

House Bill 2122

Sponsored by Representative MANNIX (Pre-session 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**.

Makes Legislative Counsel, rather than Attorney General, responsible for drafting ballot titles for state measures.

A BILL FOR AN ACT

1
2 Relating to ballot titles; creating new provisions; and amending ORS 250.045, 250.052, 250.062,
3 250.065, 250.067, 250.075, 250.085 and 254.085.

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

5 **SECTION 1.** ORS 250.045 is amended to read:

6 250.045. (1)(a) Before circulating a petition to initiate or refer a state measure under Article IV,
7 section 1, of the Oregon Constitution, the petitioner shall file with the Secretary of State a pro-
8 spective petition.

9 (b) The prospective petition for a state measure to be initiated:

10 (A) Shall contain the signatures of at least 1,000 electors; and

11 (B) May not contain the signatures of more than 2,000 electors.

12 (c) The signature sheets for a state measure to be initiated must be attached to a full and cor-
13 rect copy of the measure to be initiated.

14 (2) Before obtaining signatures on a prospective petition for a state measure to be initiated, the
15 chief petitioners shall file with the secretary a statement declaring whether one or more persons
16 will be paid money or other valuable consideration for obtaining signatures of electors on the pro-
17 spective petition. After a statement has been filed under this subsection, the chief petitioners shall
18 notify the secretary not later than the 10th day after any of the chief petitioners first has knowledge
19 or should have had knowledge that:

20 (a) Any person is being paid for obtaining signatures, when the statement filed under this sub-
21 section declared that no such person would be paid.

22 (b) No person is being paid for obtaining signatures, when the statement filed under this sub-
23 section declared that one or more such persons would be paid.

24 (3) The secretary by rule shall establish procedures for verifying whether a prospective petition
25 for a state measure to be initiated contains the required number of signatures of electors.

26 (4) The secretary shall date and time stamp the prospective petition and specify the form on
27 which the initiative or referendum petition shall be printed for circulation as provided in ORS
28 250.052. The secretary shall retain the prospective petition.

29 (5) The chief petitioner may amend the state measure to be initiated that has been filed with the
30 secretary without filing another prospective petition, if:

31 (a) The [*Attorney General*] **Legislative Counsel** certifies to the secretary that the proposed

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 amendment will not substantially change the substance of the measure; and

2 (b) The deadline for submitting written comments on the draft title has not passed.

3 (6)(a) The cover of an initiative or referendum petition shall designate the name and city and
4 state of residence of not more than three persons as chief petitioners and shall contain instructions
5 for persons obtaining signatures of electors on the petition. The instructions shall be adopted by the
6 secretary by rule.

7 (b) The cover of a referendum petition shall contain the final measure summary described in
8 ORS 250.065 (1).

9 (c)(A) If a petition seeking a different ballot title is not filed with the Supreme Court by the
10 deadline for filing a petition under ORS 250.085, the cover of an initiative petition shall contain the
11 latest ballot title certified by the [Attorney General] **Legislative Counsel** under ORS 250.067 (2).

12 (B) If a petition seeking a different ballot title is filed with the Supreme Court by the deadline
13 for filing a petition under ORS 250.085:

14 (i) The secretary may not issue an official template of the cover and signature sheets of the in-
15 initiative petition until the Supreme Court has certified a final ballot title; and

16 (ii) The cover of the initiative petition shall contain the final ballot title certified by the court.

17 (7) The chief petitioners shall include with the prospective petition a statement declaring
18 whether one or more persons will be paid money or other valuable consideration for obtaining sig-
19 natures of electors on the initiative or referendum petition. After the prospective petition is filed,
20 the chief petitioners shall notify the filing officer not later than the 10th day after any of the chief
21 petitioners first has knowledge or should have had knowledge that:

22 (a) Any person is being paid for obtaining signatures, when the statement included with the
23 prospective petition declared that no such person would be paid.

24 (b) No person is being paid for obtaining signatures, when the statement included with the pro-
25 spective petition declared that one or more such persons would be paid.

26 (8)(a) Each sheet of signatures on an initiative petition shall contain the caption of the final
27 certified ballot title. Each sheet of signatures on a referendum petition shall contain the subject
28 expressed in the title of the Act to be referred.

