

HB 3291-1
(LC 3274)
4/2/21 (DRG/ps)

Requested by Representative RAYFIELD

**PROPOSED AMENDMENTS TO
HOUSE BILL 3291**

1 In line 2 of the printed bill, after “elections” insert “; creating new pro-
2 visions; and amending ORS 171.185, 203.085, 221.230, 253.065, 253.070, 253.080,
3 253.585, 253.690, 254.408, 254.431, 254.458, 254.470, 254.478, 254.485, 254.529,
4 254.545, 254.546, 254.548, 254.555, 255.295, 255.345, 258.075 and 260.695.”.

5 Delete lines 4 through 11 and insert:

6 **“SECTION 1.** ORS 254.470 is amended to read:

7 “254.470. (1) The Secretary of State by rule shall establish requirements
8 and criteria for the designation of places of deposit for the ballots cast in
9 an election. The rules shall also specify the dates and times the places of
10 deposit must be open and the security requirements for the places of deposit.
11 At a minimum, the places designated under this section shall be open on the
12 date of the election for a period of eight or more hours, but must be open
13 until at least 8 p.m. At each place of deposit designated under this section,
14 the county clerk shall prominently display a sign stating that the location
15 is an official ballot drop site.

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

1 “(b) If the county clerk determines that an active elector of the electoral
2 district as of the 21st day before the date of the election does not receive
3 daily mail service from the United States Postal Service, the county clerk
4 shall mail by nonforwardable mail an official ballot with a return identifi-
5 cation envelope and a secrecy envelope to the elector not sooner than the
6 20th day before the date of an election and not later than the 18th day before
7 the date of the election.

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

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

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

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

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

29 “(d) If the primary election ballot includes city, county or nonpartisan
30 offices or measures, the county clerk shall mail to each elector who is not

1 eligible to vote for party candidates a ballot limited to those offices and
2 measures for which the elector is eligible to vote.

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

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

10 “
11 _____
12 “Any person who, by use of force or other means, unduly influences an
13 elector to vote in any particular manner or to refrain from voting is subject
14 to a fine.

15 “
16 _____
17 “(6)(a) Upon receipt of any ballot described in this section, the elector
18 shall mark the ballot, sign the return identification envelope supplied with
19 the ballot and comply with the instructions provided with the ballot.

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

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

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

29 “(e) [A] **If the elector deposits the ballot at the office of the county**
30 **clerk, at any place of deposit designated by the county clerk or at any**
location described in ORS 254.472 or 254.474, the ballot must be received
at the office of the county clerk, at the designated place of deposit or at any

1 location described in ORS 254.472 or 254.474 not later than the end of the
2 period determined under subsection (1) of this section on the date of the
3 election. **If the elector returns the ballot by mail:**

4 **“(A) The ballot must be received at the office of the county clerk**
5 **not later than the end of the period determined under subsection (1)**
6 **of this section on the date of the election; or**

7 **“(B) The ballot must:**

8 **“(i) Have a postal indicator showing that the ballot was mailed not**
9 **later than the date of the election; and**

10 **“(ii) Be received at the office of the county clerk not later than**
11 **seven calendar days after the date of the election.**

12 **“(f) If a county clerk receives a marked ballot for an elector who**
13 **does not reside in the clerk’s county, the ballot shall be forwarded to**
14 **the county clerk of the county in which the elector resides not later**
15 **than the eighth day after the election.**

16 **“(7) The following shall appear on the return identification envel-**
17 **ope:**

18 **“(a) Space for the elector to sign the envelope.**

19 **“(b) A notice designed by rule by the Secretary of State, in consul-**
20 **tation with the county clerks, explaining that by signing the ballot the**
21 **elector is attesting under penalty of perjury that the ballot was mailed**
22 **no later than the date of the election.**

23 **“(c) A summary of the applicable penalties for knowingly making**
24 **a false statement, oath or affidavit under the election laws.**

25 **“(8) If the elector returns the ballot by mail, and a postal indicator**
26 **is not present or legible, the ballot shall be considered to be mailed**
27 **on the date of the election and may be counted if the ballot is received**
28 **no later than seven calendar days after the election.**

29 **“[(7)] (9) An elector may obtain a replacement ballot if the ballot is de-**
30 **stroyed, spoiled, lost or not received by the elector. Replacement ballots**

1 shall be issued and processed as described in this section and ORS 254.480.
2 The county clerk shall keep a record of each replacement ballot provided
3 under this subsection. Notwithstanding any deadline for mailing ballots in
4 subsection (2) of this section, a replacement ballot may be mailed, made
5 available in the office of the county clerk or made available at one central
6 location in the electoral district in which the election is conducted. The
7 county clerk shall designate the central location. A replacement ballot need
8 not be mailed after the fifth day before the date of the election.

