House Bill 2227

Sponsored by Representative WILDE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor’s brief statement of the essential features of the measure as introduced.

Prohibits portraits of candidates from being included in voters’ pamphlets.

A BILL FOR AN ACT

Relating to material contained in voters’ pamphlets; creating new provisions; amending ORS 246.021, 251.014, 251.055, 251.065, 251.067, 251.087, 251.095, 251.125, 251.165, 251.315, 251.325, 251.335 and 251.365; and repealing ORS 251.075.

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

SECTION 1. ORS 251.055 is amended to read:

251.055. (1) The Secretary of State shall reject any statement, argument or other matter offered for filing and printing in a voters' pamphlet which:

(a) Contains any obscene, profane or defamatory language;

(b) Incites or advocates hatred, abuse or violence toward any person or group; [or]

(c) Contains any language which may not legally be circulated through the mails; or

(d) Contains the portrait or photograph of any candidate.

(2) Nothing in this chapter shall make the author of any statement or argument exempt from any civil or criminal action because of any defamatory statements offered for printing or contained in the voters’ pamphlet. The persons writing, signing or offering a statement or argument for filing shall be deemed its authors and publishers.

(3) The Secretary of State by rule shall establish a procedure to notify a person who offered a statement, argument or other matter that was rejected pursuant to this section. Subject to voters’ pamphlet deadlines, the procedure shall require the Secretary of State to:

(a) Make reasonable attempts to notify the person of the rejection; and

(b) Allow the person, if notified pursuant to paragraph (a) of this subsection, to revise the statement so that it does not violate the provisions of this section.

SECTION 2. ORS 251.014 is amended to read:

251.014. (1) The Secretary of State by rule shall adopt an electronic filing system to allow estimates, [portraits,] statements or arguments to be filed electronically using the Internet.

(2) The Secretary of State may adopt rules to administer this section.

SECTION 3. ORS 251.065 is amended to read:

251.065. (1)(a) Except as provided in paragraph (b) of this subsection, not sooner than the 120th day and not later than the 68th day before the primary election, a candidate or agent on behalf of the candidate for nomination or election at the primary election to the office of President or Vice President of the United States, United States Senator, Representative in Congress or a state office as defined in ORS 249.002 may file with the Secretary of State [a portrait of the candidate and] a

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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statement of the reasons the candidate should be nominated or elected. A candidate or agent on behalf of the candidate for nomination or election to a county or city office, or to an elected office of a metropolitan service district organized under ORS chapter 268, may file a [portrait and] statement under this subsection if permitted under ORS 251.067.

(b) A [portrait and] statement may be filed not later than the 63rd day before the primary election in the event of a vacancy described in ORS 249.037 (2).

(2) Not sooner than the 120th day and not later than the 70th day before the general election, a candidate or agent on behalf of the candidate for election at the general election to the office of President or Vice President of the United States, United States Senator, Representative in Congress or a state office as defined in ORS 249.002 may file with the Secretary of State [a portrait of the candidate and] a statement of the reasons the candidate should be elected. A candidate or agent on behalf of the candidate for election to a county or city office, or to an elected office of a metropolitan service district organized under ORS chapter 268, may file a [portrait and] statement under this subsection if permitted under ORS 251.067.

(3) In the case of a special election to fill a vacancy as described in ORS 251.022, the Secretary of State by rule shall set the deadline for filing with the secretary [a portrait of the candidate and] a statement of the reasons the candidate should be nominated or elected.

(4) All [portraits and] statements described in this section must be filed using the electronic filing system adopted by the Secretary of State under ORS 251.014.

(5) Subject to the requirements of this section, the Secretary of State by rule shall establish the format of the statements permitted under this section.

(6) A [portrait or] statement filed under this section must be accompanied by a telephone or electronic facsimile transmission machine number where the candidate may be contacted for purposes of ORS 251.087.