29 (b) Each sheet of signatures on an initiative or referendum petition shall:

30 (A) Contain a notice describing the meaning of the color of the signature sheet in accordance
31 with ORS 250.052; and

32 (B) If one or more persons will be paid for obtaining signatures of electors on the petition,
33 contain a notice stating: "Some Circulators For This Petition Are Being Paid." The notice shall be
34 in boldfaced type and shall be prominently displayed on the sheet.

35 (c) The secretary by rule shall adopt a method of designation to distinguish signature sheets of
36 referendum petitions containing the same subject reference and being circulated during the same
37 period.

38 (9) The reverse side of the cover of an initiative or referendum petition shall be used for ob-
39 taining signatures on the initiative or referendum petition.

40 (10) Not more than 20 signatures on the signature sheet of the initiative or referendum petition
41 may be counted. The circulator shall certify on each signature sheet of the initiative or referendum
42 petition that the circulator:

43 (a) Witnessed the signing of the signature sheet by each individual whose signature appears on
44 the signature sheet; and

45 (b) Believes each individual is an elector.

1 (11) The person obtaining signatures on the petition shall carry at least one full and correct
2 copy of the measure to be initiated or referred and shall allow any person to review a copy upon
3 request of the person.

4 **SECTION 2.** ORS 250.052 is amended to read:

5 250.052. (1)(a) For each state initiative, referendum or recall petition, the Secretary of State
6 shall prepare official templates of the cover and signature sheets for the petition. Except as pro-
7 vided in this section, templates of cover and signature sheets for state initiative and referendum
8 petitions are subject to the requirements of ORS 250.045. The templates of signature sheets to be
9 used by persons who are being paid to obtain signatures on the petition shall be a different color
10 from the sheets to be used by persons who are not being paid to obtain signatures on the petition.

11 (b) For each prospective petition for a state measure to be initiated the secretary shall prepare
12 official templates of the cover and signature sheets. The templates of signature sheets to be used
13 by persons who are being paid to obtain signatures on the prospective petition shall be a different
14 color from the sheets to be used by persons who are not being paid to obtain signatures on the
15 prospective petition. Each signature sheet for the prospective petition shall:

16 (A) Contain a notice describing the meaning of the color of the signature sheet; and

17 (B) If one or more persons will be paid for obtaining signatures of electors on the prospective
18 petition, contain a notice stating: "Some Circulators For This Prospective Petition Are Being
19 Paid." The notice shall be in boldfaced type and shall be prominently displayed on the sheet.

20 (2) A person obtaining signatures on a state initiative, referendum or recall petition or a pro-
21 spective petition for a state measure to be initiated may use only the cover and signature sheets
22 contained in the official templates prepared for the petition or prospective petition. A person who
23 is being paid to obtain signatures on the petition or prospective petition shall use the signature
24 sheet template designated for use by persons being paid to obtain signatures. A person who is not
25 being paid to obtain signatures on the petition or prospective petition shall use the signature sheet
26 template designated for use by persons who are not being paid to obtain signatures.

27 (3)(a) The secretary shall issue templates for a petition or prospective petition only to a chief
28 petitioner of the petition or prospective petition or to an agent designated by a chief petitioner.

29 (b) If the ballot title for a state initiative petition has been challenged under ORS 250.085, the
30 secretary may not issue an official template for the initiative petition until the Supreme Court has
31 certified a final ballot title.

32 (4) The secretary shall issue official templates to a chief petitioner or designated agent not later
33 than:

34 (a) Three business days after the deadline for filing a petition under ORS 250.085 relating to a
35 ballot title certified by the [Attorney General] **Legislative Counsel** for the state initiative petition
36 or, if a petition is filed with the Supreme Court under ORS 250.085, three business days after the
37 Supreme Court certifies to the secretary a final ballot title for the state initiative petition;

38 (b) Three business days after a prospective petition is filed under ORS 249.865 or 250.045 for a
39 state recall petition or state referendum petition; or

40 (c) Three business days after the chief petitioner files a statement with the secretary under ORS
41 250.045 (2) for a prospective petition for a state measure to be initiated.

42 (5) The secretary by rule shall establish a process by which a chief petitioner of a state initi-
43 ative, referendum or recall petition or a prospective petition for a state measure to be initiated may
44 request a modification of the templates issued under subsection (4) of this section.