9 “[8] **(10)** A ballot shall be counted only if:

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

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

13 “(c) The signature is verified as provided in subsection [(9)] **(11)** of this
14 section.

15 “[9] **(11)** The county clerk shall verify the signature of each elector on
16 the return identification envelope with the signature on the elector’s regis-
17 tration record, according to the procedure provided by rules adopted by the
18 Secretary of State. If the county clerk determines that an elector to whom
19 a replacement ballot has been issued has voted more than once, the county
20 clerk shall count only one ballot cast by that elector.

21 “[10] **(12)** At 8 p.m. on election day, electors who are at the county
22 clerk’s office, a place of deposit designated under subsection (1) of this sec-
23 tion or any location described in ORS 254.472 or 254.474 and who are in line
24 waiting to vote or deposit a voted ballot shall be considered to have begun
25 the act of voting.

26 “[11)(a)(A)] **(13)(a)(A)** Except as provided in subparagraph (B) of this
27 paragraph, the name of the Secretary of State may not appear in the
28 secretary’s official capacity on the return identification envelope, secrecy
29 envelope or on any instructions or materials included with the ballot if the
30 secretary is a candidate in the election for which the ballot is printed.

1 “(B) This paragraph does not prohibit the name of the Secretary of State
2 from appearing in the secretary’s official capacity in the voters’ pamphlet.

3 “(b) The name of the county clerk or other filing officer may not appear
4 in the official capacity of the county clerk or filing officer on the return
5 identification envelope, secrecy envelope or on any instructions or materials
6 included with the ballot if the county clerk or filing officer is a candidate
7 in the election for which the ballot is printed.

8 “(c) As used in this subsection, ‘filing officer’ has the meaning given that
9 term in ORS 254.165.

10 **“(14) As used in this section, ‘postal indicator’ means a postmark
11 or other indicator on a mailed ballot, identified by the Secretary of
12 State by rule, that demonstrates the date or time at which a ballot
13 was mailed.**

14 **“SECTION 2.** ORS 253.065 is amended to read:

15 “253.065. (1) For electors with mailing addresses outside this state, the
16 county clerk shall deliver a ballot:

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

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

22 “(2) The clerk shall deliver with the ballot instructions for marking and
23 returning the ballot, a return identification envelope and a secrecy envelope.
24 The [*back of the envelope shall include*] **return identification envelope
25 must contain:**

26 **“(a) Space for the elector to sign the envelope.**

27 **“(b) A notice designed by rule by the Secretary of State, in consul-
28 tation with the county clerks, explaining that by signing the ballot the
29 elector is attesting under penalty of perjury that the ballot was mailed
30 no later than the date of the election.**

1 **“(c) A summary of the applicable penalties for knowingly making**
2 **a false statement, oath or affidavit under the election laws.**

3 **“(d) A statement to be signed by the absent elector, stating that the**
4 **elector:**

5 **“[(a)] (A) Is qualified to vote;**

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

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

10 **“(3) An absent elector may obtain a replacement ballot if the ballot de-**
11 **livered under this section is destroyed, spoiled, lost or not received by the**
12 **elector. The county clerk shall keep a record of each replacement ballot**
13 **provided under this subsection.**

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

16 **“(5) If the county clerk determines that an absent elector to whom a re-**
17 **placement ballot has been issued at the request of the elector has voted more**
18 **than once, the county clerk shall count only the first ballot received by the**
19 **clerk and provide the elector’s name to the Secretary of State for further**
20 **review. If the county clerk is required to reissue ballots due to a change on**
21 **the ballot for any reason, that ballot shall be counted in lieu of any previous**
22 **ballot issued unless:**

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

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

26 **“SECTION 3. ORS 253.070 is amended to read:**

27 **“253.070. [A ballot from an absent elector must be received by a county clerk**
28 **not later than 8 p.m. of the day of the election.]**

29 **“(1) Upon receipt of a ballot the absent elector shall mark it and**
30 **comply with the instructions provided with the ballot. The absent**

1 elector may return the marked ballot to the office of the clerk, by any
2 appropriate means.

3 “(2) If the absent elector returns the marked ballot by any means
4 other than by mail, the ballot must be received by a county clerk not
5 later than 8 p.m. of the day of the election.

6 “(3) If the absent elector returns the marked ballot by mail:

7 “(a) The ballot must be received by a county clerk not later than 8
8 p.m. on the day of the election; or

9 “(b) The ballot must:

10 “(A) Have a postal indicator showing that the ballot was mailed not
11 later than the date of the election; and

12 “(B) Be received at the office of the county clerk not later than
13 seven calendar days after the date of the election.

14 “(4) If the elector returns the ballot by mail, and a postal indicator
15 is not present or legible, the ballot shall be considered to be mailed
16 on the date of the election and may be counted if the ballot is received
17 no later than seven calendar days after the election.

