
 15 title. Each sheet of signatures on a referendum petition shall contain the subject expressed in the
 16 title of the Act to be referred.

17 (b) Each sheet of signatures on an initiative or referendum petition shall:

18 (A) Contain a notice describing the meaning of the color of the signature sheet in accordance
 19 with ORS 250.052; and

20 (B) If one or more persons will be paid for obtaining signatures of electors on the petition,
 21 contain a notice stating: "Some Circulators For This Petition Are Being Paid." The notice shall be
 22 in boldfaced type and shall be prominently displayed on the sheet.

23 (c) The secretary by rule shall adopt a method of designation to distinguish signature sheets of
 24 referendum petitions containing the same subject reference and being circulated during the same
 25 period.

26 (9) The reverse side of the cover of an initiative or referendum petition shall be used for ob-
 27 taining signatures on the initiative or referendum petition.

28 (10) Not more than 20 signatures on the signature sheet of the initiative or referendum petition
 29 may be counted. The circulator shall certify on each signature sheet of the initiative or referendum
 30 petition that the circulator:

31 (a) Witnessed the signing of the signature sheet by each individual whose signature appears on
 32 the signature sheet; and

33 (b) Believes each individual is an elector.

34 (11) The person obtaining signatures on the petition shall carry at least one full and correct
 35 copy of the measure to be initiated or referred and shall allow any person to review a copy upon
 36 request of the person.

37 **SECTION 7.** ORS 250.052 is amended to read:

38 250.052. (1)(a) For each state initiative, referendum or recall petition, the Secretary of State
 39 shall prepare official templates of the cover and signature sheets for the petition. Except as pro-
 40 vided in this section, templates of cover and signature sheets for state initiative and referendum
 41 petitions are subject to the requirements of ORS 250.045. The templates of signature sheets to be
 42 used by persons who are being paid to obtain signatures on the petition shall be a different color
 43 from the sheets to be used by persons who are not being paid to obtain signatures on the petition.

44 (b) For each prospective petition for a state measure to be initiated the secretary shall prepare
 45 official templates of the cover and signature sheets. The templates of signature sheets to be used

1 by persons who are being paid to obtain signatures on the prospective petition shall be a different
 2 color from the sheets to be used by persons who are not being paid to obtain signatures on the
 3 prospective petition. Each signature sheet for the prospective petition shall:

4 (A) Contain a notice describing the meaning of the color of the signature sheet; and

5 (B) If one or more persons will be paid for obtaining signatures of electors on the prospective
 6 petition, contain a notice stating: "Some Circulators For This Prospective Petition Are Being
 7 Paid." The notice shall be in boldfaced type and shall be prominently displayed on the sheet.

8 (2) A person obtaining signatures on a state initiative, referendum or recall petition or a pro-
 9 spective petition for a state measure to be initiated may use only the cover and signature sheets
 10 contained in the official templates prepared for the petition or prospective petition. A person who
 11 is being paid to obtain signatures on the petition or prospective petition shall use the signature
 12 sheet template designated for use by persons being paid to obtain signatures. A person who is not
 13 being paid to obtain signatures on the petition or prospective petition shall use the signature sheet
 14 template designated for use by persons who are not being paid to obtain signatures.

15 (3) The secretary shall issue templates for a petition or prospective petition only to a chief
 16 petitioner of the petition or prospective petition or to an agent designated by a chief petitioner.

17 (4) The secretary shall issue official templates to a chief petitioner or designated agent not later
 18 than:

19 (a) Three business days after the deadline for filing a petition under ORS 250.085 relating to a
 20 ballot title certified by the [Attorney General] **Citizens' Initiative Review Commission** for the state
 21 initiative petition or, if a petition is filed with the Supreme Court under ORS 250.085, three business
 22 days after the Supreme Court certifies to the Secretary of State a ballot title for the state initiative
 23 petition;

24 (b) Three business days after a prospective petition is filed under ORS 249.865 or 250.045 for a
 25 state recall petition or state referendum petition; or

26 (c) Three business days after the chief petitioner files a statement with the secretary under ORS
 27 250.045 (2) for a prospective petition for a state measure to be initiated.

28 (5) Not later than five business days after the deadline for the secretary to issue templates un-
 29 der subsection (4) of this section, a chief petitioner of a state initiative, referendum or recall petition
 30 or a prospective petition for a state measure to be initiated may submit to the secretary a written
 31 request for modification of the templates. The secretary shall approve or disapprove the request not
 32 later than five business days after receiving the request. If the secretary disapproves the request,
 33 the secretary shall advise the chief petitioner in writing of the reasons for the disapproval.

34 (6) In addition to the templates prepared under subsections (1) to (5) of this section, for each
 35 state initiative, referendum or recall petition, the secretary shall prepare an official electronic
 36 template of a signature sheet for the petition. A template prepared under this subsection shall allow
 37 space for the signature of one elector. An elector may print a copy of the electronic signature sheet
 38 for a petition, sign the sheet and deliver the signed sheet to a chief petitioner or an agent desig-
 39 nated by a chief petitioner. Electronic templates described in this subsection are subject to the re-
 40 quirements of ORS 250.045, other than ORS 250.045 (6), (9) and (10).

41 (7) The secretary shall adopt rules prescribing the contents and method of production of official
 42 templates required under this section.

43 **SECTION 8.** ORS 250.062 is amended to read:

44 250.062. If the [Attorney General] **Citizens' Initiative Review Commission** determines that the
 45 subject, purpose and major effect of two or more state initiative measures to be submitted at the

1 same election are substantially similar, the [Attorney General] **commission** shall provide identical
2 draft ballot titles for the measures.

