

At the request of Senator Ginny Burdick

**PROPOSED AMENDMENTS TO
SENATE BILL 229**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete lines 3 through 6 and insert “204.020, 221.031, 246.021, 247.420,
3 248.006, 248.007, 249.002, 249.005, 249.008, 249.064, 249.078, 249.735, 249.740,
4 249.865, 250.045, 250.052, 250.065, 250.067, 250.075, 250.141, 250.175, 250.185,
5 250.275, 250.285, 251.065, 251.115, 251.255, 253.575, 254.115, 254.135, 254.431,
6 254.470, 254.515, 254.529, 254.565, 255.085, 255.145, 255.295, 260.037, 260.043,
7 260.054, 260.055, 260.057, 260.078, 260.118, 260.232, 260.241, 260.407 and 260.715;
8 repealing ORS 247.435;”.

9 On page 4, delete lines 13 through 45.

10 On page 5, delete lines 1 through 15 and insert:

11 “**NOTE:** Sections 7 through 11 were deleted by amendment. Subsequent
12 sections were not renumbered.”.

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

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
18 hand count of ballots as described in this section and compare the tally of
19 votes for those ballots produced by a vote tally system with the tally of votes
20 for those ballots produced by the hand count.

21 “(2)(a) In the event that the unofficial tally of ballots produced by a vote

1 tally system reveals that the margin of victory between the two candidates
2 receiving the largest number of votes in the county is less than one percent
3 of the total votes cast in that election in the county, the county clerk shall
4 conduct a hand count of ballots in at least 10 percent of all precincts or of
5 ballots in at least 10 percent of all batches of ballots collected by the county
6 clerk.

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

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

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

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

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

30 “(A) **Ten percent of the total number of ballots cast in the election**

1 **for a hand count required under subsection (2)(a) of this section.**

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

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

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

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

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

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

20 **“(6) A comparison of the tally of votes produced by a vote tally system**
21 **with the tally of votes produced by the hand count required by this section**
22 **must show that the tally of votes produced by the vote tally system differs**
23 **by no more than one-half of one percent from the tally of votes produced by**
24 **the hand count.**

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

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

6 “(c) If the second hand count conducted under this subsection results in
7 a tally of votes for a candidate or measure that is different from the tally
8 of votes produced by the vote tally system for that candidate or measure, and
9 the difference for each race is equal to or less than one-half of one percent,
10 the tally of votes produced by the vote tally system is the official tally of
11 votes for that vote tally system.

12 “(d) If the second hand count conducted under this subsection results in
13 a tally of votes for a candidate or measure that is different from the tally
14 of votes produced by the vote tally system for that candidate or measure, and
15 the difference in any race is greater than one-half of one percent, the county
16 clerk shall conduct a hand count of all ballots counted by that vote tally
17 system. The hand count is the official tally of votes for that vote tally sys-
18 tem. If the hand count is the official tally of votes, not later than the 30th
19 day after the election, the county clerk shall certify amended abstracts of
20 votes to appropriate elections officials.

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

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

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

26 “(9) This section does not apply:

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

29 “(b) If federal law requires a post-election hand count of ballots at the
30 general election to verify election results and the Secretary of State deter-

1 mines that the requirements of federal law are at least as stringent as the
2 requirements of subsections (1) to (8) of this section.”.

3 On page 30, after line 19, insert:

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

5 “254.431. (1) If a ballot is challenged because it is returned in an unsigned
6 return identification envelope or because the signature of an elector on a
7 return identification envelope does not match the signature in the voter
8 registration record for the elector, the county clerk shall mail to the elector
9 a notice that describes the nature of the challenge. The Secretary of State
10 shall design a standard form to be used in all notifications sent by county
11 clerks under this subsection.

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

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

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

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

1 under this section:

2 “(A) The name of the elector;

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

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

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

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

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

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

10 “254.470. (1) The Secretary of State by rule shall establish requirements
11 and criteria for the designation of places of deposit for the ballots cast in
12 an election. The rules shall also specify the dates and times the places of
13 deposit must be open and the security requirements for the places of deposit.
14 At a minimum, the places designated under this section shall be open on the
15 date of the election for a period of eight or more hours, but must be open
16 until at least 8 p.m. At each place of deposit designated under this section,
17 the county clerk shall prominently display a sign stating that the location
18 is an official ballot drop site.