18 “(5) If a county clerk receives a marked ballot for an elector who
19 does not reside in the clerk’s county, the ballot shall be forwarded to
20 the county clerk of the county in which the elector resides not later
21 than the eighth day after the election.

22 “(6) As used in this section, ‘postal indicator’ has the meaning
23 given that term in ORS 254.470.

24 “**SECTION 4.** ORS 254.485 is amended to read:

25 “254.485. (1) Ballots may be tallied by a vote tally system or by a counting
26 board. A counting board may tally ballots at the precinct or in the office of
27 the county clerk. In any event, the ballots shall be tallied and returned by
28 precinct.

29 “(2) If a vote tally system is used, the county clerk shall repeat the public
30 certification test described under ORS 254.235 (1). The test shall be con-

1 ducted immediately prior to scanning any ballots. The test may be observed
2 by persons described in ORS 254.235 (2). The county clerk shall certify the
3 results of the test.

4 “(3) If a counting board has been appointed, the tally of ballots may begin
5 on the date of the election.

6 “(4)(a) If ballots are tallied by a counting board, after the tally has begun
7 it shall continue until completed. Except as provided in paragraph (b) of this
8 subsection, a counting board shall tally without adjournment and in the
9 presence of the clerks and persons authorized to attend.

10 “(b) A counting board may be relieved by another board if the tally is not
11 completed after 12 hours.

12 “(5) A counting board shall audibly announce the tally as it proceeds. The
13 board shall use only pen and ink to tally.

14 “(6) For ballots cast using a voting machine, the county clerk shall:

15 “(a) Enter the ballots cast using the machine into the vote tally system;
16 and

17 “(b) In the event of a recount, provide the paper record copy recorded by
18 the machine to the counting board.

19 “(7) A person other than the county clerk, a member of a counting board
20 or any other elections official designated by the county clerk may not tally
21 ballots under this chapter.

22 “(8) **The Secretary of State shall by rule establish a procedure for**
23 **announcing the status of the tally of the ballots received after the date**
24 **of the election. Rules adopted under this subsection must:**

25 “(a) **Consider the number of ballots being released in relation to the**
26 **size of the district;**

27 “(b) **Prioritize voter anonymity; and**

28 “(c) **After prioritizing voter anonymity under paragraph (b) of this**
29 **subsection, prioritize the importance of timely reporting election re-**
30 **sults.**

1 **“SECTION 5.** ORS 254.545 is amended to read:

2 “254.545. Subject to ORS 254.548, the county clerk:

3 “(1) As soon as possible after any election, shall prepare abstracts of
4 votes. The abstract for election of Governor shall be on a sheet separate from
5 the abstracts for other offices and measures.

6 “(2) On completion of the abstracts, shall record a complete summary of
7 votes cast in the county for each office, candidate for office and measure.
8 The county clerk shall sign and certify this record.

9 “(3) Not later than the [20th] **27th** day after the election, shall deliver a
10 copy of the abstracts for other than county offices to the appropriate
11 elections officials. The abstract for election of Governor shall be delivered
12 separately to the Secretary of State as provided in [section 4,] Article V,
13 **section 4, of the Oregon Constitution.**

14 “(4) Not later than the [30th] **35th** day after the election, shall proclaim
15 which county measure is paramount, if two or more approved county meas-
16 ures contain conflicting provisions.

17 “(5) Shall prepare and deliver a certificate of nomination or election to
18 each candidate having the most votes for nomination for or election to
19 county or precinct offices.

20 “(6) Shall prepare, and file with the county governing body, a certificate
21 stating the compensation to which the board clerks are entitled. The county
22 governing body shall order the compensation paid by county funds.

23 “(7) As soon as possible after any election, shall send electronically the
24 results of the election in each precinct to the Secretary of State.

25 **“SECTION 6.** ORS 254.546 is amended to read:

26 “254.546. (1) In the case of a recall election held on a date other than the
27 date of the primary election or general election, the county clerk shall pre-
28 pare an abstract of the votes and deliver it to the elections official author-
29 ized to order the recall election not later than the [20th] **27th** day after the
30 election.

1 “(2) Except as provided in subsection (3) of this section, for purposes of
2 [section 18,] Article II, **section 18, of the** Oregon Constitution, the result
3 of the recall election referred to in subsection (1) of this section shall be
4 considered officially declared on the date the abstract of the votes is deliv-
5 ered.

6 “(3) If the elections official authorized to order the recall election is the
7 Secretary of State, the Secretary of State shall officially declare the result
8 of the election not later than the [30th] **35th** day after the election.

9 **“SECTION 7.** ORS 254.555 is amended to read:

10 “254.555. (1) Except as provided in ORS 254.548, not later than the [30th]
11 **35th** day after any election, the Secretary of State, regarding offices for
12 which the secretary receives filings for nomination, shall:

13 “(a) Canvass the votes for the offices, except the office of Governor after
14 the general election.

