

D R A F T

SUMMARY

Revises statutes to make clear that county clerk or other filing officer is not required to provide secrecy envelope for ballot if Secretary of State has approved alternative procedure to ensure secrecy.

Authorizes county clerk, beginning seven days before date of election, to begin tallying any ballots received, instead of just ballots delivered by mail.

A BILL FOR AN ACT

Relating to ballot procedures for filing officers; amending ORS 253.065, 254.408, 254.470 and 254.478.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 253.065 is amended to read:

253.065. (1) For electors with mailing addresses outside this state, the county clerk shall deliver a ballot:

(a) Not later than the 45th day before the election to each military or overseas elector; and

(b) Not sooner than the 29th day before the election to each absent elector with a mailing address outside this state who is not a military or overseas elector.

(2) The clerk shall deliver with the ballot instructions for marking and returning the ballot, a return identification envelope and, **if used**, a secrecy envelope. The back of the envelope shall include a statement to be signed by the absent elector, stating that the elector:

(a) Is qualified to vote;

(b) Unless prevented by physical disability, has personally marked the ballot; and

(c) Has not unnecessarily exhibited the marked ballot to any other person.

(3) An absent elector may obtain a replacement ballot if the ballot delivered under this section is destroyed, spoiled, lost or not received by the elector. The county clerk shall keep a record of each replacement ballot provided under this subsection.

(4) A replacement ballot provided under subsection (3) of this section may be mailed or shall be made available in the office of the county clerk.

(5) If the county clerk determines that an absent elector to whom a replacement ballot has been issued at the request of the elector has voted more than once, the county clerk shall count only the first ballot received by the clerk and provide the elector's name to the Secretary of State for further review. If the county clerk is required to reissue ballots due to a change on the ballot for any reason, that ballot shall be counted in lieu of any previous ballot issued unless:

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

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

SECTION 2. ORS 254.408 is amended to read:

254.408. (1) A person offering to vote and who claims to be an elector, but for whom no evidence of active or inactive registration can be found, shall be granted the right to vote in the manner provided in this section.

(2) Whenever an elector updates a registration at a county clerk's office after the ballots have been mailed under ORS 254.470, the elector shall vote in that election in the manner provided in this section.

(3) An elector voting under this section shall complete and sign a registration card.

(4)(a)(A) **Except as provided in subparagraph (B) of this paragraph,** the elector shall insert the ballot into a small envelope provided by the county clerk and then insert the small envelope into a larger envelope. The larger envelope shall be delivered to the county clerk and shall be segregated and not counted until the registration of the elector is verified under this

section.

(B) The county clerk shall inform the elector of any alterations to the process described in subparagraph (A) of this paragraph that are necessary if the Secretary of State has approved a procedure under ORS 254.458 to be used in lieu of the envelope procedures.

(b) An envelope provided under this subsection must comply with the prohibitions set forth in ORS 254.470 (11).

(5) The county clerk shall determine if the elector is validly registered to vote and if the vote was properly cast. The ballot shall be counted only if the county clerk determines the registration of the elector is considered active or inactive.

(6) A vote shall be counted only if the elector is qualified to vote for the particular office or on the measure.

SECTION 3. ORS 254.470 is amended to read:

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

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

(b) If the county clerk determines that an active elector of the electoral district as of the 21st day before the date of the election does not receive

daily mail service from the United States Postal Service, the county clerk shall mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope to the elector not sooner than the 20th day before the date of an election and not later than the 18th day before the date of the election.

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

(d) The county clerk is not required to mail a secrecy envelope under this subsection if the Secretary of State has approved under ORS 254.458 a different procedure that provides substantially the same degree of secrecy.

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

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

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

(c) An elector not affiliated with any political party who wishes to vote in the primary election of a major political party shall apply to the county clerk in writing. The application must be completed, signed and submitted by the elector electronically, in person or by mail, in a manner determined by the secretary by rule and must indicate which major political party ballot the elector wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day before the date of the election.

(d) If the primary election ballot includes city, county or nonpartisan of-

1 fices or measures, the county clerk shall mail to each elector who is not el-
2 igible to vote for party candidates a ballot limited to those offices and
3 measures for which the elector is eligible to vote.

4 (4)(a) For each elector who updates a voter registration after the deadline
5 in ORS 247.025, the county clerk shall make the official ballot, the return
6 identification envelope and the secrecy envelope available either by mail or
7 at the county clerk's office or at another place designated by the county
8 clerk. An elector to whom this subsection applies must request a ballot from
9 the county clerk.

10 **(b) The county clerk is not required to make available a secrecy**
11 **envelope under this subsection if the Secretary of State has approved**
12 **a different procedure under ORS 254.458 that provides substantially the**
13 **same degree of secrecy.**

14 (5) The ballot shall contain the following warning:

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

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

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

27 (c) The ballot must be returned in the return identification envelope.

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

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

(7) An elector may obtain a replacement ballot if the ballot is destroyed, 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 this subsection. Notwithstanding any deadline for mailing ballots in subsection (2) of this section, a replacement ballot may be mailed, made available in the office of the county clerk or made available at one central location in the electoral district in which the election is conducted. The county clerk shall designate the central location. A replacement ballot need not be mailed after the fifth day before the date of the election.

(8) A ballot shall be counted only if:

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

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

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

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

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

(11)(a)(A) Except as provided in subparagraph (B) of this paragraph, the

1 name of the Secretary of State may not appear in the secretary's official
2 capacity on the return identification envelope[, *secrecy envelope*] or on any
3 instructions or materials included with the ballot if the secretary is a can-
4 didate in the election for which the ballot is printed.

5 (B) This paragraph does not prohibit the name of the Secretary of State
6 from appearing in the secretary's official capacity in the voters' pamphlet.

7 (b) The name of the county clerk or other filing officer may not appear
8 in the official capacity of the county clerk or filing officer on the return
9 identification envelope[, *secrecy envelope*] or on any instructions or materials
10 included with the ballot if the county clerk or filing officer is a candidate
11 in the election for which the ballot is printed.

12 (c) As used in this subsection, "filing officer" has the meaning given that
13 term in ORS 254.165.

14 **SECTION 4.** ORS 254.478 is amended to read:

15 254.478. (1) Subject to ORS 260.705 and not sooner than the seventh day
16 before the date of an election, the county clerk may:

17 (a) Begin opening return identification **envelopes of ballots** and **any**
18 **used** secrecy envelopes of ballots [*delivered by mail and*] received by the
19 county clerk; and

20 (b) In accordance with a security plan approved by the Secretary of State
21 under ORS 254.074, begin scanning ballots into a vote tally system.

22 (2) The county clerk may take any other actions that are necessary to
23 count ballots delivered by mail.