

House Bill 2168

Sponsored by Representatives SMITH DB, WRIGHT (Presession filed.)

SUMMARY

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

Prohibits both ballot envelopes mailed by county clerks to electors and ballot return identification envelopes used by electors from containing outward identifier, including but not limited to numeric code, that would allow person to know political party affiliation of elector.

A BILL FOR AN ACT

1
2 Relating to ballot envelopes; amending ORS 253.065 and 254.470.

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

4 **SECTION 1.** ORS 254.470 is amended to read:

5 254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the
6 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
7 dates and times the places of deposit must be open and the security requirements for the places of
8 deposit. At a minimum, the places designated under this section shall be open on the date of the
9 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place
10 of deposit designated under this section, the county clerk shall prominently display a sign stating
11 that the location is an official ballot drop site.

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

17 **(B) A ballot envelope used by the county clerk to mail a ballot to an active elector under
18 this paragraph may not contain any outward identifier, including but not limited to a nu-
19 meric code, that would allow a person to know the political party affiliation, if any, of the
20 active elector receiving the ballot.**

21 **(C) A return identification envelope mailed to an active elector under this paragraph may
22 not contain any outward identifier, including but not limited to a numeric code, that would
23 allow a person to know the political party affiliation, if any, of the active elector returning
24 the ballot.**

25 (b) If the county clerk determines that an active elector of the electoral district as of the 21st
26 day before the date of the election does not receive daily mail service from the United States Postal
27 Service, the county clerk shall mail by nonforwardable mail an official ballot with a return iden-
28 tification envelope and a secrecy envelope to the elector not sooner than the 20th day before the
29 date of an election and not later than the 18th day before the date of the election.

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

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 before the date of the election.

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

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

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

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

13 (c) An elector not affiliated with any political party who wishes to vote in the primary election
 14 of a major political party shall apply to the county clerk in writing. The application must be com-
 15 pleted, signed and submitted by the elector electronically, in person or by mail, in a manner deter-
 16 mined by the secretary by rule and must indicate which major political party ballot the elector
 17 wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS
 18 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day
 19 before the date of the election.

20 (d) If the primary election ballot includes city, county or nonpartisan offices or measures, the
 21 county clerk shall mail to each elector who is not eligible to vote for party candidates a ballot
 22 limited to those offices and measures for which the elector is eligible to vote.

23 (4)(a) For each elector who updates a voter registration after the deadline in ORS 247.025, the
 24 county clerk shall make the official ballot, the return identification envelope and the secrecy en-
 25 velope available either by mail or at the county clerk's office or at another place designated by the
 26 county clerk. An elector to whom this subsection applies must request a ballot from the county
 27 clerk.

28 (b) The county clerk is not required to make available a secrecy envelope under this subsection
 29 if the Secretary of State has approved a different procedure under ORS 254.458 that provides sub-
 30 stantially the same degree of secrecy.

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

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

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

41 (b) The elector may return the marked ballot to the county clerk by United States mail or by
 42 depositing the ballot at the office of the county clerk, at any place of deposit designated by the
 43 county clerk or at any location described in ORS 254.472 or 254.474.

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

45 (d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector, the

1 person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later
2 than two days after receiving the ballot.

3 (e) If the elector deposits the ballot at the office of the county clerk, at any place of deposit
4 designated by the county clerk or at any location described in ORS 254.472 or 254.474, the ballot
5 must be received at the office of the county clerk, at the designated place of deposit or at any lo-
6 cation described in ORS 254.472 or 254.474 not later than the end of the period determined under
7 subsection (1) of this section on the date of the election. If the elector returns the ballot by mail:

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

10 (B) The ballot must:

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

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

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

18 (7) The following shall appear on the return identification envelope:

19 (a) Space for the elector to sign the envelope.