15 “(b) Enter in a register of nominations after the primary election the
16 name and, if applicable, major political party of each candidate nominated,
17 the office for which the candidate is nominated and the date of entry.

18 “(c) Prepare and deliver a certificate of nomination or election to each
19 candidate having the most votes for nomination for or election to the office.
20 The Secretary of State shall sign the certificate under the seal of the state.

21 “(d) Issue a proclamation declaring the election of candidates to the of-
22 fices.

23 “(2) Not later than the [30th] **35th** day after the election:

24 “(a) The Secretary of State, regarding measures for which the secretary
25 is the filing officer, shall canvass the votes for each measure.

26 “(b) The Governor shall issue a proclamation giving the number of votes
27 cast for or against each such measure, and declaring the approved measures
28 as the law on the effective date of the measure. If two or more approved
29 measures contain conflicting provisions, the Governor shall proclaim which
30 is paramount.

1 **“SECTION 8.** ORS 254.529 is amended to read:

2 “254.529. (1) At each primary election, general election and special
3 election, the county clerk shall make a determination on whether to conduct:

4 “(a) A hand count of ballots as described in this section and compare the
5 tally of votes for those ballots produced by a vote tally system with the tally
6 of votes for those ballots produced by the hand count; or

7 “(b) A risk-limiting audit in the manner described in ORS 254.532.

8 “(2) If the county clerk determines that a hand count will be conducted:

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

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

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

29 “(3) If the county clerk determines that a hand count will be conducted,
30 the county clerk shall conduct a hand count of ballots cast in the election

1 contest between the two candidates receiving the largest number of votes in
2 the county, an election contest for an office to be voted on in the state at
3 large and, if possible, an election contest for a state measure. The Secretary
4 of State shall select the precincts or batches at random. At the election:

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

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

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

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

13 “(C) Three percent of the total number of ballots cast in the election for
14 a hand count required under subsection (2)(c) of this section.

15 “(4) Not later than 5 p.m. of the 15th business day after the date of the
16 election, the Secretary of State shall in writing advise the county clerks who
17 made a determination that a hand count will be conducted of:

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

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

20 “(5) A county clerk shall begin the hand counts under this section not
21 later than the [23rd] **27th** day after the election and complete the hand
22 counts not later than the [30th] **35th** day after the election. The results of
23 the hand counts shall be provided to the Secretary of State, who shall make
24 the results publicly available on the Secretary of State’s website.

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

30 “(7)(a) If a hand count conducted under this section results in a tally of

1 votes for a candidate or measure that is different from the tally of votes
2 produced by the vote tally system for that candidate or measure, and the
3 difference for each race is equal to or less than one-half of one percent, the
4 tally of votes produced by the vote tally system is the official tally of votes
5 for that vote tally system.

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

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

17 “(d) If the second hand count conducted under this subsection results in
18 a tally of votes for a candidate or measure that is different from the tally
19 of votes produced by the vote tally system for that candidate or measure, and
20 the difference in any race is greater than one-half of one percent, the county
21 clerk shall conduct a hand count of all ballots counted by that vote tally
22 system. The hand count is the official tally of votes for that vote tally sys-
23 tem. If the hand count is the official tally of votes, not later than the
24 [30th] **35th** day after the election, the county clerk shall certify amended
25 abstracts of votes to appropriate elections officials.

26 “(8) For purposes of conducting the hand counts under this section, the
27 county clerk shall:

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

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

1 “(9) This section does not apply:

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

4 “(b) If federal law requires a post-election hand count of ballots at the
5 primary election, general election or special election to verify election re-
6 sults and the Secretary of State determines that the requirements of federal
7 law are at least as stringent as the requirements of subsections (1) to (8) of
8 this section.

9 **“SECTION 9.** ORS 254.548 is amended to read:

10 “254.548. (1) An individual nominated or elected to a public office by
11 write-in votes shall sign and file a form indicating that the individual ac-
12 cepts the nomination or office before the filing officer may issue a certificate
13 of nomination or election. The Secretary of State by rule shall prescribe the
14 form to be used under this section.

15 “(2) In the case of an individual nominated or elected by write-in votes
16 to a public office:

17 “(a) Not later than the [31st] **35th** day after the election, the filing officer
18 shall:

19 “(A) Prepare and deliver by regular mail the form described in subsection
20 (1) of this section to the individual; and

21 “(B) If the filing officer has the electronic mail address of the individual,
22 prepare and deliver by electronic mail the form described in subsection (1)
23 of this section to the individual;

24 “(b) Not later than the 41st day after the election, if the individual ac-
25 cepts the nomination or office, the individual shall sign and file the form
26 with the filing officer; and

27 “(c) Not later than the 45th day after the election, if the individual files
28 the form by the deadline specified in paragraph (b) of this subsection, the
29 filing officer shall prepare and deliver a certificate of nomination or election
30 to the individual and, if applicable, issue a proclamation declaring the

1 election of the candidate to the office.

