

A-Engrossed House Bill 3021

Ordered by the House May 14
Including House Amendments dated May 14

Sponsored by Representative PHAM; Representatives ALONSO LEON, BYNUM, GRAYBER, HUDSON, MEEK, POWER, RUIZ, SALINAS, VALDERRAMA, WILLIAMS

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.

Requires Secretary of State to create and make publicly available list of five most common languages spoken, **other than English**, by residents of state **and of each county**.

Requires Secretary of State [*and county*] to ensure state voters' pamphlet and county voters' pamphlet are translated into each [*of five identified languages*] **listed language** and to make translated voters' pamphlets available on **state and county** [*website*] **websites**. Requires voters' pamphlets to include, in each [*of five identified languages*] **listed language**, website address for translated voters' pamphlet.

Requires Secretary of State to include in translated state voters' pamphlet translation submitted of candidate statement, argument for or against state measure and argument for measure prepared by Legislative Assembly.

Establishes Translation Advisory Council. Requires Secretary of State to consult with council to ensure translations of voters' pamphlets are conducted professionally, culturally responsively, accurately and to standard of original version.

Applies to voters' pamphlets distributed on or after [*January 1, 2023*] **June 30, 2022**.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to multilingual election materials; creating new provisions; amending ORS 251.026, 251.055
3 and 251.315; and prescribing an effective date.

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

5 **SECTION 1. Sections 2, 3 and 7 of this 2021 Act are added to and made a part of ORS**
6 **chapter 251.**

7 **SECTION 2. (1) The Secretary of State shall create and make publicly available a list of:**

8 **(a) The five most commonly spoken languages in the state, other than English; and**

9 **(b) The five most commonly spoken languages in each county, other than English.**

10 **(2) The lists created under subsection (1) of this section must:**

11 **(a) Be based on the best available data, which may include the most recent American**
12 **Community Survey from the United States Census Bureau, estimates from the Portland**
13 **State University Population Research Center and any other necessary data sources;**

14 **(b) Include, when complying with subsection (1)(b) of this section, the estimated number**
15 **of individuals in each county who speak each listed language; and**

16 **(c) Be updated at least once every five years.**

17 **(3) The Secretary of State shall:**

18 **(a) Ensure each state voters' pamphlet mailed to residents of a county is translated in**
19 **the manner described in section 3 of this 2021 Act into:**

20 **(A) Each language listed by the Secretary of State under subsection (1)(a) of this section;**

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.

1 (B) Each language listed by the Secretary of State under subsection (1)(b) of this section
2 that the Secretary of State estimates under subsection (2)(b) of this section to be spoken by
3 100 or more individuals in any one county; and

4 (C) Each language that has previously been listed by the Secretary of State under sub-
5 section (1)(b) of this section, even if the language is not included in the most recent list
6 created by the Secretary of State;

7 (b) Ensure each county voters' pamphlet mailed to residents of a county is translated in
8 the manner described in section 3 of this 2021 Act into:

9 (A) Each language listed by the Secretary of State under subsection (1)(a) of this section;

10 (B) Each language listed for the county for that county voters' pamphlet by the Secre-
11 tary of State under subsection (1)(b) of this section that the Secretary of State estimates
12 under subsection (2)(b) of this section to be spoken by 100 or more individuals in the county;
13 and

14 (C) Each language that has previously been listed by the Secretary of State for the
15 county for that county voters' pamphlet under subsection (1)(b) of this section, even if the
16 language is not included in the most recent list created by the Secretary of State;

17 (c) Make each translation of the voters' pamphlet that is made under paragraph (a) or
18 (b) of this subsection or subsection (4) of this section available on the website of the Secre-
19 tary of State and of the county as applicable; and

20 (d) Prominently provide the website address for each translation in the manner set forth
21 in ORS 251.026 and 251.315.

22 (4) Notwithstanding subsection (3)(a)(B) and (b)(B) of this section, if the Secretary of
23 State estimates under subsection (2)(b) of this section that no language, other than English,
24 is spoken by 100 or more individuals in a particular county, the Secretary of State shall en-
25 sure:

26 (a) Each state voters' pamphlet mailed to residents of the county is translated in the
27 manner described in section 3 of this 2021 Act into the most commonly spoken language in
28 that county, other than English, as listed by the Secretary of State under subsection (1)(b)
29 of this section; and

30 (b) Each county voters' pamphlet mailed to residents of the county is translated in the
31 manner described in section 3 of this 2021 Act into the most commonly spoken language in
32 that county, other than English, as listed by the Secretary of State under subsection (1)(b)
33 of this section.