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

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

1 the date of the election.

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

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

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

9 “(b) The county clerk shall mail the official ballot of a major political
10 party to an elector not affiliated with any political party if the elector has
11 applied for the ballot as provided in this subsection and that party has pro-
12 vided under ORS 254.365 for a primary election that admits electors not af-
13 filiated with any political party.

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

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

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

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

2 “

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

6 “

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

10 “(b) The elector may return the marked ballot to the county clerk by
11 United States mail or by depositing the ballot at the office of the county
12 clerk, at any place of deposit designated by the county clerk or at any lo-
13 cation described in ORS 254.472 or 254.474.

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

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

20 “(e) A ballot must be received at the office of the county clerk, at the
21 designated place of deposit or at any location described in ORS 254.472 or
22 254.474 not later than the end of the period determined under subsection (1)
23 of this section on the date of the election.

24 “(7) An elector may obtain a replacement ballot if the ballot is destroyed,
25 spoiled, lost or not received by the elector. Replacement ballots shall be
26 issued and processed as described in this section and ORS 254.480. The
27 county clerk shall keep a record of each replacement ballot provided under
28 this subsection. Notwithstanding any deadline for mailing ballots in sub-
29 section (2) of this section, a replacement ballot may be mailed, made avail-
30 able in the office of the county clerk or made available at one central

1 location in the electoral district in which the election is conducted. The
2 county clerk shall designate the central location. A replacement ballot need
3 not be mailed after the fifth day before the date of the election.

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

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

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

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

9 “(9) The county clerk shall verify the signature of each elector on the
10 return identification envelope with the signature on the elector’s registration
11 record, according to the procedure provided by rules adopted by the Secre-
12 tary of State. If the county clerk determines that an elector to whom a re-
13 placement ballot has been issued has voted more than once, the county clerk
14 shall count only one ballot cast by that elector.

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

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

21 “249.002. As used in this chapter:

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

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

26 “(3) ‘Elector’ means an individual qualified to vote under section 2, Arti-
27 cle II, Oregon Constitution.

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

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

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

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

10 “(8) ‘Prospective petition’ means the information, except signatures and
11 other identification of petition signers, required to be contained in a com-
12 pleted petition.

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

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

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

19 “249.865. (1) Pursuant to section 18, Article II of the Oregon Constitution,
20 an elector of the electoral district from which the public officer is elected
21 may file a petition demanding the recall of the public officer. Before the
22 petition is circulated for signatures, the chief petitioner of the petition shall
23 file with the officer authorized to order the recall election a copy of the
24 prospective petition signed by the chief petitioner.

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

1 “(a) Any person is being paid for obtaining signatures, when the state-
2 ment included with the prospective petition declared that no such person
3 would be paid.

4 “(b) No person is being paid for obtaining signatures, when the statement
5 included with the prospective petition declared that one or more such per-
6 sons would be paid.

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

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

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

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

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

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

19 “(5) Any intentional or willful violation of subsection (1) or (2) of this
20 section by a chief petitioner of the recall petition or by the treasurer listed
21 on the statement of organization filed under **ORS 260.118** [*subsection (1) of*
22 *this section*] invalidates the prospective petition before it is circulated for
23 signatures.

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

25 “253.575. (1) Upon receipt of an application made under ORS 253.565, if
26 the applicant’s residence is in the county, the county clerk, without regard
27 to whether the applicant is an elector of the county, shall mail to the ap-
28 plicant a special ballot, instructions for filling in and returning the ballot
29 and an envelope to use for the return. The [*name, official title and*] office
30 address of the clerk shall appear on the front of the envelope. On the back

1 shall appear a statement to be signed by the absent elector, stating that the
2 elector:

3 “(a) Is qualified to vote; **and**

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

6 “[*(c) Has not unnecessarily exhibited the marked ballot to any other*
7 *person.*.]