SECTION 4. ORS 251.067 is amended to read:

251.067. (1) A candidate or agent on behalf of the candidate for nomination or election to any county or city office, or to an elected office of a metropolitan service district organized under ORS chapter 268, may file a [portrait or] statement for inclusion in the state voters' pamphlet under ORS 251.065 if a county voters' pamphlet described in ORS 251.305 to 251.435 is not prepared for the election in each county in which the electoral district of the candidate is located.

(2) A community college district measure relating to bonding, a county measure or a measure of a metropolitan service district organized under ORS chapter 268, and the ballot title, explanatory statement and arguments relating to the measure, shall be included in the state voters' pamphlet as provided in ORS 251.285, if a county voters' pamphlet described in ORS 251.305 to 251.435 is not prepared:

(a) For the election on the county measure; or

(b) In each county in which the community college district or metropolitan service district is located, for the election on the community college district measure relating to bonding or metropolitan service district measure.

(3) If a county voters' pamphlet described in ORS 251.305 to 251.435 is prepared for an election at which a candidate for nomination or election to any county or city office, or to an elected office of a metropolitan service district organized under ORS chapter 268, is listed on the ballot, or at which a community college district measure relating to bonding, a county measure or a measure of a metropolitan service district organized under ORS chapter 268 is listed on the ballot, the county voters' pamphlet shall include the county or city office, the office of the metropolitan service district
or the community college district measure relating to bonding, county measure or measure of the
metropolitan service district. Such offices and measures shall not be included in any state voters’
pamphlet prepared for the election and distributed in the county for which the county voters’ pam-
phlet is prepared.

(4) If a city, metropolitan service district organized under ORS chapter 268 or community col-
lege district is located in more than one county, and a county in which the city, metropolitan service
district or community college district is located does not prepare a county voters’ pamphlet de-
scribed in ORS 251.305 to 251.435 for the election, candidates for nomination or election to any city
office or an elected office of the metropolitan service district, and any community college district
measure relating to bonding or measure of the metropolitan service district, shall be included in the
state voters’ pamphlet to be distributed to the county that does not prepare a county voters’ pam-
phlet. The Secretary of State shall designate the candidates and measures that may be included in
the state voters’ pamphlet under this subsection.

(5) As used in this section, “community college district” has the meaning given that term in ORS
341.005.

SECTION 5. ORS 251.087 is amended to read:

251.087. (1) If a candidate files a [portrait and] statement under ORS 251.065 for inclusion in the
voters’ pamphlet, the Secretary of State shall review the [portrait and] statement to ensure [that the
portrait complies with the requirements of ORS 251.075 and] that the statement complies with the
requirements of ORS 251.049 and 251.085.

(2) Review by the Secretary of State under this section shall be limited to determining whether
the [portrait and] statement [comply] complies with the requirements of ORS 251.049[, 251.075] and
251.085 and shall not include any determination relating to the accuracy or truthfulness of materials
filed.

(3) The Secretary of State shall review each [portrait and] statement not later than three busi-
ness days following the deadline for filing a [portrait and] statement under ORS 251.065. If the
Secretary of State determines that the [portrait or] statement of a candidate must be revised in order
to comply with the requirements of ORS 251.049[, 251.075] or 251.085, the Secretary of State shall
attempt to contact the candidate not later than the fifth business day following the deadline for fil-
ing a [portrait and] statement under ORS 251.065. A candidate contacted by the Secretary of State
under this section may file a revised [portrait or] statement not later than the seventh business day
following the deadline for filing a [portrait and] statement under ORS 251.065.

(4) If the Secretary of State is required to attempt to contact a candidate under subsection (3)
of this section, the Secretary of State shall attempt to contact the candidate by telephone or by
using an electronic transmission facsimile machine.

(5) If the Secretary of State is unable to contact a candidate or if the candidate does not file a
revised [portrait or] statement, the following rules apply:

[(a) If a portrait does not comply with ORS 251.075, the Secretary of State may modify the portrait.
The candidate shall pay the expense of any modification prior to publication of the portrait in the
voters’ pamphlet. If the portrait cannot be modified to comply with ORS 251.075, the portrait shall not
be printed in the voters’ pamphlet.]

