

SENATE AMENDMENTS TO SENATE BILL 229

By COMMITTEE ON RULES

May 22

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete lines 3
2 through 6 and insert “204.020, 246.021, 247.420, 248.006, 248.007, 249.002, 249.005, 249.008, 249.064,
3 249.078, 249.735, 249.740, 249.865, 250.052, 250.065, 250.067, 250.075, 250.141, 250.175, 250.185, 250.275,
4 250.285, 251.065, 251.115, 251.255, 253.575, 254.115, 254.135, 254.431, 254.470, 254.515, 254.529, 254.565,
5 255.085, 255.145, 255.295, 260.043, 260.054, 260.055, 260.057, 260.078, 260.118, 260.232, 260.241, 260.407
6 and 260.715; repealing ORS 247.435;”.

7 On page 4, delete lines 13 through 45 and delete pages 5 and 6.

8 On page 7, delete lines 1 through 36 and insert:

9 “**NOTE:** Sections 7 through 13 were deleted by amendment. Subsequent sections were not re-
10 numbered.”.

11 On page 16, line 9, delete “under” and insert “with”.

12 On page 18, delete lines 15 through 25 and insert:

13 “**NOTE:** Section 32 was deleted by amendment. Subsequent sections were not renumbered.”.

14 Delete page 26.

15 On page 27, delete lines 1 through 23 and insert:

16 “**SECTION 42.** ORS 254.529 is amended to read:

17 “254.529. (1) At each general election, the county clerk shall conduct a hand count of ballots
18 as described in this section and compare the tally of votes for those ballots produced by a vote tally
19 system with the tally of votes for those ballots produced by the hand count.

20 “(2)(a) In the event that the unofficial tally of ballots produced by a vote tally system reveals
21 that the margin of victory between the two candidates receiving the largest number of votes in the
22 county is less than one percent of the total votes cast in that election in the county, the county
23 clerk shall conduct a hand count of ballots in at least 10 percent of all precincts or of ballots in
24 at least 10 percent of all batches of ballots collected by the county clerk.

25 “(b) In the event that the unofficial tally of ballots reveals that the margin of victory between
26 the two candidates receiving the largest number of votes in the county is greater than or equal to
27 one percent but less than two percent of the total votes cast in the county, the county clerk shall
28 conduct a hand count of ballots in at least five percent of all precincts or of ballots in at least five
29 percent of all batches of ballots collected by the county clerk.

30 “(c) In the event that the unofficial tally of ballots reveals that the margin of victory between
31 the two candidates receiving the largest number of votes in the county is greater than or equal to
32 two percent of the total votes cast in the county, the county clerk shall conduct a hand count of
33 ballots in at least three percent of all precincts or of ballots in at least three percent of all batches
34 of ballots collected by the county clerk.

35 “(3) **The county clerk shall conduct a hand count of ballots cast in the election contest**

1 **between the two candidates receiving the largest number of votes in the county, an election**
2 **contest for an office to be voted on in the state at large and, if possible, an election contest**
3 **for a state measure.** The Secretary of State shall select the precincts **or batches** at random. At
4 the general election[.]:

5 **“(a) If selecting precincts,** no fewer than 150 ballots must have been cast in at least one of
6 the precincts selected.

7 **“(b) If selecting batches, the number of ballots contained in the batches selected must**
8 **in the aggregate be equal to or greater than:**

9 **“(A) Ten percent of the total number of ballots cast in the election for a hand count re-**
10 **quired under subsection (2)(a) of this section.**

11 **“(B) Five percent of the total number of ballots cast in the election for a hand count**
12 **required under subsection (2)(b) of this section.**

13 **“(C) Three percent of the total number of ballots cast in the election for a hand count**
14 **required under subsection (2)(c) of this section.** *[The county clerk shall conduct a hand count of*
15 *ballots cast in the election contest between the two candidates receiving the largest number of votes in*
16 *the county, an election contest for an office to be voted on in the state at large and, if possible, an*
17 *election contest for a state measure.]*