2 **“SECTION 10.** ORS 255.295 is amended to read:

3 “255.295. (1) Not later than the [20th] **27th** day after the date of an
4 election, the elections officer shall prepare an abstract of the votes and de-
5 liver it to the district elections authority. Not later than the 45th day after
6 the date of an election, the district elections authority shall determine from
7 it the result of the election.

8 “(2) Subject to ORS 254.548, the elections officer may issue a certificate
9 of election only after the district elections authority has notified the
10 elections officer in writing of the result of the election.

11 **“SECTION 11.** ORS 253.690 is amended to read:

12 “253.690. (1) A military or overseas elector described in ORS 253.510 may
13 cast a ballot using a facsimile machine or by electronic mail as provided in
14 this section. Notwithstanding ORS 254.470 [(8)] **(10)**, a ballot cast under this
15 section shall be counted only if the ballot:

16 “(a) Is received in the office of the county clerk not later than 8 p.m. on
17 the day of the election;

18 “(b) Is accompanied by a return identification envelope containing the
19 signature of the elector and a signed waiver described in subsection (2) of
20 this section; and

21 “(c) The signature is verified as provided in subsection (4) of this section.

22 “(2) Each elector who casts a ballot under this section shall complete and
23 submit a waiver described in this subsection. The elector shall attest to the
24 information supplied on the waiver by signing the completed waiver. The
25 Secretary of State by rule shall design the form of the waiver, which shall
26 include all of the following:

27 “(a) Space for the elector to provide the elector’s full name, residence or
28 mailing address, an electronic mail address, phone or facsimile number where
29 the elector may be contacted and any other necessary information.

30 “(b) A waiver in substantially the following form:

1 “ _____
2 I, _____, acknowledge that by casting my voted ballot using a
3 facsimile machine or by electronic mail I have waived my right to a secret
4 ballot.

5 “ _____
6 “(c) A statement to notify the elector that the elector’s ballot will not be
7 counted unless the elector has complied with the provisions of this section.

8 “(d) Space for the elector to provide the elector’s signature to attest to
9 the information supplied.

10 “(3)(a) If a ballot is cast under this section using a facsimile machine, the
11 return identification envelope and waiver shall also be submitted using a
12 facsimile machine.

13 “(b) If a ballot is cast under this section by electronic mail, the return
14 identification envelope and waiver shall also be submitted by electronic mail.

15 “(4) The county clerk shall verify the signature of each elector on the
16 return identification envelope transmitted by facsimile machine or electronic
17 mail under this section with the signature on the elector’s registration re-
18 cord, according to the procedure provided by rules adopted by the Secretary
19 of State.

20 “(5) The Secretary of State shall adopt rules to administer this section
21 and to ensure the secrecy of ballots cast using a facsimile machine or by
22 electronic mail to the greatest extent possible.

23 **“SECTION 12. ORS 260.695 is amended to read:**

24 “260.695. (1)(a) If a person prints or circulates an imitation of the ballot
25 or sample ballot:

26 “(A) The imitation ballot or sample ballot and the back of any return
27 envelope enclosed with the ballot or sample ballot shall state the following:
28 ‘THIS IS NOT A REAL BALLOT. DO NOT USE TO VOTE.’ The statement
29 on the imitation ballot or sample ballot shall be in bold print that is at least
30 two times as large as the majority of the text on the ballot or sample ballot

1 or 20-point type, whichever is larger. The statement on the back of a return
2 envelope shall be in bold print that is at least 36-point type.

3 “(B) The word ‘UNOFFICIAL’ must be superimposed on the imitation
4 ballot or sample ballot so that the word extends diagonally across the ballot
5 from one margin of the text to the other. The superimposed word may be
6 printed in lighter ink than other text on the ballot or sample ballot.

7 “(b) For purposes of this subsection, an imitation of the ballot or sample
8 ballot includes an imitation of a portion of the ballot or sample ballot.

9 “(2) A person may not do any electioneering, including circulating any
10 cards or handbills, or soliciting of signatures to any petition, within any
11 building in which any state or local government elections office designated
12 for the deposit of ballots under ORS 254.470 is located, or within 100 feet
13 measured radially from any entrance to the building. A person may not do
14 any electioneering by public address system located more than 100 feet from
15 an entrance to the building if the person is capable of being understood
16 within 100 feet of the building. The electioneering need not relate to the
17 election being conducted. This subsection applies during the business hours
18 of the building or, if the building is a county elections office, during the
19 hours the office is open to the public, during the period beginning on the
20 date that ballots are mailed to electors as provided in ORS 254.470 and end-
21 ing on election day at 8 p.m. or when all persons waiting in line at the
22 building who began the act of voting as described in ORS 254.470 [(10)] **(12)**
23 by 8 p.m. have finished voting.