3 **SECTION 9.** ORS 250.085 is amended to read:

4 250.085. (1) Any elector dissatisfied with a ballot title prepared by the Legislative Assembly for
5 a measure referred to the people by the assembly and filed with the Secretary of State may petition
6 the Supreme Court seeking a different title. The petition shall state the reasons that the title filed
7 with the Secretary of State does not substantially comply with the requirements of ORS 250.035.

8 (2) Any elector dissatisfied with the latest ballot title for an initiated or referred measure cer-
9 tified by the [Attorney General] **Citizens' Initiative Review Commission** and who timely submitted
10 written comments on the draft ballot title may petition the Supreme Court seeking a different title.
11 The petition shall state the reasons that the title filed with the Secretary of State does not sub-
12 stantially comply with the requirements of ORS 250.035.

13 (3) The petition shall name the [Attorney General] **commission** as the respondent and must be
14 filed:

15 (a) Not later than the 10th business day after the [Attorney General] **commission** certifies a
16 ballot title or a corrected ballot title to the Secretary of State, whichever is later; or

17 (b) If the title is provided by the Legislative Assembly under ORS 250.075, not later than the
18 10th business day after the Legislative Assembly files the ballot title with the Secretary of State.

19 (4) An elector filing a petition under this section shall notify the Secretary of State in writing
20 that the petition has been filed. The notice must be received in the office of the Secretary of State
21 not later than 5 p.m. on the next business day following the day the petition is filed.

22 (5) The Supreme Court shall review the title for substantial compliance with the requirements
23 of ORS 250.035.

24 (6) When reviewing a title certified by the [Attorney General] **commission**, the Supreme Court
25 shall not consider arguments concerning the ballot title not presented in writing to the Secretary
26 of State unless the court determines that the argument concerns language added to or removed from
27 the draft title after expiration of the comment period provided in ORS 250.067.

28 (7) The review by the Supreme Court shall be conducted expeditiously to ensure the orderly and
29 timely circulation of the petition or conduct of the election at which the measure is to be submitted
30 to the electors.

31 (8) If the Supreme Court determines that the latest ballot title certified by the [Attorney
32 General] **commission** or prepared by the Legislative Assembly substantially complies with the re-
33 quirements of ORS 250.035, the court shall certify the title to the Secretary of State. If the Supreme
34 Court determines that the latest ballot title certified by the [Attorney General] **commission** or pre-
35 pared by the Legislative Assembly does not substantially comply with the requirements of ORS
36 250.035, the court shall modify the ballot title and certify the ballot title to the Secretary of State
37 or refer the ballot title to the [Attorney General] **commission** for modification.

38 (9) Not later than five business days after the Supreme Court refers a ballot title to the [Attor-
39 ney General] **commission** under this section, the [Attorney General] **commission** shall file a modi-
40 fied ballot title with the Supreme Court and serve copies of the modified ballot title on all parties
41 to the ballot title review proceeding. If no party to the ballot title review proceeding files an ob-
42 jection to the modified ballot title within five business days after the date the modified ballot title
43 is filed, the Supreme Court shall certify the modified ballot title to the Secretary of State and enter
44 an appellate judgment the next judicial day. If any of the parties to the ballot title review proceed-
45 ing timely files a petition objecting to the modified ballot title, the Supreme Court shall review the

1 modified ballot title to determine whether the modified ballot title substantially complies with the
 2 requirements of ORS 250.035.

3 (10) Upon the filing of a petition under subsection (9) of this section objecting to a modified
 4 ballot title:

5 (a) If the Supreme Court determines that the modified ballot title substantially complies with the
 6 requirements of ORS 250.035, the court shall certify the modified ballot title to the Secretary of
 7 State; or

8 (b) If the Supreme Court determines that the modified ballot title does not substantially comply
 9 with the requirements of ORS 250.035, the court shall modify the ballot title and certify the ballot
 10 title to the Secretary of State or refer the modified ballot title to the [*Attorney General*] **commission**
 11 for additional modification and further proceedings under subsection (9) of this section.

12 **SECTION 10.** ORS 250.143 is amended to read:

13 250.143. (1) Not later than February 1 of an odd-numbered year, each person who served as a
 14 moderator for a citizen panel **or citizen committee** that evaluated **or drafted a ballot title for a**
 15 measure voted on at the most recent general election shall:

16 (a) Convene to evaluate procedures related to the citizen panels **or citizen committees** and
 17 submit a written report to the Citizens' Initiative Review Commission summarizing the evaluation,
 18 along with any recommendations; and

19 (b) Appoint two moderators from among the moderators convened for the evaluation to be
 20 members of the commission.

21 (2) Not later than February 1 of an odd-numbered year, two electors from each citizen panel **and**
 22 **each citizen committee** shall:

23 (a) Convene to evaluate procedures related to the citizen panels **or citizen committees** and
 24 submit a written report to the commission summarizing the evaluation, along with any recommen-
 25 dations; and

26 (b) Appoint two electors from among the former panelists **or committee members** convened for
 27 the evaluation to be members of the commission.

28 (3) Each year in which an evaluation is conducted by moderators, **committee members** and
 29 panelists under this section, the commission shall review the evaluations and make any findings and
 30 recommendations. The commission shall make all evaluations, findings and recommendations made
 31 under this section available to the public.

32 **SECTION 11.** Section 2 of this 2017 Act and the amendments to ORS 250.045, 250.052,
 33 250.062, 250.065, 250.067, 250.075 and 250.085 by sections 3 to 9 of this 2017 Act apply to ballot
 34 titles for prospective petitions to initiate or refer a state measure that are filed on or after
 35 the effective date of this 2017 Act and to ballot titles for measures referred by the Legislative
 36 Assembly on or after the effective date of this 2017 Act.

37 _____