18 **“(4) Not later than 5 p.m. of the [third] 15th** business day after the date of the general election,
19 the Secretary of State shall advise county clerks in writing of:

20 **“(a) The election contests for which ballots are to be hand counted; and**

21 **“(b) The precincts **or batches** in which ballots are to be hand counted.**

22 **“(5) A county clerk shall begin the hand counts prescribed by this section not later than the**
23 **[21st] 23rd** day after the election and complete the hand counts not later than the 30th day after the
24 election. The results of the hand counts shall be provided to the Secretary of State, who shall make
25 the results publicly available on the Secretary of State’s website.

26 **“(6) A comparison of the tally of votes produced by a vote tally system with the tally of votes**
27 **produced by the hand count required by this section must show that the tally of votes produced by**
28 **the vote tally system differs by no more than one-half of one percent from the tally of votes**
29 **produced by the hand count.**

30 **“(7)(a) If a hand count conducted under this section results in a tally of votes for a candidate**
31 **or measure that is different from the tally of votes produced by the vote tally system for that can-**
32 **didate or measure, and the difference for each race is equal to or less than one-half of one percent,**
33 **the tally of votes produced by the vote tally system is the official tally of votes for that vote tally**
34 **system.**

35 **“(b) If a hand count conducted under this section results in a tally of votes for a candidate or**
36 **measure that is different from the tally of votes produced by the vote tally system for that candidate**
37 **or measure, and the difference in any race is greater than one-half of one percent, the county clerk**
38 **shall conduct a second hand count of the same ballots.**

39 **“(c) If the second hand count conducted under this subsection results in a tally of votes for a**
40 **candidate or measure that is different from the tally of votes produced by the vote tally system for**
41 **that candidate or measure, and the difference for each race is equal to or less than one-half of one**
42 **percent, the tally of votes produced by the vote tally system is the official tally of votes for that**
43 **vote tally system.**

44 **“(d) If the second hand count conducted under this subsection results in a tally of votes for a**
45 **candidate or measure that is different from the tally of votes produced by the vote tally system for**

1 that candidate or measure, and the difference in any race is greater than one-half of one percent,
2 the county clerk shall conduct a hand count of all ballots counted by that vote tally system. The
3 hand count is the official tally of votes for that vote tally system. If the hand count is the official
4 tally of votes, not later than the 30th day after the election, the county clerk shall certify amended
5 abstracts of votes to appropriate elections officials.

6 “(8) For purposes of conducting the hand counts required under this section, the county clerk
7 shall:

8 “(a) Retain custody of the ballots; and

9 “(b) Provide for security for the ballots and the information required to be collected under this
10 subsection.

11 “(9) This section does not apply:

12 “(a) To precincts that are subject to a recount under ORS 258.161, 258.280 or 258.290.

13 “(b) If federal law requires a post-election hand count of ballots at the general election to verify
14 election results and the Secretary of State determines that the requirements of federal law are at
15 least as stringent as the requirements of subsections (1) to (8) of this section.”.

16 On page 30, after line 19, insert:

17 “**SECTION 49.** ORS 254.431 is amended to read:

18 “254.431. (1) If a ballot is challenged because it is returned in an unsigned return identification
19 envelope or because the signature of an elector on a return identification envelope does not match
20 the signature in the voter registration record for the elector, the county clerk shall mail to the
21 elector a notice that describes the nature of the challenge. The Secretary of State shall design a
22 standard form to be used in all notifications sent by county clerks under this subsection.

23 “(2)(a) In order for the vote of the elector to be counted, the elector must provide evidence
24 sufficient to disprove the challenge not later than the 14th calendar day after the date of the
25 election. **In the case of an unsigned return identification envelope, providing sufficient evi-**
26 **dence may include completing a certified statement on a form provided by the county clerk.**
27 **The Secretary of State shall design a standard form to be used for certified statements made**
28 **under this paragraph.**

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

33 “(3)(a) The filing officer may not release as a public record any information that could be used
34 to identify an elector whose ballot has been challenged under this section until the eighth calendar
35 day after the date of an election.

