

# House Bill 2249

Sponsored by Representatives SMITH DB, OSBORNE (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**.

Requires secrecy envelope to be included with every ballot.

## A BILL FOR AN ACT

1  
2 Relating to secrecy envelopes for ballots; amending ORS 253.065, 254.408, 254.470 and 254.478; and  
3 repealing ORS 254.458.

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

5 **SECTION 1.** ORS 253.065 is amended to read:

6 253.065. (1) For electors with mailing addresses outside this state, the county clerk shall deliver  
7 a ballot:

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

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

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

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

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

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

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

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

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

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

29 (4) An absent elector may obtain a replacement ballot if the ballot delivered under this section  
30 is destroyed, spoiled, lost or not received by the elector. The county clerk shall keep a record of  
31 each replacement ballot provided under this subsection.

32 (5) A replacement ballot provided under subsection (4) of this section may be mailed or shall be

**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 made available in the office of the county clerk.

2 (6) If the county clerk determines that an absent elector to whom a replacement ballot has been  
 3 issued at the request of the elector has voted more than once, the county clerk shall count only the  
 4 first ballot received by the clerk and provide the elector's name to the Secretary of State for further  
 5 review. If the county clerk is required to reissue ballots due to a change on the ballot for any rea-  
 6 son, that ballot shall be counted in lieu of any previous ballot issued unless:

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

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

10 **SECTION 2.** ORS 254.408 is amended to read:

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

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

17 (3) An elector voting under this section shall complete and sign a registration card.

18 (4)(a)[(A) *Except as provided in subparagraph (B) of this paragraph,*] The elector shall insert the  
 19 ballot into a small envelope provided by the county clerk and then insert the small envelope into  
 20 a larger envelope. The larger envelope shall be delivered to the county clerk and shall be segregated  
 21 and not counted until the registration of the elector is verified under this section.

22 [(B) *The county clerk shall inform the elector of any alterations to the process described in sub-*  
 23 *paragraph (A) of this paragraph that are necessary if the Secretary of State has approved a procedure*  
 24 *under ORS 254.458 to be used in lieu of the envelope procedures.*]

25 (b) An envelope provided under this subsection must comply with the prohibitions set forth in  
 26 ORS 254.470 (13).

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

30 (6) A vote shall be counted only if the elector is qualified to vote for the particular office or  
 31 on the measure.

32 **SECTION 3.** ORS 254.470 is amended to read:

33 254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the  
 34 designation of places of deposit for the ballots cast in an election. The rules shall also specify the  
 35 dates and times the places of deposit must be open and the security requirements for the places of  
 36 deposit. At a minimum, the places designated under this section shall be open on the date of the  
 37 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place  
 38 of deposit designated under this section, the county clerk shall prominently display a sign stating  
 39 that the location is an official ballot drop site.

40 (2)(a) Except as provided in paragraphs (b) [to (d)] **and** (c) of this subsection, the county clerk  
 41 shall mail by nonforwardable mail an official ballot with a return identification envelope and a se-  
 42 crecy envelope not sooner than the 20th day before the date of an election and not later than the  
 43 14th day before the date of the election, to each active elector of the electoral district as of the 21st  
 44 day before the date of the election.

45 (b) If the county clerk determines that an active elector of the electoral district as of the 21st

1 day before the date of the election does not receive daily mail service from the United States Postal  
 2 Service, the county clerk shall mail by nonforwardable mail an official ballot with a return iden-  
 3 tification envelope and a secrecy envelope to the elector not sooner than the 20th day before the  
 4 date of an election and not later than the 18th day before the date of the election.

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

8 *[(d) The county clerk is not required to mail a secrecy envelope under this subsection if the Secre-*  
 9 *tary of State has approved a different procedure under ORS 254.458 that provides substantially the*  
 10 *same degree of secrecy.]*

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 party to each elector who  
 13 is registered as being affiliated with the major political party as of the 21st day before the date of  
 14 the election.

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

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

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

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

34 *[(b) The county clerk is not required to make available a secrecy envelope under this subsection if*  
 35 *the Secretary of State has approved a different procedure under ORS 254.458 that provides substan-*  
 36 *tially the same degree of secrecy.]*

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

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

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

1 with the ballot.

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

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

6 (d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector, the  
 7 person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later  
 8 than two days after receiving the ballot.

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

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

16 (B) The ballot must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (b) The name of the county clerk or other filing officer may not appear in the official capacity  
 18 of the county clerk or filing officer on the return identification envelope, **secrecy envelope** or on  
 19 any instructions or materials included with the ballot if the county clerk or filing officer is a can-  
 20 didate in the election for which the ballot is printed.

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

22 (14) As used in this section, “postal indicator” means a postmark or other indicator on a mailed  
 23 ballot, identified by the Secretary of State by rule, that demonstrates the date or time at which a  
 24 ballot was mailed.

25 **SECTION 4.** ORS 254.478 is amended to read:

26 254.478. (1) Subject to ORS 260.705, upon receipt of ballots, the county clerk may:

27 (a) Begin opening return identification envelopes **and secrecy envelopes** of ballots [*and any*  
 28 *used secrecy envelopes of ballots*]; and

29 (b) In accordance with a security plan approved by the Secretary of State under ORS 254.074,  
 30 begin scanning ballots into a vote tally system.

31 (2) The county clerk may take any other actions that are necessary to count ballots.

32 **SECTION 5. ORS 254.458 is repealed.**

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