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

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

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

28 (9) An elector may obtain a replacement ballot if the ballot is destroyed, spoiled, lost or not
29 received by the elector. Replacement ballots shall be issued and processed as described in this
30 section and ORS 254.480. The county clerk shall keep a record of each replacement ballot provided
31 under this subsection. Notwithstanding any deadline for mailing ballots in subsection (2) of this
32 section, a replacement ballot may be mailed, made available in the office of the county clerk or made
33 available at one central location in the electoral district in which the election is conducted. The
34 county clerk shall designate the central location. A replacement ballot need not be mailed after the
35 fifth day before the date of the election.

36 (10) A ballot shall be counted only if:

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

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

40 (c) The signature is verified as provided in subsection (11) of this section.

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

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

5 (13)(a)(A) Except as provided in subparagraph (B) of this paragraph, the name of the Secretary
 6 of State may not appear in the secretary's official capacity on the return identification envelope or
 7 on any instructions or materials included with the ballot if the secretary is a candidate in the
 8 election for which the ballot is printed.

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

11 (b) The name of the county clerk or other filing officer may not appear in the official capacity
 12 of the county clerk or filing officer on the return identification envelope or on any instructions or
 13 materials included with the ballot if the county clerk or filing officer is a candidate in the election
 14 for which the ballot is printed.

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

16 (14) As used in this section, "postal indicator" means a postmark or other indicator on a mailed
 17 ballot, identified by the Secretary of State by rule, that demonstrates the date or time at which a
 18 ballot was mailed.

19 **SECTION 2.** ORS 253.065 is amended to read:

20 253.065. (1) For electors with mailing addresses outside this state, the county clerk shall deliver
 21 a ballot:

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

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

25 (2) The clerk shall deliver with the ballot instructions for marking and returning the ballot, a
 26 return identification envelope and, if used, a secrecy envelope. Except as provided in subsection (3)
 27 of this section, the return identification envelope must contain:

28 (a) Space for the elector to sign the envelope.

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

32 (c) A summary of the applicable penalties for knowingly making a false statement, oath or affi-
 33 davit under the election laws.

34 (3) For a military or overseas elector as defined in ORS 253.501, the return identification en-
 35 velope provided under subsection (2) of this section must contain:

36 (a) Any information that a military or overseas elector is required to sign under the federal Help
 37 America Vote Act of 2002 (P.L. 107-252) or other federal law;

38 (b) Space for the elector to sign; and

39 (c) To the extent not required under paragraph (a) of this subsection, a notice designed by rule
 40 by the Secretary of State that ensures that any military or overseas elector who returns a ballot
 41 by mail makes a legally binding assertion that the ballot was mailed no later than the date of the
 42 election.

43 **(4)(a) A ballot envelope used by the county clerk to mail a ballot to an elector under this**
 44 **section may not contain any outward identifier, including but not limited to a numeric code,**
 45 **that would allow a person to know the political party affiliation, if any, of the elector re-**

1 **ceiving the ballot.**

2 **(b) A return identification envelope mailed to an elector under this section may not**
3 **contain any outward identifier, including but not limited to a numeric code, that would allow**
4 **a person to know the political party affiliation, if any, of the elector returning the ballot.**

5 [(4)] (5) An absent elector may obtain a replacement ballot if the ballot delivered under this
6 section is destroyed, spoiled, lost or not received by the elector. The county clerk shall keep a re-
7 cord of each replacement ballot provided under this subsection.

8 [(5)] (6) A replacement ballot provided under subsection [(4)] (5) of this section may be mailed
9 or shall be made available in the office of the county clerk.

10 [(6)] (7) If the county clerk determines that an absent elector to whom a replacement ballot has
11 been issued at the request of the elector has voted more than once, the county clerk shall count only
12 the first ballot received by the clerk and provide the elector's name to the Secretary of State for
13 further review. If the county clerk is required to reissue ballots due to a change on the ballot for
14 any reason, that ballot shall be counted in lieu of any previous ballot issued unless:

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

16 (b) The county clerk issued a supplemental ballot that is not a complete replacement of the or-
17 iginal ballot.

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