

Senate Bill 53

Sponsored by Senator FINDLEY, Representative OWENS (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**.

Adds members of household of candidate to list of persons who may not be employed to open ballot envelopes, handle ballots, prepare ballots for counting or count ballots.

Limits personnel authorized to verify signatures on ballots to match personnel authorized to count ballots.

A BILL FOR AN ACT

1
2 Relating to ballots; amending ORS 253.690, 254.470 and 254.476.

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

4 **SECTION 1.** ORS 254.476 is amended to read:

5 254.476. (1) The county clerk may employ personnel as necessary to open envelopes, **handle**
6 **ballots**, prepare ballots for counting and count ballots. The personnel may not all be members of the
7 same political party. A candidate on the ballot at an election, other than an incumbent candidate
8 for county clerk, or a person who is [*the*] **a member of the household**, spouse, child, son-in-law,
9 daughter-in-law, parent, mother-in-law, father-in-law, sibling, brother-in-law, sister-in-law, aunt, uncle,
10 niece, nephew, stepparent or stepchild of any candidate on the ballot may not be employed and may
11 not serve as a volunteer in the capacity described in this section.

12 **(2) As used in this section, "member of the household" has the meaning given that term**
13 **in ORS 244.020.**

14 **SECTION 2.** ORS 254.470 is amended to read:

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

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

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

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 date of an election and not later than the 18th day before the date of the election.

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

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

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

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

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

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

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

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

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

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

35
 36
 37 Any person who, by use of force or other means, unduly influences an elector to vote in any
 38 particular manner or to refrain from voting is subject to a fine.

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

44 (b) The elector may return the marked ballot to the county clerk by United States mail or by
 45 depositing the ballot at the office of the county clerk, at any place of deposit designated by the

1 county clerk or at any location described in ORS 254.472 or 254.474.

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

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

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

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

13 (B) The ballot must:

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (11) The county clerk shall verify the signature of each elector on the return identification en-
45 velope with the signature on the elector's registration record, according to the procedure provided

1 by rules adopted by the Secretary of State. **Rules adopted by the secretary under this subsection**
 2 **must limit personnel authorized to verify signatures to the personnel authorized to count**
 3 **ballots under ORS 254.476.** If the county clerk determines that an elector to whom a replacement
 4 ballot has been issued has voted more than once, the county clerk shall count only one ballot cast
 5 by that elector.

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

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

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

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

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

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

24 **SECTION 3.** ORS 253.690 is amended to read:

25 253.690. (1) A military or overseas elector described in ORS 253.510 may cast a ballot using a
 26 facsimile machine or by electronic mail as provided in this section. Notwithstanding ORS 254.470
 27 (10), a ballot cast under this section shall be counted only if the ballot:

- 28 (a) Is received in the office of the county clerk not later than 8 p.m. on the day of the election;
- 29 (b) Is accompanied by a return identification envelope containing the signature of the elector
 30 and a signed waiver described in subsection (2) of this section; and
- 31 (c) The signature is verified as provided in subsection (4) of this section.

32 (2) Each elector who casts a ballot under this section shall complete and submit a waiver de-
 33 scribed in this subsection. The elector shall attest to the information supplied on the waiver by
 34 signing the completed waiver. The Secretary of State by rule shall design the form of the waiver,
 35 which shall include all of the following:

- 36 (a) Space for the elector to provide the elector’s full name, residence or mailing address, an
 37 electronic mail address, phone or facsimile number where the elector may be contacted and any
 38 other necessary information.
- 39 (b) A waiver in substantially the following form:

40 _____
 41
 42 I, _____, acknowledge that by casting my voted ballot using a facsimile machine or by
 43 electronic mail I have waived my right to a secret ballot.
 44 _____
 45

1 (c) A statement to notify the elector that the elector's ballot will not be counted unless the
2 elector has complied with the provisions of this section.

3 (d) Space for the elector to provide the elector's signature to attest to the information supplied.

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

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

8 (4) The county clerk shall verify the signature of each elector on the return identification en-
9 velope transmitted by facsimile machine or electronic mail under this section with the signature on
10 the elector's registration record, according to the procedure provided by rules adopted by the Sec-
11 retary of State. **Rules adopted by the secretary under this subsection must limit personnel**
12 **authorized to verify signatures to the personnel authorized to count ballots under ORS**
13 **254.476.**

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

16