[(b) (a) If a statement does not comply with ORS 251.085 the statement shall not be printed in
the voters’ pamphlet.

[(c) (b) If a statement does not comply with ORS 251.049, the Secretary of State shall edit the
statement to remove language that does not comply with ORS 251.049.]
(6) If the [portrait or] statement of a candidate filed under ORS 251.065 does not comply with a requirement of ORS 251.049, 251.075 or 251.085 and the Secretary of State does not attempt to contact the candidate by the deadline specified in subsection (3) of this section, for purposes of ORS 251.049, 251.075 and 251.085 only, the [portrait or] statement shall be printed as filed.

(7) A candidate revising a [portrait or] statement under this section shall make only those revisions necessary to comply with ORS 251.049, 251.075 and 251.085.

(8) The Secretary of State by rule may define the term “contact” as used in this section.

SECTION 6. ORS 251.095 is amended to read:

251.095. (1) For space in the voters’ pamphlet:

(a) Each candidate for nomination or election to the office of President or Vice President of the United States shall, at the time materials are filed under ORS 251.065, pay a fee of $3,500 to the Secretary of State or may submit a petition in a form prescribed by the secretary containing the signatures of 500 active electors of the state.

(b) Each candidate for nomination or election to the office of United States Senator or any state office to be voted for in the state at large shall, at the time materials are filed under ORS 251.065, pay a fee of $3,000 to the Secretary of State or may submit a petition in a form prescribed by the secretary containing the signatures of 500 active electors of the state.

(c) Each candidate for nomination or election to the office of Representative in Congress shall, at the time materials are filed under ORS 251.065, pay a fee of $2,500 to the Secretary of State or may submit a petition in a form prescribed by the secretary containing the signatures of 300 active electors of the candidate’s electoral district.

(d) Each candidate for nomination or election to the office of state Senator or state Representative shall, at the time materials are filed under ORS 251.065, pay a fee of $750 to the Secretary of State or may submit a petition in a form prescribed by the secretary containing the signatures of 200 active electors of the candidate’s electoral district.

(e) Each candidate for nomination or election to any other office shall, at the time materials are filed under ORS 251.065, pay a fee of $600 to the Secretary of State or may submit a petition in a form prescribed by the secretary containing the signatures of 200 active electors of the candidate’s electoral district.

(2)(a) The signatures on a petition submitted under subsection (1) of this section shall be verified by the county clerk or the Secretary of State.

(b) The Secretary of State by rule shall establish procedures for verifying whether a petition submitted under subsection (1) of this section contains the required number of signatures of active electors.

(3) The space allotted to each candidate shall be used for materials filed under ORS 251.065, including the [portrait and] statement of reasons the candidate should be nominated or elected and the information required under ORS 251.085. The length of the statement may not exceed 325 words. All candidates shall be allowed the same amount of space. The Secretary of State by rule shall prescribe the size of the space allotted to each candidate, except that the space may not be smaller than 30 square inches.

SECTION 7. ORS 251.125 is amended to read:

251.125. (1) In a section of the voters’ pamphlet that provides general information, the Secretary of State shall include a disclaimer in boldfaced type in substantially the following form:

_______________________________________________________________________________________
Information provided in statements or arguments submitted by a candidate, a political party, an assembly of electors or a person supporting or opposing a measure have not been verified for accuracy by the State of Oregon.

(2) At the bottom of each allotted space of the voters' pamphlet containing a [portrait or] statement filed by a candidate, political party or assembly of electors, the Secretary of State shall include a statement identifying the person who furnished the [portrait or] statement.