45 (6)(a) In addition to the templates prepared under subsections (1) to (5) of this section, for each

1 state initiative, referendum or recall petition or prospective petition, the secretary shall prepare an
 2 official electronic template of a signature sheet for the petition or prospective petition.

3 (b)(A) A template prepared under this subsection shall provide:

4 (i) Space for the signature of one elector to signify support for the state initiative, referendum
 5 or recall petition or prospective petition; and

6 (ii) Space for the signature of the same elector to certify that the elector received a copy of the
 7 electronic signature sheet in compliance with paragraph (c)(B) of this subsection.

8 (B) The Secretary of State or county clerk may tally only electronic signature sheets that are
 9 signed in both spaces described in this paragraph.

10 (c)(A) An elector may print a copy of the electronic signature sheet for a petition or prospective
 11 petition, sign the sheet and deliver the signed sheet to a chief petitioner or an agent designated by
 12 a chief petitioner.

13 (B) Only an elector who either has personally printed a copy of the electronic signature sheet
 14 of a petition or prospective petition or has requested that a separate person print a copy of the
 15 electronic signature sheet specifically for the elector may sign the sheet. A copy of an electronic
 16 signature sheet may not be signed by an elector who did not either print the sheet or request that
 17 the sheet be printed specifically for the elector.

18 (d) Electronic templates described in this subsection are subject to the requirements of ORS
 19 250.045, other than ORS 250.045 (9) and (10), and the template must include a full and correct copy
 20 of the measure to be initiated or referred.

21 (e) Except as provided in paragraph (c)(B) of this subsection, a person who is obtaining signa-
 22 tures on a petition or prospective petition, whether paid or unpaid, may not provide a printed elec-
 23 tronic signature sheet to an elector.

24 (7) The secretary shall adopt rules prescribing the contents and method of production of official
 25 templates required under this section.

26 **SECTION 3.** ORS 250.062 is amended to read:

27 250.062. If the [Attorney General] **Legislative Counsel** determines that the subject, purpose and
 28 major effect of two or more state initiative measures to be submitted at the same election are sub-
 29 stantially similar, the [Attorney General] **Legislative Counsel** shall provide identical draft ballot ti-
 30 tles for the measures.

31 **SECTION 4.** ORS 250.065 is amended to read:

32 250.065. (1) When a prospective petition for a state measure to be referred is filed with the
 33 Secretary of State, the secretary shall authorize the circulation of the petition using the final
 34 measure summary of the latest version of the printed, engrossed measure in lieu of the ballot title.
 35 On the next business day after the referendum petition has been filed containing the required num-
 36 ber of verified signatures, the Secretary of State shall send one copy of the prospective petition to
 37 the [Attorney General] **Legislative Counsel**.

38 (2) When an approved prospective petition for a state measure to be initiated is filed with the
 39 Secretary of State, the secretary immediately shall send one copy of it to the [Attorney General]
 40 **Legislative Counsel**.

41 (3) **To further the implementation of Article IV, section 1, of the Oregon Constitution,**
 42 **the Legislative Counsel shall be responsible for drafting ballot titles for prospective state**
 43 **petitions to be initiated and prospective state measures to be referred.**

44 [(3)] (4) Not later than the fifth business day after receiving the copy of the prospective petition
 45 for a state measure to be initiated, the [Attorney General] **Legislative Counsel** shall provide a draft

1 ballot title for the state measure to be initiated and send one copy of the ballot title to the Secretary
2 of State.

3 [(4)] (5) Not later than the 10th business day after receiving the copy of the prospective petition
4 for a state measure to be referred, the [Attorney General] **Legislative Counsel** shall provide a draft
5 ballot title for the state measure to be referred and send one copy of the draft ballot title to the
6 Secretary of State.

7 **SECTION 5.** ORS 250.067 is amended to read:

8 250.067. (1) The Secretary of State, upon receiving a draft ballot title from the [Attorney
9 General] **Legislative Counsel** under ORS 250.065 or 250.075, shall provide reasonable statewide no-
10 tice of having received the draft ballot title and of the public's right to submit written comments
11 as provided in this section. Written comments concerning a draft ballot title may be submitted to
12 the secretary not later than the 10th business day after the secretary receives the draft title from
13 the [Attorney General] **Legislative Counsel**. On the next business day after the deadline for sub-
14 mitting comments, the secretary shall send a copy of all written comments to the [Attorney
15 General] **Legislative Counsel**. The secretary shall maintain a record of written comments received.