36 “(b) Following the seventh calendar day after the date of an election, the filing officer may
37 disclose as a public record under ORS 192.410 to 192.505 the following information about each
38 elector whose ballot was challenged under this section:

39 “(A) The name of the elector;

40 “(B) The residence addresses of the elector; and

41 “(C) The reason the elector’s ballot is being challenged.

42 “(4) As used in this section, ‘filing officer’ means:

43 “(a) The Secretary of State, for federal or statewide elections and for elections to the office of
44 state Senator or Representative; or

45 “(b) The county clerk, for county, city or district elections.

1 “**SECTION 50.** ORS 254.470 is amended to read:

2 “254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the
3 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
4 dates and times the places of deposit must be open and the security requirements for the places of
5 deposit. At a minimum, the places designated under this section shall be open on the date of the
6 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place
7 of deposit designated under this section, the county clerk shall prominently display a sign stating
8 that the location is an official ballot drop site.

9 “(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, the county clerk shall
10 mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy
11 envelope not sooner than the 20th day before the date of an election and not later than the 14th
12 day before the date of the election, to each active elector of the electoral district as of the 21st day
13 before the date of the election.

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

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

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

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

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

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

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

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

43 “(5) The ballot shall contain the following warning:

44 “

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

3 “

4
5 “(6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot,
6 sign the return identification envelope supplied with the ballot and comply with the instructions
7 provided with the ballot.

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

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

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

16 “(e) A ballot must be received at the office of the county clerk, at the designated place of de-
17 posit or at any location described in ORS 254.472 or 254.474 not later than the end of the period
18 determined under subsection (1) of this section on the date of the election.

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

27 “(8) A ballot shall be counted only if:

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

29 “(b) The envelope is signed by the elector to whom the ballot is issued, **unless a certified**
30 **statement is submitted under ORS 254.431**; and

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

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

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

41 “**SECTION 51.** ORS 249.002 is amended to read:

42 “249.002. As used in this chapter:

43 “(1) ‘Candidate’ means an individual whose name is or is expected to be printed on the official
44 ballot **or a write-in candidate.**

45 “(2) ‘County clerk’ means the county clerk or the county official in charge of elections.

1 “(3) ‘Elector’ means an individual qualified to vote under section 2, Article II, Oregon Consti-
2 tution.

3 “(4) ‘Judge’ means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon
4 Tax Court, or any county judge who exercises judicial functions.

5 “(5) ‘Member’ means an individual who is registered as being affiliated with the political party.

6 “(6) ‘Minor political party’ means a political party that has qualified as a minor political party
7 under ORS 248.008.

8 “(7) ‘Nonpartisan office’ means the office of judge, Commissioner of the Bureau of Labor and
9 Industries, any elected office of a metropolitan service district under ORS chapter 268, justice of the
10 peace, county clerk, county assessor, county surveyor, county treasurer, sheriff, district attorney or
11 any office designated nonpartisan by a home rule charter.

12 “(8) ‘Prospective petition’ means the information, except signatures and other identification of
13 petition signers, required to be contained in a completed petition.

14 “(9) ‘Public office’ means any national, state, county, city or district office or position, except
15 a political party office, filled by the electors.

16 “(10) ‘State office’ means Governor, Secretary of State, State Treasurer, Attorney General,
17 Commissioner of the Bureau of Labor and Industries, judge, state Senator, state Representative or
18 district attorney.

19 “**SECTION 52.** ORS 249.865 is amended to read:

20 “249.865. (1) Pursuant to section 18, Article II of the Oregon Constitution, an elector of the
21 electoral district from which the public officer is elected may file a petition demanding the recall
22 of the public officer. Before the petition is circulated for signatures, the chief petitioner of the pe-
23 tition shall file with the officer authorized to order the recall election a copy of the prospective
24 petition signed by the chief petitioner.