34 (5) The Secretary of State:

35 (a) May adopt any rules necessary to implement this section; and

36 (b) Is responsible for all costs necessary to comply with this section.

37 **SECTION 3.** (1) The translation of a state voters' pamphlet or county voters' pamphlet
38 required under section 2 of this 2021 Act shall be made in the manner described in this sec-
39 tion.

40 (2) For each state voters' pamphlet and county voters' pamphlet mailed to residents of
41 a county, the Secretary of State shall have the following portions of the voters' pamphlet
42 professionally translated into each language for which a translation is required under section
43 2 of this 2021 Act:

44 (a) Any official statement or communication made by the Secretary of State, county
45 clerk, filing office or other public elections official, including any information described in

1 **ORS 251.026 or 251.315 (1)(a) to (d) and (g) and any other information regarding services of-**
2 **fered by elections offices, how to cast a ballot and key dates for the election;**

3 **(b) The ballot title for each measure;**

4 **(c) The explanatory statement for each measure;**

5 **(d) The financial estimate for each measure and any statement prepared for a measure**
6 **under ORS 250.125;**

7 **(e) Any racial and ethnic impact statement prepared for a measure under ORS 137.685;**

8 **(f) Any statement submitted for a measure by a citizen panel under ORS 250.141; and**

9 **(g) Except an argument for a measure prepared by the Legislative Assembly under ORS**
10 **251.245, any other statement for a measure created by a public body as defined in ORS**
11 **174.109.**

12 **(3) In addition to the materials that the Secretary of State is required to have profes-**
13 **sionally translated under subsection (2) of this section, the Secretary of State shall allow to**
14 **be included in the translated version of each state voters' pamphlet that is made available**
15 **on the website of the Secretary of State or of a county under section 2 of this 2021 Act:**

16 **(a) Translations of a candidate statement submitted under ORS 251.065, provided that:**

17 **(A) The candidate is a candidate for federal or statewide office;**

18 **(B) The translation is filed by a candidate or the principal campaign committee of a**
19 **candidate described in subparagraph (A) of this paragraph;**

20 **(C) Neither the translation nor the candidate statement submitted under ORS 251.065 is**
21 **rejected under ORS 251.055;**

22 **(D) The candidate statement meets the requirements of a candidate statement set forth**
23 **in this chapter; and**

24 **(E) Any translation filed under this paragraph is in one of the five most commonly spo-**
25 **ken languages in this state, other than English, as listed by the Secretary of State under**
26 **section 2 of this 2021 Act.**

27 **(b) Translations of an argument in support of or in opposition to a state measure filed**
28 **under ORS 251.255, provided that:**

29 **(A) The translation is filed by the person who filed the argument in support of or in op-**
30 **position to a state measure under ORS 251.255;**

31 **(B) Neither the translation nor the argument in support of or in opposition to a state**
32 **measure filed under ORS 251.255 is rejected under ORS 251.055;**

33 **(C) The statement in support of or in opposition to a state measure meets the require-**
34 **ments of a statement in support of or in opposition to a state measure set forth in this**
35 **chapter; and**

36 **(D) Any translation filed under this paragraph is in one of the five most commonly spo-**
37 **ken languages in this state, other than English, as listed by the Secretary of State under**
38 **section 2 of this 2021 Act.**

39 **(c) Translations of any argument for a measure prepared by the Legislative Assembly**
40 **under ORS 251.245 submitted by the Legislative Assembly, provided that any translation filed**
41 **under this paragraph is in one of the five most commonly spoken languages in this state,**
42 **other than English, as listed by the Secretary of State under section 2 of this 2021 Act.**

43 **(4)(a) A translation that is permitted or required under this section is not required to**
44 **be identical in words to the original version but must be consistent with the meaning of the**
45 **original version.**

1 **(b) A translation is not subject to any limitations on the number of words allowed set**
2 **forth in this chapter.**

3 **(5) A county may at its own expense make or accept for publication on the county's**
4 **website, as part of a translated voters' pamphlet required under section 2 of this 2021 Act,**
5 **any portion of a state or county voters' pamphlet that is not described in this section.**

6 **(6) The Secretary of State:**

7 **(a) May adopt any rules necessary to implement this section; and**

8 **(b) Except as provided in subsection (5) of this section, is responsible for all costs nec-**
9 **essary to comply with this section.**

10 **(7) As used in this section, "statewide office" means Governor, Secretary of State, State**
11 **Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, or judge**
12 **on the Oregon Supreme Court, the Oregon Court of Appeals or the Oregon Tax Court.**

13 **SECTION 4.** ORS 251.026 is amended to read:

14 251.026. (1) The Secretary of State shall prepare and have printed in the voters' pamphlet for
15 the state primary election, the general election and any special election described in ORS 251.022
16 a statement containing, if applicable:

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

18 (b) When an elector is required to register or update a registration.