16 (2)(a) If written comments are submitted to the secretary under subsection (1) of this section,
17 the [Attorney General] **Legislative Counsel** shall consider the comments and certify to the secretary
18 either the draft ballot title or a revised ballot title not later than the 10th business day after re-
19 ceiving the comments from the secretary.

20 (b) If no written comments are submitted to the secretary, the [Attorney General] **Legislative**
21 **Counsel** shall certify the draft ballot title not later than the 21st business day after the secretary
22 receives the draft title from the [Attorney General] **Legislative Counsel**. If the [Attorney General]
23 **Legislative Counsel** determines that a draft ballot title described in this paragraph contains a
24 clerical error, the [Attorney General] **Legislative Counsel** may correct the error before certifying
25 the corrected draft ballot title to the secretary.

26 (c) If the [Attorney General] **Legislative Counsel** determines that a ballot title certified under
27 this subsection contains a clerical error, the [Attorney General] **Legislative Counsel** may correct
28 the error and certify to the secretary a corrected ballot title not later than the 10th business day
29 after the date the ballot title was certified.

30 (d) The secretary shall furnish the chief petitioner with a copy of each ballot title certified un-
31 der this subsection.

32 (3) Unless the Supreme Court certifies a different ballot title, the latest ballot title certified by
33 the [Attorney General] **Legislative Counsel** under subsection (2) of this section is the title to be
34 printed in the voters' pamphlet and on the ballot.

35 (4) If a petition is filed with the Supreme Court as provided in ORS 250.085, the Secretary of
36 State shall file with the Supreme Court a copy of the written comments received as part of the re-
37 cord on review of the ballot title.

38 (5) The secretary by rule shall specify the means for providing reasonable statewide notice for
39 submitting comments on a draft ballot title.

40 (6) As used in this section, "clerical error" means a typographical, arithmetical or grammatical
41 error or omission that is evident from the text of the draft or certified ballot title or by comparison
42 of the text of the draft or certified ballot title with a written explanation that was provided by the
43 [Attorney General] **Legislative Counsel** and issued concurrently with the draft or certified ballot
44 title.

45 **SECTION 6.** ORS 250.075 is amended to read:

1 250.075. (1) When the Legislative Assembly refers a measure to the people, a ballot title for the
2 measure may be prepared by the assembly. The ballot title shall be filed with the Secretary of State
3 when the measure is filed with the Secretary of State.

4 (2) If the title is not prepared under subsection (1) of this section, when the measure is filed
5 with the Secretary of State, the secretary shall send one copy of the referred measure to the [*At-*
6 *torney General*] **Legislative Council**. Not later than the 30th day after the Legislative Assembly
7 adjourns, the [*Attorney General*] **Legislative Council** shall provide a draft ballot title for the
8 measure. The [*Attorney General*] **Legislative Council** shall send a copy of the draft ballot title to
9 each member of the Legislative Assembly, and file with the Secretary of State a copy of the draft
10 ballot title and a certificate of mailing of the draft ballot title to each member.

11 **SECTION 7.** ORS 250.085 is amended to read:

12 250.085. (1) Any elector dissatisfied with a ballot title prepared by the Legislative Assembly for
13 a measure referred to the people by the assembly and filed with the Secretary of State may petition
14 the Supreme Court seeking a different title. The petition shall state the reasons that the title filed
15 with the Secretary of State does not substantially comply with the requirements of ORS 250.035.

16 (2) Any elector dissatisfied with the latest ballot title for an initiated or referred measure cer-
17 tified by the [*Attorney General*] **Legislative Council** and who timely submitted written comments
18 on the draft ballot title may petition the Supreme Court seeking a different title. The petition shall
19 state the reasons that the title filed with the Secretary of State does not substantially comply with
20 the requirements of ORS 250.035.

21 (3) The petition shall name the [*Attorney General*] **State of Oregon** as the respondent and must
22 be filed:

23 (a) Not later than the 10th business day after the [*Attorney General*] **Legislative Council** cer-
24 tifies a ballot title or a corrected ballot title to the Secretary of State, whichever is later; or

25 (b) If the title is provided by the Legislative Assembly under ORS 250.075, not later than the
26 10th business day after the Legislative Assembly files the ballot title with the Secretary of State.