24 “(3) A person may not obstruct an entrance of a building in which ballots
25 are issued or a place designated for the deposit of ballots under ORS 254.470
26 or any voting booth maintained under ORS 254.474 is located. This sub-
27 section applies during the period beginning on the date that ballots are
28 mailed to electors as provided in ORS 254.470 and ending on election day at
29 8 p.m. or when all persons waiting in line at the building or location who
30 began the act of voting as described in ORS 254.470 [(10)] **(12)** by 8 p.m. have

1 finished voting.

2 “(4) A person may not vote or offer to vote in any election knowing the
3 person is not entitled to vote.

4 “(5) A person may not make a false statement about the person’s inability
5 to mark a ballot.

6 “(6) A person, except an elections official in performance of duties or
7 another person providing assistance to an elector as described in ORS
8 254.445, may not ask a person at any place designated for the deposit of
9 ballots under ORS 254.470 or at any location described in ORS 254.472 or
10 254.474 for whom that person intends to vote, or examine or attempt to ex-
11 amine the person’s ballot.

12 “(7) An elections official, other than in the performance of duties, may
13 not disclose to any person any information by which it can be ascertained
14 for whom any elector has voted.

15 “(8) A person, except an elections official in performance of duties, may
16 not do anything to a ballot to permit identification of the person who voted.

17 “(9) An elector may not willfully leave at any place designated for the
18 deposit of ballots under ORS 254.470 or at any location described in ORS
19 254.472 or 254.474 anything that will show how the elector’s ballot was
20 marked.

21 “(10) A person, except an elections official in performance of duties, may
22 not remove a ballot from any place designated for the deposit of ballots un-
23 der ORS 254.470 or any location described in ORS 254.472 or 254.474.

24 “(11) A person, except an elections official in performance of duties or a
25 person authorized by that official, may not willfully deface, remove, alter or
26 destroy a posted election notice.

27 “(12) A person, except an elections official in performance of duties, may
28 not willfully remove, alter or destroy election equipment or supplies, or
29 break the seal or open any sealed package containing election supplies.

30 “(13) A person, except an elections official in performance of duties, may

1 not provide elections advice or attempt to collect voted ballots within any
2 building in which any state or local government elections office designated
3 for the deposit of ballots under ORS 254.470 is located, or within 100 feet
4 measured radially from any entrance to the building.

5 “(14) A person, except an elections official in performance of duties, may
6 not establish a location to collect ballots voted by electors unless:

7 “(a) The person prominently displays at the location a sign stating: ‘NOT
8 AN OFFICIAL BALLOT DROP SITE’; and

9 “(b) The sign is printed in all capital letters in bold 50-point type.

10 **“SECTION 13.** ORS 254.408 is amended to read:

11 “254.408. (1) A person offering to vote and who claims to be an elector,
12 but for whom no evidence of active or inactive registration can be found,
13 shall be granted the right to vote in the manner provided in this section.

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

17 “(3) An elector voting under this section shall complete and sign a reg-
18 istration card.

19 “(4)(a) The elector shall insert the ballot into a small envelope provided
20 by the county clerk and then insert the small envelope into a larger envel-
21 ope. The larger envelope shall be delivered to the county clerk and shall be
22 segregated and not counted until the registration of the elector is verified
23 under this section.

24 “(b) An envelope provided under this subsection must comply with the
25 prohibitions set forth in ORS 254.470 [(11)] (13).

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

30 “(6) A vote shall be counted only if the elector is qualified to vote for the

1 particular office or on the measure.

2 **“SECTION 14.** ORS 254.458 is amended to read:

3 “254.458. (1) Notwithstanding any provision of ORS 254.470:

4 “(a) A county clerk may apply to the Secretary of State for approval of
5 any procedure to be used in lieu of the **return identification** envelope pro-
6 cedures described in ORS 254.470; and

7 “(b) Upon receiving an application under paragraph (a) of this subsection,
8 the secretary may approve a procedure to be used in lieu of the **return**
9 **identification** envelope procedures described in ORS 254.470 if the secretary
10 determines that the procedure will provide substantially the same degree of
11 secrecy as ORS 254.470.

12 “(2) A procedure approved by the secretary under this section must com-
13 ply with the prohibitions set forth in ORS 254.470 [(11)] **(13)**.

14 **“SECTION 15.** ORS 253.585 is amended to read:

15 “253.585. (1) The Secretary of State may receive ballots from military or
16 overseas electors.

17 “(2) If the Secretary of State receives a ballot cast by a military or
18 overseas elector, the Secretary of State shall deliver the ballot to the county
19 clerk or elections officer of the county in which the elector who cast the
20 ballot is registered.