19 (c) In the voters' pamphlet for the primary election, a statement of the duties and responsibil-
20 ities of a precinct committeeperson to be elected at the primary election.

21 (d) Any other information the Secretary of State considers relevant to the conduct of the
22 election.

23 (2) The Secretary of State, **in cooperation with the county clerks**, shall include:

24 **(a) A statement on the cover of the voters' pamphlet that the pamphlet may be used to assist**
25 **electors in voting[.]; and**

26 **(b)(A) Statements in the information section of the voters' pamphlet on the pages im-**
27 **mediately following the page containing the Secretary of State letter, to the extent reason-**
28 **ably practicable, that, for residents of each county to which the voters' pamphlet is**
29 **distributed:**

30 **(i) Are written in English and the five additional common languages for the county listed**
31 **by the Secretary of State under section 2 of this 2021 Act;**

32 **(ii) Explain that an electronic copy of portions of the voters' pamphlet is publicly avail-**
33 **able in that language; and**

34 **(iii) Provide the website address to the translated voters' pamphlet.**

35 **(B) The statements required under subparagraph (A) of this paragraph must be written**
36 **so as to be clearly readable.**

37 **(C) The Secretary of State may adopt rules necessary to implement this paragraph.**

38 (3) The Secretary of State may include in the voters' pamphlet the following information:

39 (a) Maps showing the boundaries of senatorial and representative districts.

40 (b) Voter registration forms.

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

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

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

2 **SECTION 5.** ORS 251.055 is amended to read:

3 251.055. (1) The Secretary of State shall reject any statement, argument, **translation** or other
4 matter offered for filing and [printing] **publishing** in a voters’ pamphlet [which] **that:**

- 5 (a) Contains any obscene, profane or defamatory language;
- 6 (b) Incites or advocates hatred, abuse or violence toward any person or group; or
- 7 (c) Contains any language which may not legally be circulated through the mails.

8 (2) Nothing in this chapter shall make the author of any statement, [or] argument **or trans-**
9 **lation** exempt from any civil or criminal action because of any defamatory statements offered for
10 [printing] **publishing** or contained in the voters’ pamphlet. The persons writing, signing or offering
11 a statement, [or] argument **or translation** for filing shall be deemed its authors and publishers.

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

- 15 (a) Make reasonable attempts to notify the person of the rejection; and
- 16 (b) Allow the person, if notified pursuant to paragraph (a) of this subsection, to revise the
17 statement, **argument or translation** so that it does not violate the provisions of this section.

18 **SECTION 6.** ORS 251.315 is amended to read:

19 251.315. (1) If a county produces a county voters’ pamphlet, the county voters’ pamphlet shall
20 include, when applicable, at least the following information:

- 21 (a) Requirements for a citizen to qualify as an elector.
- 22 (b) Requirements for registration and updates of registration.
- 23 (c) Elector instructions, including the right of an elector to request a second ballot if the first
24 ballot is spoiled and the right of an elector to seek assistance in marking the ballot.
- 25 (d) The hours and locations of places designated under ORS 254.470 for deposit of official ballots.
- 26 (e) Any portraits and statements relating to candidates submitted in accordance with the pro-
27 visions of ORS 251.305 to 251.435.
- 28 (f) Any ballot titles, explanatory statements and arguments submitted in accordance with the
29 provisions of ORS 251.305 to 251.435.