SECTION 8. ORS 251.165 is amended to read:

251.165. (1) The Secretary of State shall prepare:

(a) A list of the names of candidates for nomination or election at the primary election to the offices of President or Vice President of the United States, United States Senator, Representative in Congress, any state office other than justice of the peace and any county or city office or elected office of a metropolitan service district required to be included under ORS 251.067, or a list of names of candidates for election at the general election to the offices of President or Vice President of the United States, United States Senator, Representative in Congress, any state office other than justice of the peace and any county or city office or elected office of a metropolitan service district required to be included under ORS 251.067, along with a designation of the offices for which the candidates are competing;

(b) All [portraits and] statements filed under ORS 251.065 and 251.115; and

(c) The information specified in ORS 251.185 relating to measures to be voted upon at the election for which the pamphlet is prepared.

(2) For a special election described in ORS 251.022, the Secretary of State shall prepare a list of the names of candidates for nomination or election to the offices of United States Senator or United States Representative in Congress along with all [portraits and] statements filed for the special election under ORS 251.065.

(3) The items specified in subsections (1) and (2) of this section shall be properly compiled, edited, prepared and indexed for printing by the Secretary of State before delivery to the printer.

SECTION 9. ORS 251.315 is amended to read:

251.315. (1) If a county produces a county voters' pamphlet, the county voters' pamphlet shall include, when applicable, at least the following information:

(a) Requirements for a citizen to qualify as an elector.

(b) Requirements for registration and updates of registration.

(c) Elector instructions, including the right of an elector to request a second ballot if the first ballot is spoiled and the right of an elector to seek assistance in marking the ballot.

(d) The hours and locations of places designated under ORS 254.470 for deposit of official ballots.

(e) Any [portraits and] statements relating to candidates submitted in accordance with the provisions of ORS 251.305 to 251.435.

(f) Any ballot titles, explanatory statements and arguments submitted in accordance with the provisions of ORS 251.305 to 251.435.

(g) Such other information as the county clerk considers to be appropriate or necessary to inform the voters.

(2) The county clerk shall mail or otherwise distribute the county voters' pamphlet not later than the last day for mailing ballots to electors as provided in ORS 254.470.

(3)(a) The name of the county clerk or other filing officer may not appear in the county voters'
pamphlet in the county clerk’s or filing officer’s official capacity if the county clerk or filing officer
is a candidate in the election for which the voters’ pamphlet is printed.

(b) As used in this subsection, “filing officer” has the meaning given that term in ORS 254.165.

SECTION 10. ORS 251.325 is amended to read:

251.325. (1) The Secretary of State by rule shall adopt a schedule and procedures for preparing,
printing and distributing county voters’ pamphlets. The schedule and procedures shall include but
not be limited to deadlines for filing material for the voters’ pamphlet, and except as otherwise
provided by law, the format of material to be submitted [and the size and other requirements appli-
cable to candidate portraits].

(2) Except as provided in subsection (3) of this section, at the time materials are filed under ORS
251.335, each candidate for nomination or election to the following offices shall pay to the county
clerk the following fee for space in the county voters’ pamphlet:

(a) An office to which a salary or other compensation beyond expenses is attached, $100.

(b) An office to which a salary or other compensation beyond expenses is not attached, $25.

(3) At the time materials are filed under ORS 251.335, each candidate for nomination or election
to a city or county office at the primary or general election shall pay to the county clerk the fol-
lowing fee for space in the county voters’ pamphlet:

(a) If the number of active electors in the electoral district is less than 1,000, $25.

(b) If the number of active electors in the electoral district is 1,000 or more and less than 10,000,
$50.

(c) If the number of active electors in the electoral district is 10,000 or more and less than
50,000, $100.

(d) If the number of active electors in the electoral district is 50,000 or more, $300.

(4) The Secretary of State by rule shall adopt a schedule of fees to be charged by the county
clerks for including arguments in the voters’ pamphlet. The fees need not reflect the actual cost of
producing the voters’ pamphlet.

(5) The county clerk shall refund a filing fee described in this section to any person who applies
for the refund not later than the last day for filing material for inclusion in the voters’ pamphlet.
When a refund is made, the material for which the fee was paid may not be included in the pam-
phlet.