21 “(3) A ballot received by the Secretary of State under this section [*not*
22 *later than 8 p.m. of the day of the election*] shall be considered to have been
23 received by the county clerk as described in ORS 253.070[.] **if:**

24 **“(a) The Secretary of State receives the ballot not later than 8 p.m.**
25 **on the day of the election; or**

26 **“(b) The ballot:**

27 **“(A) Has a postal indicator showing that the ballot was mailed not**
28 **later than the date of the election; and**

29 **“(B) Is received by the Secretary of State not later than seven cal-**
30 **endar days after the date of the election.**

1 “(4) If a military or overseas elector returns the ballot by mail, and
2 a postal indicator is not present or legible, the ballot shall be consid-
3 ered to be mailed on the date of the election and may be counted if
4 the ballot is received no later than seven calendar days after the
5 election.

6 “(5) As used in this section ‘postal indicator’ has the meaning given
7 that term in ORS 254.470.

8 “SECTION 16. ORS 254.431 is amended to read:

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

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

23 “(b) If the elector does not provide evidence sufficient to disprove a
24 challenge alleging that the signature of the elector on a return identification
25 envelope does not match the signature in the voter registration record for
26 the elector by the [14th] **21st** calendar day after the date of the election, the
27 registration of the elector shall be considered inactive.

28 “(3)(a) The filing officer may not release as a public record any informa-
29 tion that could be used to identify an elector whose ballot has been chal-
30 lenged under this section until the [eighth] **15th** calendar day after the date

1 of an election.

2 “(b) Following the [*seventh*] **14th** calendar day after the date of an
3 election, the filing officer may disclose as a public record under ORS 192.311
4 to 192.478 the following information about each elector whose ballot was
5 challenged under this section:

6 “(A) The name of the elector;

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

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

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

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

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

13 **“SECTION 17.** ORS 171.185 is amended to read:

14 “171.185. (1) Except as provided in subsection (2) of this section, an
15 election called by the Legislative Assembly shall be held only on:

16 “(a) The second Tuesday in March;

17 “(b) The third Tuesday in May;

18 “(c) The [*third*] **fourth** Tuesday in [*September*] **August**; or

19 “(d) The first Tuesday after the first Monday in November.

20 “(2) An election may be held on a date other than that provided in sub-
21 section (1) of this section, if the Legislative Assembly by resolution or Act
22 finds that an election sooner than the next available election date is required
23 on a measure to finance repairs to property damaged by fire, vandalism or
24 a natural disaster.

25 **“SECTION 18.** ORS 203.085 is amended to read:

26 “203.085. (1) Except as provided in subsection (3) of this section, no
27 election on a county measure referred by the county governing body or for
28 a county office shall be held on any date other than:

29 “(a) The second Tuesday in March;

30 “(b) The third Tuesday in May;

1 “(c) The [*third*] **fourth** Tuesday in [*September*] **August**; or

2 “(d) The first Tuesday after the first Monday in November.

3 “(2) Except as provided in subsection (3) of this section, no election on
4 a county measure other than a county measure referred by the county gov-
5 erning body shall be held on any date other than:

6 “(a) The third Tuesday in May; or

7 “(b) The first Tuesday after the first Monday in November.

8 “(3) An emergency election may be held on a date other than those pro-
9 vided in subsection (1) or (2) of this section if the county governing body by
10 resolution finds that an emergency exists that will require an election sooner
11 than the next available election date to avoid extraordinary hardship to the
12 community. A determination under this subsection as to whether an emer-
13 gency exists is within the sole discretion of the county governing body.

14 “(4) A county governing body, with adequate notice, shall hold a public
15 hearing, on a date other than a regularly scheduled meeting, for the purpose
16 of making findings substantiating the fact that an emergency exists before
17 scheduling an election on a date other than those specified in subsection (1)
18 or (2) of this section.

19 “(5) Notice of a county’s intent to hold an emergency election shall be
20 filed with the county elections authority no later than 47 days preceding the
21 desired election date. At the time the notice of election is given to the
22 county elections authority, the county shall also file with the elections au-
23 thority a certified copy of the ballot title and a copy of the resolution and
24 findings adopted by the county governing body to authorize the emergency
25 election as required under subsection (4) of this section.

26 “**SECTION 19.** ORS 221.230 is amended to read:

27 “221.230. (1) Except as provided in subsection (3) of this section, no
28 election on a city measure referred by the city governing body or for a city
29 office shall be held on any date other than:

30 “(a) The second Tuesday in March;

1 “(b) The third Tuesday in May;

2 “(c) The [*third*] **fourth** Tuesday in [*September*] **August**; or

3 “(d) The first Tuesday after the first Monday in November.

4 “(2) Except as provided in subsection (3) of this section, no election on
5 a city measure other than a city measure referred by the city governing body
6 shall be held on any date other than:

7 “(a) The third Tuesday in May; or

8 “(b) The first Tuesday after the first Monday in November.