25 “(2) The chief petitioner shall include with the prospective petition a statement declaring
26 whether one or more persons will be paid money or other valuable consideration for obtaining sig-
27 natures of electors on the recall petition. After the prospective petition is filed, the chief petitioner
28 shall notify the filing officer not later than the 10th day after the chief petitioner first has knowl-
29 edge or should have had knowledge that:

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

32 “(b) No person is being paid for obtaining signatures, when the statement included with the
33 prospective petition declared that one or more such persons would be paid.

34 “(3) Each sheet of the recall petition must contain:

35 “(a) The words ‘Petition for recall of,’ (name and title of officer) and the date of the filing under
36 subsection (1) of this section; and

37 “(b) The name and address of the treasurer or the chief petitioner listed on the statement of
38 organization filed under **ORS 260.118** [*subsection (1) of this section*].

39 “(4) Not more than 20 signatures on each sheet of the recall petition shall be counted. The
40 circulator shall certify on each signature sheet that the circulator:

41 “(a) Witnessed the signing of the signature sheet by each individual whose signature appears
42 on the signature sheet; and

43 “(b) Believes each individual is an elector.

44 “(5) Any intentional or willful violation of subsection (1) or (2) of this section by a chief
45 petitioner of the recall petition or by the treasurer listed on the statement of organization filed

1 under **ORS 260.118** [subsection (1) of this section] invalidates the prospective petition before it is
2 circulated for signatures.

3 **“SECTION 53.** ORS 253.575 is amended to read:

4 “253.575. (1) Upon receipt of an application made under ORS 253.565, if the applicant’s residence
5 is in the county, the county clerk, without regard to whether the applicant is an elector of the
6 county, shall mail to the applicant a special ballot, instructions for filling in and returning the ballot
7 and an envelope to use for the return. The [name, official title and] office address of the clerk shall
8 appear on the front of the envelope. On the back shall appear a statement to be signed by the absent
9 elector, stating that the elector:

10 “(a) Is qualified to vote; **and**

11 “(b) Unless prevented by physical disability, has personally marked the ballot[; and].

12 “[c) Has not unnecessarily exhibited the marked ballot to any other person.]

13 “(2) The completed and signed application submitted under ORS 253.565 shall constitute a valid
14 registration for the elector.

15 “(3) If the county clerk receives an application for a special ballot on or after the 45th day be-
16 fore the election specified in the application, the county clerk shall treat the application as an ap-
17 plication made under ORS 253.540.

18 “(4) A military or overseas elector may obtain a replacement ballot if the ballot is destroyed,
19 spoiled, lost or not received by the elector. The county clerk shall keep a record of each replace-
20 ment ballot provided under this subsection.

21 “(5) Notwithstanding subsection (3) of this section, a replacement ballot may be mailed or shall
22 be made available in the office of the county clerk.

23 “(6) If the county clerk determines that a military or overseas elector to whom a replacement
24 ballot has been issued at the request of the elector has voted more than once, the county clerk shall
25 not count any ballot cast by the elector. If the county clerk is required to reissue ballots due to a
26 change on the ballot for any reason, that ballot shall be counted in lieu of any previous ballot issued
27 unless:

28 “(a) Only the original ballot was voted and returned; or

29 “(b) The county clerk issued a supplemental ballot that is not a complete replacement of the
30 original ballot.

31 **“SECTION 54.** ORS 260.118 is amended to read:

32 “260.118. (1) The chief petitioners of an initiative, referendum or recall petition shall appoint a
33 treasurer. The treasurer shall be an elector of this state. Contributions shall be received and
34 expenditures made by or through the treasurer.

35 “(2) The treasurer shall file a statement of organization of a petition committee with the ap-
36 propriate filing officer. The treasurer shall file the statement not later than the third business day
37 after a chief petitioner or the treasurer receives a contribution or makes an expenditure relating
38 to the initiative, referendum or recall petition. The statement shall include:

39 “(a) The name and address of the chief petitioners.