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

10 “(3) If the county clerk receives an application for a special ballot on or
11 after the 45th day before the election specified in the application, the county
12 clerk shall treat the application as an application made under ORS 253.540.

13 “(4) A military or overseas elector may obtain a replacement ballot if the
14 ballot is destroyed, spoiled, lost or not received by the elector. The county
15 clerk shall keep a record of each replacement ballot provided under this
16 subsection.

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

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

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

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

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

29 “260.118. (1) The chief petitioners of an initiative, referendum or recall
30 petition shall appoint a treasurer. The treasurer shall be an elector of this

1 state. Contributions shall be received and expenditures made by or through
2 the treasurer.

3 “(2) The treasurer shall file a statement of organization of a petition
4 committee with the appropriate filing officer. The treasurer shall file the
5 statement not later than the third business day after a chief petitioner or the
6 treasurer receives a contribution or makes an expenditure relating to the
7 initiative, referendum or recall petition. The statement shall include:

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

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

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

14 “(d) The name of the financial institution in which the petition account
15 required under ORS 260.054 is established, the name of the account, the name
16 of the account holder and the names of all individuals who have signature
17 authority for the account. The Secretary of State may not disclose infor-
18 mation received by the secretary under this paragraph except as necessary
19 for purposes of enforcing the provisions of ORS chapters 246 to 260.

20 “(3) If there is a change in the information submitted in a statement of
21 organization under subsection (2) of this section, the treasurer shall file an
22 amended statement of organization not later than the 10th day after the
23 change in information.

24 “(4) The treasurer of an initiative, referendum or recall petition commit-
25 tee shall use the electronic filing system adopted under ORS 260.057 to file
26 with the Secretary of State statements of contributions received and ex-
27 penditures made by the petition committee, as described in ORS 260.083.

28 “(5) The treasurer of an initiative petition committee shall file a state-
29 ment described in subsection (4) of this section not later than seven calendar
30 days after a contribution is received or an expenditure is made. This sub-

1 section applies to contributions received and expenditures made:

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

5 “(b) During the period beginning on the 42nd calendar day before the date
6 of any primary election and ending on the date of the primary election and
7 the period beginning on the 42nd calendar day before the date of any general
8 election and ending on the date of the general election.

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

13 “(a) For a referendum petition committee, to contributions received and
14 expenditures made during the period beginning on the date the treasurer is
15 appointed under subsection (1) of this section and ending on the deadline for
16 submitting signatures for verification; and

17 “(b) For a recall petition committee, to contributions received and ex-
18 penditures made during the period beginning on the day [*after the date on*
19 *which the statement of contributions received and expenditures made that is*
20 *required*] **on which the recall petition is filed** under ORS 249.865 [*is*
21 *filed*] and ending on the deadline for submitting signatures for verification.

22 “(7) Except as provided in subsection (8) of this section, during a period
23 not described in subsection (5) or (6) of this section, a treasurer of an initi-
24 ative, referendum or recall petition committee shall file a statement de-
25 scribed in subsection (4) of this section not later than 30 calendar days after
26 a contribution is received or an expenditure is made.

27 “(8) If a treasurer of an initiative petition committee receives a contri-
28 bution or makes an expenditure prior to the 42nd calendar day before the
29 date that is four months before a general election, or the 42nd day before the
30 date of the primary election or general election, and the treasurer has not

1 filed a statement of the contribution or expenditure under subsection (4) of
2 this section by the 43rd calendar day before the date that is four months
3 before a general election, or the 43rd day before the date of the primary
4 election or general election, the treasurer shall file a statement described in
5 subsection (4) of this section not later than the 35th calendar day before the
6 date that is four months before a general election, or the 35th day before the
7 date of the primary election or general election.

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

11 “(10) Each statement required under this section shall be signed and cer-
12 tified as true by the treasurer. Signatures shall be supplied in the manner
13 specified by the secretary by rule.

14 “(11) Subsections (4) to (10) of this section do not apply to petition com-
15 mittees that file certificates under ORS 260.112.

16 “(12) As used in this section, ‘contribution’ and ‘expenditure’ include a
17 contribution or expenditure to or on behalf of an initiative, referendum or
18 recall petition.”.

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

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

21