9 “(3) An emergency election may be held on a date other than those pro-
10 vided in subsection (1) or (2) of this section if the city governing body by
11 resolution finds that an emergency exists that will require an election sooner
12 than the next available election date to avoid extraordinary hardship to the
13 community. A determination under this subsection as to whether an emer-
14 gency exists is within the sole discretion of the city governing body.

15 “(4) A city governing body, with adequate notice, shall hold a public
16 hearing, on a date other than a regularly scheduled council meeting, for the
17 purpose of making findings substantiating the fact that an emergency exists
18 before scheduling an election on a date other than those specified in sub-
19 section (1) or (2) of this section.

20 “(5) Notice of a city’s intent to hold an emergency election shall be filed
21 with the county elections authority no later than 47 days preceding the de-
22 sired election date. At the time the notice of election is given to the county
23 elections authority, the city shall also file with the elections authority a
24 certified copy of the ballot title and a copy of the resolution and findings
25 adopted by the city governing body to authorize the emergency election as
26 required under subsection (4) of this section.

27 **“SECTION 20.** ORS 255.345 is amended to read:

28 “255.345. (1) Except as provided in subsection (2) of this section, a special
29 election called by a district elections authority shall not be held on any date
30 other than:

1 “(a) The second Tuesday in March;

2 “(b) The third Tuesday in May;

3 “(c) The [*third*] **fourth** Tuesday in [*September*] **August**; or

4 “(d) The first Tuesday after the first Monday in November.

5 “(2) A special election may be held on a date other than that provided in
6 subsection (1) of this section, if the district elections authority by resolution
7 finds that an election sooner than the next available election date is required
8 on a measure to finance repairs to property damaged by fire, vandalism or
9 a natural disaster.

10 “(3) As used in this section, ‘district elections authority’ means the body
11 or officer authorized or required to call an election for a public corporation
12 formed under, and deriving its powers solely from, the statutes of this state,
13 but does not include a city or county.

14 **“SECTION 21.** ORS 258.075 is amended to read:

15 “258.075. (1) Except as provided in subsection (4) of this section, after the
16 contest hearing, the circuit court shall render a judgment affirming or set-
17 ting aside the approval or rejection of the measure.

18 “(2) If the judgment sets aside the approval or rejection of a measure, the
19 circuit court shall direct the measure to be resubmitted at a special election
20 held on one of the dates specified in this subsection, as set by the court. In
21 setting the election date, the court shall provide sufficient time for adequate
22 notice to be given. The special election may be held on any of the following
23 dates:

24 “(a) The second Tuesday in March;

25 “(b) The third Tuesday in May;

26 “(c) The [*third*] **fourth** Tuesday in [*September*] **August**; or

27 “(d) The first Tuesday after the first Monday in November.

28 “(3) The county of the county clerk or the local elections official who
29 committed the error in the distribution of the official ballots shall bear the
30 cost of the special election.

1 “(4) In a contest under ORS 258.016 (7), the court shall determine whether
2 the challenge to the determination of the number of electors who were eli-
3 gible on election day to participate in the election on a measure conducted
4 under [section 11 (8),] Article XI, **section 11 (8)**, of the Oregon Constitution,
5 is valid. In making the determination, the court shall rely on the provisions
6 of ORS chapter 247 and shall receive testimony from the county clerk re-
7 garding the clerk’s administration of ORS chapter 247. If, after a contest
8 hearing, the court determines that the challenge to the determination of the
9 number of electors who were eligible to participate is valid and that the
10 change in the number of electors eligible to participate is sufficient to
11 change the outcome of the election on the measure, the court shall order the
12 county clerk to make a new determination of the number of eligible electors
13 and to certify the results of the election based on the new determination.

14 **“SECTION 22.** 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*], **upon receipt of ballots**, 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*].

24 **“SECTION 23.** ORS 253.080 is amended to read:

25 “253.080. (1) Upon receipt of an envelope containing a marked ballot from
26 an absent elector, the clerk shall keep it safely in the office and, before de-
27 livering the ballot for counting, shall compare the signature of the absent
28 elector that appears on [*the back of*] the ballot envelope with that upon the
29 elector’s registration record.

30 “(2) Except as otherwise provided in this chapter, ballots for absent

1 electors shall be counted and returns shall be made, as nearly as possible,
2 in the same manner as for other ballots cast at the election.

3 **“SECTION 24. The amendments to ORS 171.185, 203.085, 221.230,**
4 **253.065, 253.070, 253.080, 253.585, 253.690, 254.408, 254.431, 254.458, 254.470,**
5 **254.485, 254.529, 254.478, 254.545, 254.546, 254.548, 254.555, 255.295, 255.345,**
6 **258.075 and 260.695 by sections 1 to 23 of this 2021 Act apply to elections**
7 **held on or after January 1, 2022.”.**

8