40 “(b) The name and address of the treasurer appointed under subsection (1) of this section.

41 “(c) A designation of the initiative, referendum or recall petition. The designation of the recall
42 petition shall include the name of the officer whose recall is demanded.

43 “(d) The name of the financial institution in which the petition account required under ORS
44 260.054 is established, the name of the account, the name of the account holder and the names of
45 all individuals who have signature authority for the account. The Secretary of State may not dis-

1 close information received by the secretary under this paragraph except as necessary for purposes
2 of enforcing the provisions of ORS chapters 246 to 260.

3 “(3) If there is a change in the information submitted in a statement of organization under sub-
4 section (2) of this section, the treasurer shall file an amended statement of organization not later
5 than the 10th day after the change in information.

6 “(4) The treasurer of an initiative, referendum or recall petition committee shall use the elec-
7 tronic filing system adopted under ORS 260.057 to file with the Secretary of State statements of
8 contributions received and expenditures made by the petition committee, as described in ORS
9 260.083.

10 “(5) The treasurer of an initiative petition committee shall file a statement described in sub-
11 section (4) of this section not later than seven calendar days after a contribution is received or an
12 expenditure is made. This subsection applies to contributions received and expenditures made:

13 “(a) During the period beginning on the 42nd calendar day before the date that is four months
14 before a general election and ending on the date that is four months before a general election; and

15 “(b) During the period beginning on the 42nd calendar day before the date of any primary
16 election and ending on the date of the primary election and the period beginning on the 42nd cal-
17 endar day before the date of any general election and ending on the date of the general election.

18 “(6) The treasurer of a referendum petition committee or a recall petition committee shall file
19 a statement described in subsection (4) of this section not later than seven calendar days after a
20 contribution is received or an expenditure is made. This subsection applies:

21 “(a) For a referendum petition committee, to contributions received and expenditures made
22 during the period beginning on the date the treasurer is appointed under subsection (1) of this sec-
23 tion and ending on the deadline for submitting signatures for verification; and

24 “(b) For a recall petition committee, to contributions received and expenditures made during the
25 period beginning on the day *[after the date on which the statement of contributions received and*
26 *expenditures made that is required]* **on which the recall petition is filed** under ORS 249.865 *[is*
27 *filed]* and ending on the deadline for submitting signatures for verification.

28 “(7) Except as provided in subsection (8) of this section, during a period not described in sub-
29 section (5) or (6) of this section, a treasurer of an initiative, referendum or recall petition committee
30 shall file a statement described in subsection (4) of this section not later than 30 calendar days after
31 a contribution is received or an expenditure is made.

32 “(8) If a treasurer of an initiative petition committee receives a contribution or makes an ex-
33 penditure prior to the 42nd calendar day before the date that is four months before a general
34 election, or the 42nd day before the date of the primary election or general election, and the treas-
35 urer has not filed a statement of the contribution or expenditure under subsection (4) of this section
36 by the 43rd calendar day before the date that is four months before a general election, or the 43rd
37 day before the date of the primary election or general election, the treasurer shall file a statement
38 described in subsection (4) of this section not later than the 35th calendar day before the date that
39 is four months before a general election, or the 35th day before the date of the primary election or
40 general election.

41 “(9) For an initiative petition committee, the accounting period for the first statement filed un-
42 der this section begins on the date the treasurer is appointed under subsection (1) of this section.

43 “(10) Each statement required under this section shall be signed and certified as true by the
44 treasurer. Signatures shall be supplied in the manner specified by the secretary by rule.

45 “(11) Subsections (4) to (10) of this section do not apply to petition committees that file certif-

1 icates under ORS 260.112.

2 “(12) As used in this section, ‘contribution’ and ‘expenditure’ include a contribution or expendi-
3 ture to or on behalf of an initiative, referendum or recall petition.”.

4 In line 20, delete “49” and insert “55”.

5 In line 21, delete “50” and insert “56”.

6