(6) As used in this section, “electoral district” means a county, the part of a city located within
the county or, if a candidate is elected by zone or subdistrict of the county or city, the zone or
subdistrict in which the candidate is nominated or elected.

SECTION 11. ORS 251.335 is amended to read:

251.335. (1) As used in this section, “district” has the meaning given that term in ORS 255.012.

(2) Not later than the date specified by the Secretary of State, any candidate for nomination or
election to county, city or special district office within the county, or an agent of the candidate,
may file with the county clerk of a county that prepares a county voters’ pamphlet [a portrait of the
candidate and] a typewritten statement of the reasons the candidate should be elected. The [portrait
and] statement must comply with the applicable rules of the Secretary of State.

(3) The county clerk may not accept the filing of a statement [or portrait] of any candidate un-
less the filing is accompanied by the appropriate fee described in ORS 251.325.

(4) At the bottom of each allotted space of the county voters’ pamphlet containing a [portrait
and] statement filed by a candidate, the county clerk shall include:

(a) A statement identifying the person who furnished the [portrait and] statement; and
(b) A disclaimer in boldfaced type in substantially the following form:

The above information has not been verified for accuracy by the county.

SECTION 12. ORS 251.365 is amended to read:

251.365. (1) Any county clerk preparing, printing and distributing a county voters' pamphlet may apportion the cost of preparing, printing and distributing the county voters' pamphlet as a cost of the election according to the formula established by the Secretary of State for the allocation of election costs. The apportioned election costs shall be reduced for each electoral district by the amount of any revenue received by the county clerk from the submission of candidate [portraits, statements and arguments for that electoral district].

(2) Any revenue collected by the county clerk from the submission of candidate [portraits,] statements or arguments for any electoral district which may exceed the apportioned cost of the election for that electoral district shall be applied to reduce the shared costs of the election for all remaining electoral districts.

SECTION 13. ORS 246.021 is amended to read:

246.021. (1) Except as provided in ORS 247.012 and subsection (2) of this section, an election document and an accompanying payment of fees required to be filed with the Secretary of State, county clerk or other filing officer must be delivered to and actually received at the office of the designated officer not later than 5 p.m. of the day the document or fee is due or, if the day due is a Saturday, Sunday or holiday, on the next business day.

(2) If, at 5 p.m. of the day an election document is due, an individual is physically present in the office of the secretary, county clerk or other filing officer and in line waiting to deliver the document, the individual is considered to have begun the act of delivering the document and is permitted to file it.

(3) Except as provided in ORS 253.540, 253.565 and 253.690, any election document required to be filed with the filing officer other than ballots, voter registration cards or petitions requiring signatures of electors may also be filed by means of an electronic facsimile transmission machine or electronic mail. If an election document is required to be filed by a specified time, the entire document must be received at the office of the filing officer not later than 5 p.m. of the day the document is due or, if the day due is a Saturday, Sunday or holiday, on the next business day.

(4) Notwithstanding any provision of subsections (1) to (3) of this section, if a statement is required to be filed electronically under ORS 260.057:

(a) The statement must be received electronically at the office of the Secretary of State not later than 11:59 p.m. of the day the statement is due or, if the day due is a Saturday, Sunday or holiday, on the next business day; and

(b) The Secretary of State may not accept the filing of the statement in any form other than an electronic format.

(5) As used in this section, “election document” includes, but is not limited to, a declaration of candidacy for nomination for public or political party office, completed nominating petitions, statements [and portraits] for voters' pamphlets, statements of election campaign contributions and expenditures, and initiative, referendum or recall petitions.

SECTION 14. ORS 251.075 is repealed.
SECTION 15. The amendments to ORS 246.021, 251.014, 251.055, 251.065, 251.067, 251.087, 251.095, 251.125, 251.165, 251.315, 251.325, 251.335 and 251.365 by sections 1 to 13 of this 2021 Act and the repeal of ORS 251.075 by section 14 of this 2021 Act apply to the filing of materials for inclusion in a voters’ pamphlet on or after the effective date of this 2021 Act.