

Requested by Senator 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, 246.021, 247.420, 248.006,
3 248.007, 249.002, 249.005, 249.008, 249.064, 249.078, 249.735, 249.740, 249.865,
4 250.052, 250.065, 250.067, 250.075, 250.141, 250.175, 250.185, 250.275, 250.285,
5 251.065, 251.115, 251.255, 253.575, 254.115, 254.135, 254.431, 254.470, 254.515,
6 254.529, 254.565, 255.085, 255.145, 255.295, 260.043, 260.054, 260.055, 260.057,
7 260.078, 260.118, 260.232, 260.241, 260.407 and 260.715; repealing ORS
8 247.435;”.

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

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

11 “**NOTE:** Sections 7 through 13 were deleted by amendment. Subsequent
12 sections were not renumbered.”.

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

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

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

17 Delete page 26.

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

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

20 “254.529. (1) At each general election, the county clerk shall conduct a
21 hand count of ballots as described in this section and compare the tally of

1 votes for those ballots produced by a vote tally system with the tally of votes
2 for those ballots produced by the hand count.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **“(7)(a) If a hand count conducted under this section results in a tally of**
29 **votes for a candidate or measure that is different from the tally of votes**
30 **produced by the vote tally system for that candidate or measure, and the**

1 difference for each race is equal to or less than one-half of one percent, the
2 tally of votes produced by the vote tally system is the official tally of votes
3 for that vote tally system.

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

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

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

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

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

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

29 “(9) This section does not apply:

30 “(a) To precincts that are subject to a recount under ORS 258.161, 258.280

1 or 258.290.

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

6 On page 30, after line 19, insert:

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

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

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

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

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

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

5 “(A) The name of the elector;

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

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

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

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

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

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

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

22 “(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, the
23 county clerk shall mail by nonforwardable mail an official ballot with a re-
24 turn identification envelope and a secrecy envelope not sooner than the 20th
25 day before the date of an election and not later than the 14th day before the
26 date of the election, to each active elector of the electoral district as of the
27 21st day before the date of the election.

28 “(b) If the county clerk determines that an active elector of the electoral
29 district as of the 21st day before the date of the election does not receive
30 daily mail service from the United States Postal Service, the county clerk

1 shall mail by nonforwardable mail an official ballot with a return identifi-
2 cation envelope and a secrecy envelope to the elector not sooner than the
3 20th day before the date of an election and not later than the 18th day before
4 the date of the election.

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

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

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

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

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

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

28 “(4) For each elector who updates a voter registration after the deadline
29 in ORS 247.025, the county clerk shall make the official ballot, the return
30 identification envelope and the secrecy envelope available either by mail or

1 at the county clerk's office or at another place designated by the county
2 clerk. An elector to whom this subsection applies must request a ballot from
3 the county clerk.

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

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

10 “
11 _____
12 “(6)(a) Upon receipt of any ballot described in this section, the elector
13 shall mark the ballot, sign the return identification envelope supplied with
14 the ballot and comply with the instructions provided with the ballot.

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

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

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

25 “(e) A ballot must be received at the office of the county clerk, at the
26 designated place of deposit or at any location described in ORS 254.472 or
27 254.474 not later than the end of the period determined under subsection (1)
28 of this section on the date of the election.

29 “(7) An elector may obtain a replacement ballot if the ballot is destroyed,
30 spoiled, lost or not received by the elector. Replacement ballots shall be
issued and processed as described in this section and ORS 254.480. The
county clerk shall keep a record of each replacement ballot provided under

1 this subsection. Notwithstanding any deadline for mailing ballots in sub-
2 section (2) of this section, a replacement ballot may be mailed, made avail-
3 able in the office of the county clerk or made available at one central
4 location in the electoral district in which the election is conducted. The
5 county clerk shall designate the central location. A replacement ballot need
6 not be mailed after the fifth day before the date of the election.

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

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

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

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

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

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

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

24 “249.002. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

28 “(2) The chief petitioner shall include with the prospective petition a
29 statement declaring whether one or more persons will be paid money or other
30 valuable consideration for obtaining signatures of electors on the recall pe-

1 tition. After the prospective petition is filed, the chief petitioner shall notify
2 the filing officer not later than the 10th day after the chief petitioner first
3 has knowledge or should have had knowledge that:

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

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

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

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

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

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

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

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

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

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

28 “253.575. (1) Upon receipt of an application made under ORS 253.565, if
29 the applicant’s residence is in the county, the county clerk, without regard
30 to whether the applicant is an elector of the county, shall mail to the ap-

1 plicant a special ballot, instructions for filling in and returning the ballot
2 and an envelope to use for the return. The [*name, official title and*] office
3 address of the clerk shall appear on the front of the envelope. On the back
4 shall appear a statement to be signed by the absent elector, stating that the
5 elector:

6 “(a) Is qualified to vote; **and**

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

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

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

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

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

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

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

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

2 “260.118. (1) The chief petitioners of an initiative, referendum or recall
3 petition shall appoint a treasurer. The treasurer shall be an elector of this
4 state. Contributions shall be received and expenditures made by or through
5 the treasurer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “(8) If a treasurer of an initiative petition committee receives a contri-

1 bution or makes an expenditure prior to the 42nd calendar day before the
2 date that is four months before a general election, or the 42nd day before the
3 date of the primary election or general election, and the treasurer has not
4 filed a statement of the contribution or expenditure under subsection (4) of
5 this section by the 43rd calendar day before the date that is four months
6 before a general election, or the 43rd day before the date of the primary
7 election or general election, the treasurer shall file a statement described in
8 subsection (4) of this section not later than the 35th calendar day before the
9 date that is four months before a general election, or the 35th day before the
10 date of the primary election or general election.

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

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

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

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

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

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

24
