House Bill 3062

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 individual from collecting and returning ballot of another individual, subject to specified exceptions.
Imposes fine of $2,500 per ballot for person other than individual that illegally collects and returns ballot of individual and fine of $500 per ballot for individual who illegally collects and returns ballot of different individual.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to ballots; creating new provisions; amending ORS 254.470 and 260.995; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 254.

SECTION 2. (1) Each elector must return the elector's own ballot in the manner provided in ORS 254.470. Except as provided in subsection (2) of this section, an individual may not collect or return another individual's ballot.
(2) An individual may collect and return the ballot of a different individual:
(a) Who is an elector; and
(b)(A) Who is a relative of the individual who collects and returns the ballot;
(B) For whom the individual who collects and returns the ballot exercises a power of attorney for the individual whose ballot is collected and returned; or
(C) For whom the individual who collects and returns the ballot serves as a paid caregiver and provides ongoing care for the individual whose ballot is collected and returned.
(3) An individual who collects and returns the ballot of a different individual under subsection (2) of this section must deposit the ballot in the manner described in ORS 254.470 not later than two days after collecting the ballot.
(4) As used in this section, “relative” means:
(a) The spouse of the individual whose ballot is collected and returned;
(b) A parent of the individual whose ballot is collected and returned;
(c) Any individual for whom the individual whose ballot is collected and returned has a legal support obligation;
(d) Any individual for whom the individual whose ballot is collected and returned provides benefits; or
(e) Any individual for whom the individual whose ballot is collected and returned receives benefits arising from that individual’s employment.

SECTION 3. ORS 254.470 is amended to read:

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

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

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

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

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

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

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

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

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

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

(4)(a) For each elector who updates a voter registration after the deadline in ORS 247.025, the
county clerk shall make the official ballot, the return identification envelope and the secrecy enve-
lope available either by mail or at the county clerk’s office or at another place designated by the
county clerk. An elector to whom this subsection applies must request a ballot from the county
clerk.
(b) The county clerk is not required to make available a secrecy envelope under this subsection if the Secretary of State has approved a different procedure under ORS 254.458 that provides substantially the same degree of secrecy.

(5) The ballot shall contain the following warning:

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

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

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

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

(d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector in the manner permitted under section 2 of this 2023 Act, the person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later than two days after receiving the ballot.

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

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

(B) The ballot must:

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

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

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

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

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

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

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

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

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

(10) A ballot shall be counted only if:

(a) It is returned in the return identification envelope;
(b) The envelope is signed by the elector to whom the ballot is issued, unless a certified statement is submitted under ORS 254.431; and
(c) The signature is verified as provided in subsection (11) of this section.
(11) The county clerk shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration record, according to the procedure provided by rules adopted by the Secretary of State. If the county clerk determines that an elector to whom a replacement ballot has been issued has voted more than once, the county clerk shall count only one ballot cast by that elector.

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

(13)(a)(A) Except as provided in subparagraph (B) of this paragraph, the name of the Secretary of State may not appear in the secretary's official capacity on the return identification envelope or on any instructions or materials included with the ballot if the secretary is a candidate in the election for which the ballot is printed.
(B) This paragraph does not prohibit the name of the Secretary of State from appearing in the secretary's official capacity in the voters' pamphlet.
(b) The name of the county clerk or other filing officer may not appear in the official capacity of the county clerk or filing officer on the return identification envelope or on any instructions or materials included with the ballot if the county clerk or filing officer is a candidate in the election for which the ballot is printed.
(c) As used in this subsection, “filing officer” has the meaning given that term in ORS 254.165.
(14) As used in this section, “postal indicator” means a postmark or other indicator on a mailed ballot, identified by the Secretary of State by rule, that demonstrates the date or time at which a ballot was mailed.

SECTION 4. ORS 260.995 is amended to read:

260.995. (1) Except as provided in subsection (2) of this section, following an investigation under ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed $1,000 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

(2) The secretary or the Attorney General may impose a civil penalty not to exceed:

(a)(A) Except as provided in subparagraph (B) of this paragraph, $1,000 plus the amount con-
(B) Two times the amount of the penalty provision for violating a nondisclosure agreement that is contained within each nondisclosure agreement entered into in violation of ORS 260.407 or 260.413;

(b) 150 percent of the total cost of printing, transmitting or distributing a communication in support of or in opposition to a clearly identified candidate if the disclosure requirements set forth in ORS 260.266 are not met; [or]

(c)(A) $2,500 for each ballot that a person other than an individual returns for an individual in violation of section 2 of this 2023 Act;

(B) $500 for each ballot that an individual returns for a different individual in violation of section 2 of this 2023 Act;

[(c)] (d) $10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1) or (2) or 260.715 (1) or Article IV, section 1b, of the Oregon Constitution.

(3) Except as otherwise provided by this section, civil penalties under this section shall be imposed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall include:

(a) A statement of the authority and jurisdiction under which the hearing is to be held; and

(b) If the person is an agency, corporation or an unincorporated association, a statement that such person must be represented by an attorney licensed in Oregon, unless the person is a political committee which may be represented by any officer identified in the most recent statement of organization filed with the filing officer.

(4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation shall be held by the secretary or Attorney General:

(a) Upon request of the person against whom the penalty may be assessed, if the request is made not later than the 20th day after the service date on the notice sent under subsection (3) of this section; or

(b) Upon the secretary’s or Attorney General’s own motion.

(5) The person against whom a penalty may be assessed need not appear in person at a hearing held under this section, but instead may submit written testimony or other evidence, sworn to before a notary public, to the secretary or Attorney General for entry in the hearing record. The testimony or other evidence must be received by the secretary or Attorney General not later than three business days before the day of the hearing and may be submitted electronically.

(6) All hearings under this section shall be held not later than 45 days after the deadline for the person against whom the penalty may be assessed to request a hearing. However, if requested by the person against whom the penalty may be assessed, a hearing under subsection (4) of this section shall be held not later than 60 days after the deadline for the person against whom the penalty may be assessed to request a hearing.

(7) The secretary or Attorney General shall issue an order not later than 90 days after a hearing or after the deadline for requesting a hearing if no hearing is held.

(8) All penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund.

(9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the person against whom the penalty is assessed:

(a) Is personally responsible for the payment of the civil penalty;

(b) Shall pay the civil penalty from personal funds of the person; and
(c) May not pay the civil penalty from contributions received by a candidate, a candidate's
principal campaign committee, a political committee or a petition committee.

SECTION 5. This 2023 Act takes effect on the 91st day after the date on which the 2023
regular session of the Eighty-second Legislative Assembly adjourns sine die.