30 **(g)(A) Statements in the information section of the voters’ pamphlet on the pages im-**
31 **mediately following the page containing the Secretary of State letter, to the extent reason-**
32 **ably practicable, that:**

- 33 **(i) Are written in English and the five additional common languages for the county listed**
34 **by the Secretary of State under section 2 of this 2021 Act;**
- 35 **(ii) Explain that an electronic copy of portions of the voters’ pamphlet is publicly avail-**
36 **able in that language; and**
- 37 **(iii) Provide the website address to the translated voters’ pamphlet.**

38 **(B) The statements required under subparagraph (A) of this paragraph must be written**
39 **so as to be clearly readable.**

40 **(C) The Secretary of State may adopt rules necessary to implement this paragraph.**

41 [(g)] **(h) Such other information as the county clerk considers to be appropriate or necessary to**
42 **inform the voters.**

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

45 (3)(a) The name of the county clerk or other filing officer may not appear in the county voters’

1 pamphlet in the county clerk's or filing officer's official capacity if the county clerk or filing officer
2 is a candidate in the election for which the voters' pamphlet is printed.

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

4 **SECTION 7. (1)(a) The Translation Advisory Council is established. The council shall**
5 **consist of five at-large members and at least one translator member for each of the five**
6 **most commonly spoken languages in this state, other than English, and for each language**
7 **in each county that the Secretary of State reasonably anticipates a voters' pamphlet at the**
8 **next election will be required to be translated into under section 2 of this 2021 Act. The**
9 **secretary may appoint more than one translator member for languages that are more com-**
10 **monly spoken throughout this state. Members shall be appointed by and serve at the pleas-**
11 **ure of the secretary.**

12 (b) The term of a member of the council is two years. A member may be reappointed
13 twice and may not serve more than a total of six years. Before the expiration of the term
14 of a member, the Secretary of State shall appoint a successor or reappoint the member. If
15 there is a vacancy for any cause, the secretary shall make an appointment to be immediately
16 effective.

17 (c) The Secretary of State shall ensure, to the extent practicable, that members ap-
18 pointed to the council are geographically diverse and reside in counties throughout this
19 state. Prior to appointing each translator member, the secretary shall confer with, and seek
20 recommendations from, the board of county commissioners for each county in which the
21 secretary reasonably anticipates a voters' pamphlet will be required to be translated into the
22 language for which the translator member is appointed.

23 (d) To qualify to be appointed as a translator member, a translator member must be
24 proficient in reading and writing in English and in the translated language for which the
25 translator member is appointed. A translator member may demonstrate proficiency by pro-
26 viding:

27 (A) Proof of being certified as an interpreter by a public body of this state for the
28 translated language;

29 (B) Proof of holding a bachelor's degree or higher in the translated language;

30 (C) At least one example of a written translation of the translated language that the
31 translator member conducted as part of the translator member's job duties or contracted
32 services; or

33 (D) Proof of volunteer experience in translating the translated language with a nonprofit
34 organization, educational institution, social service agency or public body.

35 (2)(a) Members of the council shall elect at least one chairperson of the council but may
36 elect two co-chairpersons of the council.

37 (b) A majority of the members of the council constitutes a quorum for the transaction
38 of business.

39 (c) The council shall meet at least once every calendar year. To the extent practicable,
40 the council shall meet by telephone or video conference but may meet in person.

41 (d) The members of the council are entitled to compensation and expenses in the manner
42 and amounts provided for in ORS 292.495.

43 (e) The Secretary of State shall provide clerical and other necessary support services to
44 the council.

45 (3) The Secretary of State shall consult with the council and to the maximum extent

1 **practicable implement recommendations for ensuring that a translation of a voters' pam-**
2 **phlet required under section 2 of this 2021 is:**

3 (a) **Conducted with professionalism and by a clear process with review;**

4 (b) **Culturally responsive and based in the context of a particular community being served**
5 **by the translation;**

6 (c) **As accurate in context and sentence structure as the original version; and**

7 (d) **Held to the same standards as, but not subject to a higher scrutiny than, the original**
8 **version.**

9 **SECTION 8. Notwithstanding the term of office specified by section 7 of this 2021 Act,**
10 **of the members first appointed to the Translation Advisory Council:**

11 (1) **Two of the at-large members shall serve an initial term of three years.**

12 (2) **Every other translator member that is appointed shall serve an initial term of three**
13 **years.**

14 **SECTION 9. Sections 2, 3 and 7 of this 2021 Act and the amendments to ORS 251.026,**
15 **251.055 and 251.315 by sections 4 to 6 of this 2021 Act apply to all voters' pamphlets distrib-**
16 **uted on or after June 30, 2022.**

17 **SECTION 10. This 2021 Act takes effect on the 91st day after the date on which the 2021**
18 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

19