

Requested by Senator BURDICK

**PROPOSED AMENDMENTS TO
SENATE BILL 229**

1 On page 1 of the printed bill, line 5, after “254.515,” insert “254.431,
2 254.470.”.

3 Delete page 26.

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

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

6 “254.529. (1) At each general election, the county clerk shall conduct a
7 hand count of ballots as described in this section and compare the tally of
8 votes for those ballots produced by a vote tally system with the tally of votes
9 for those ballots produced by the hand count.

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

17 “(b) In the event that the unofficial tally of ballots reveals that the
18 margin of victory between the two candidates receiving the largest number
19 of votes in the county is greater than or equal to one percent but less than
20 two percent of the total votes cast in the county, the county clerk shall
21 conduct a hand count of ballots in at least five percent of all precincts or

1 of ballots in at least five percent of all batches of ballots collected by the
2 county clerk.

3 “(c) In the event that the unofficial tally of ballots reveals that the mar-
4 gin of victory between the two candidates receiving the largest number of
5 votes in the county is greater than or equal to two percent of the total votes
6 cast in the county, the county clerk shall conduct a hand count of ballots
7 in at least three percent of all precincts or of ballots in at least three percent
8 of all batches of ballots collected by the county clerk.

9 “(3) **The county clerk shall conduct a hand count of ballots cast in**
10 **the election contest between the two candidates receiving the largest**
11 **number of votes in the county, an election contest for an office to be**
12 **voted on in the state at large and, if possible, an election contest for**
13 **a state measure.** The Secretary of State shall select the precincts **or**
14 **batches** at random. At the general election[,]:

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

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

19 “(A) **Ten percent of the total number of ballots cast in the election**
20 **for a hand count required under subsection (2)(a) of this section.**

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

23 “(C) **Three percent of the total number of ballots cast in the**
24 **election for a hand count required under subsection (2)(c) of this sec-**
25 **tion.** [*The county clerk shall conduct a hand count of ballots cast in the*
26 *election contest between the two candidates receiving the largest number of*
27 *votes in the county, an election contest for an office to be voted on in the state*
28 *at large and, if possible, an election contest for a state measure.*]

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

1 writing of:

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

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

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

9 “(6) A comparison of the tally of votes produced by a vote tally system
10 with the tally of votes produced by the hand count required by this section
11 must show that the tally of votes produced by the vote tally system differs
12 by no more than one-half of one percent from the tally of votes produced by
13 the hand count.

14 “(7)(a) If a hand count conducted under this section results in a tally of
15 votes for a candidate or measure that is different from the tally of votes
16 produced by the vote tally system for that candidate or measure, and the
17 difference for each race is equal to or less than one-half of one percent, the
18 tally of votes produced by the vote tally system is the official tally of votes
19 for that vote tally system.

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

25 “(c) If the second hand count conducted under this subsection results in
26 a tally of votes for a candidate or measure that is different from the tally
27 of votes produced by the vote tally system for that candidate or measure, and
28 the difference for each race is equal to or less than one-half of one percent,
29 the tally of votes produced by the vote tally system is the official tally of
30 votes for that vote tally system.

1 “(d) If the second hand count conducted under this subsection results in
2 a tally of votes for a candidate or measure that is different from the tally
3 of votes produced by the vote tally system for that candidate or measure, and
4 the difference in any race is greater than one-half of one percent, the county
5 clerk shall conduct a hand count of all ballots counted by that vote tally
6 system. The hand count is the official tally of votes for that vote tally sys-
7 tem. If the hand count is the official tally of votes, not later than the 30th
8 day after the election, the county clerk shall certify amended abstracts of
9 votes to appropriate elections officials.

10 “(8) For purposes of conducting the hand counts required under this sec-
11 tion, the county clerk shall:

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

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

15 “(9) This section does not apply:

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

18 “(b) If federal law requires a post-election hand count of ballots at the
19 general election to verify election results and the Secretary of State deter-
20 mines that the requirements of federal law are at least as stringent as the
21 requirements of subsections (1) to (8) of this section.”.