27 (4) An elector filing a petition under this section shall notify the Secretary of State in writing
28 that the petition has been filed. The notice must be received in the office of the Secretary of State
29 not later than 5 p.m. on the next business day following the day the petition is filed.

30 (5) The Supreme Court shall review the title for substantial compliance with the requirements
31 of ORS 250.035.

32 (6) When reviewing a title certified by the [*Attorney General*] **Legislative Council**, the Supreme
33 Court shall not consider arguments concerning the ballot title not presented in writing to the Sec-
34 retary of State unless the court determines that the argument concerns language added to or re-
35 moved from the draft title after expiration of the comment period provided in ORS 250.067.

36 (7) The review by the Supreme Court shall be conducted expeditiously to ensure the orderly and
37 timely circulation of the petition or conduct of the election at which the measure is to be submitted
38 to the electors.

39 (8) If the Supreme Court determines that the latest ballot title certified by the [*Attorney*
40 *General*] **Legislative Council** or prepared by the Legislative Assembly substantially complies with
41 the requirements of ORS 250.035, the court shall certify the title to the Secretary of State. If the
42 Supreme Court determines that the latest ballot title certified by the [*Attorney General*] **Legislative**
43 **Council** or prepared by the Legislative Assembly does not substantially comply with the require-
44 ments of ORS 250.035, the court shall modify the ballot title and certify the ballot title to the Sec-
45 retary of State or refer the ballot title to the [*Attorney General*] **Legislative Council** for

1 modification.

2 (9) Not later than five business days after the Supreme Court refers a ballot title to the [*Attorney General*] **Legislative Counsel** under this section, the [*Attorney General*] **Legislative Counsel**
 3 shall file a modified ballot title with the Supreme Court and serve copies of the modified ballot title
 4 on all parties to the ballot title review proceeding. If no party to the ballot title review proceeding
 5 files an objection to the modified ballot title within five business days after the date the modified
 6 ballot title is filed, the Supreme Court shall certify the modified ballot title to the Secretary of State
 7 and enter an appellate judgment the next judicial day. If any of the parties to the ballot title review
 8 proceeding timely files a petition objecting to the modified ballot title, the Supreme Court shall re-
 9 view the modified ballot title to determine whether the modified ballot title substantially complies
 10 with the requirements of ORS 250.035.

12 (10) Upon the filing of a petition under subsection (9) of this section objecting to a modified
 13 ballot title:

14 (a) If the Supreme Court determines that the modified ballot title substantially complies with the
 15 requirements of ORS 250.035, the court shall certify the modified ballot title to the Secretary of
 16 State; or

17 (b) If the Supreme Court determines that the modified ballot title does not substantially comply
 18 with the requirements of ORS 250.035, the court shall modify the ballot title and certify the ballot
 19 title to the Secretary of State or refer the modified ballot title to the [*Attorney General*] **Legislative**
 20 **Counsel** for additional modification and further proceedings under subsection (9) of this section.

21 **SECTION 8.** ORS 254.085 is amended to read:

22 254.085. (1) The Secretary of State, not later than the 61st day before the date of a primary or
 23 general election, shall file with each county clerk a statement of the federal and state offices to be
 24 filled or for which candidates are to be nominated in the county at the election, information con-
 25 cerning all candidates for the offices, and the state measures to be voted on.

26 (2) The information concerning candidates for the Supreme Court, Court of Appeals, Oregon Tax
 27 Court and circuit court shall include a designation of incumbent for each candidate who is the
 28 regularly elected or appointed judge of the court to which the candidate seeks election. If a candi-
 29 date was regularly elected or appointed to a specific position or department on the court, the can-
 30 didate shall be designated as the incumbent only if the person is a candidate for that position or
 31 department.

32 (3) Included with each state measure shall be the measure number, the latest ballot title certi-
 33 fied by the [*Attorney General*] **Legislative Counsel** under ORS 250.067 (2) or, if the Supreme Court
 34 has reviewed the title under ORS 250.085, the title certified by the court and the financial estimates
 35 under ORS 250.125. The Secretary of State shall keep a copy of the statement.

36 **SECTION 9. The amendments to ORS 250.045, 250.052, 250.062, 250.065, 250.067, 250.075,**
 37 **250.085 and 254.085 by sections 1 to 8 of this 2023 Act apply to ballot titles drafted for state**
 38 **measures on or after the effective date of this 2023 Act.**