22 On page 30, after line 19, insert:

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

24 “254.431. (1) If a ballot is challenged because it is returned in an unsigned
25 return identification envelope or because the signature of an elector on a
26 return identification envelope does not match the signature in the voter
27 registration record for the elector, the county clerk shall mail to the elector
28 a notice that describes the nature of the challenge. The Secretary of State
29 shall design a standard form to be used in all notifications sent by county
30 clerks under this subsection.

1 “(2)(a) In order for the vote of the elector to be counted, the elector must
2 provide evidence sufficient to disprove the challenge not later than the 14th
3 calendar day after the date of the election. **In the case of an unsigned**
4 **return identification envelope, providing sufficient evidence may in-**
5 **clude completing a certified statement on a form provided by the**
6 **county clerk. The Secretary of State shall design a standard form to**
7 **be used for certified statements made under this paragraph.**

8 “(b) If the elector does not provide evidence sufficient to disprove a
9 challenge alleging that the signature of the elector on a return identification
10 envelope does not match the signature in the voter registration record for
11 the elector by the 14th calendar day after the date of the election, the reg-
12 istration of the elector shall be considered inactive.

13 “(3)(a) The filing officer may not release as a public record any informa-
14 tion that could be used to identify an elector whose ballot has been chal-
15 lenged under this section until the eighth calendar day after the date of an
16 election.

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

21 “(A) The name of the elector;

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

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

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

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

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

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

29 “254.470. (1) The Secretary of State by rule shall establish requirements
30 and criteria for the designation of places of deposit for the ballots cast in

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

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

14 “(b) If the county clerk determines that an active elector of the electoral
15 district as of the 21st day before the date of the election does not receive
16 daily mail service from the United States Postal Service, the county clerk
17 shall mail by nonforwardable mail an official ballot with a return identifi-
18 cation envelope and a secrecy envelope to the elector not sooner than the
19 20th day before the date of an election and not later than the 18th day before
20 the date of the election.

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

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

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

28 “(b) The county clerk shall mail the official ballot of a major political
29 party to an elector not affiliated with any political party if the elector has
30 applied for the ballot as provided in this subsection and that party has pro-

1 vided under ORS 254.365 for a primary election that admits electors not af-
2 filiated with any political party.

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

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

14 “(4) For each elector who updates a voter registration after the deadline
15 in ORS 247.025, the county clerk shall make the official ballot, the return
16 identification envelope and the secrecy envelope available either by mail or
17 at the county clerk’s office or at another place designated by the county
18 clerk. An elector to whom this subsection applies must request a ballot from
19 the county clerk.

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

21 “ _____
22 “Any person who, by use of force or other means, unduly influences an
23 elector to vote in any particular manner or to refrain from voting is subject
24 to a fine.

25 “ _____
26 “(6)(a) Upon receipt of any ballot described in this section, the elector
27 shall mark the ballot, sign the return identification envelope supplied with
28 the ballot and comply with the instructions provided with the ballot.

29 “(b) The elector may return the marked ballot to the county clerk by
30 United States mail or by depositing the ballot at the office of the county

1 clerk, at any place of deposit designated by the county clerk or at any lo-
2 cation described in ORS 254.472 or 254.474.

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

5 “(d) Subject to paragraph (e) of this subsection, if a person returns a
6 ballot for an elector, the person shall deposit the ballot in a manner de-
7 scribed in paragraph (b) of this subsection not later than two days after re-
8 ceiving the ballot.

9 “(e) A ballot must be received at the office of the county clerk, at the
10 designated place of deposit or at any location described in ORS 254.472 or
11 254.474 not later than the end of the period determined under subsection (1)
12 of this section on the date of the election.

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

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

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

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

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

28 “(9) The county clerk shall verify the signature of each elector on the
29 return identification envelope with the signature on the elector’s registration
30 record, according to the procedure provided by rules adopted by the Secre-

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

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

9 In line 20, delete “49” and insert “51”.

10 In line 21, delete “50” and insert “52”.

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