

Requested by Senator JAMA

**PROPOSED AMENDMENTS TO  
SENATE BILL 44**

1 In line 2 of the printed bill, after “elections” insert “; amending ORS  
2 254.005, 254.500, 258.006, 258.161, 258.211 and 258.280”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1.** ORS 258.161 is amended to read:

5 “258.161. (1) A candidate, or an officer of a political party on behalf of a  
6 candidate of the political party, may file a demand requiring the Secretary  
7 of State to direct that a recount be made in specified precincts in which  
8 votes were cast for the nomination or office for which the candidate received  
9 a vote.

10 “(2) An elector may file a demand requiring the Secretary of State to di-  
11 rect that a recount be made in specified precincts in which votes were cast  
12 on any measure which appeared on the ballot.

13 “(3) A county clerk may file a demand requiring the Secretary of State  
14 to direct that a recount be made in specified precincts in which votes were  
15 cast for the nomination or office for which a candidate received a vote or  
16 on any measure that appeared on the ballot. The cash deposit [*requirement*  
17 *of*] **required under** subsection (5) of this section [*shall*] **does** not apply to  
18 a demand made under this subsection. The cost of a recount conducted under  
19 this subsection shall be paid by the county of the county clerk making the  
20 demand.

21 “(4) Except as provided in subsection (9) of this section, the person mak-

1 ing a demand for a recount may, in the first demand, specify a partial or a  
2 full recount. A person making a demand for a partial recount shall specify  
3 the precincts in which votes were cast for the nomination or office or on the  
4 measure to be recounted. If in the first demand the person requested a partial  
5 recount, the person may file a supplemental demand for a recount of all the  
6 remainder of the precincts.

7 “(5) Except as provided in subsections (3), [*and*] (6) **and (10)** of this sec-  
8 tion, each demand [*shall*] **must** be accompanied by a cash deposit of \$15 for  
9 each precinct to be recounted up to a maximum of \$8,000 for a recount of  
10 all precincts in the state on a measure or for a nomination or office. The  
11 Secretary of State may retain the deposit for not more than 60 days after the  
12 election for which the recount was demanded, without depositing it in the  
13 General Fund.

14 “(6) Upon application from a county clerk, the Secretary of State may  
15 waive the cash deposit requirement of subsection (5) of this section if, after  
16 the first demand, it appears that due to nondeliberate and material error by  
17 a local elections official, as defined in ORS 246.012, or a county clerk, the  
18 outcome of an election on a candidate or measure will be changed. The cost  
19 of a recount conducted under this subsection shall be paid by the county of  
20 the county clerk or the county of the local elections official who committed  
21 the error.

22 “(7) Each demand shall be in the form and shall contain the information  
23 prescribed by the Secretary of State, including the names and addresses of  
24 all persons and organizations providing any part of the cash deposit and the  
25 amount provided by each.

26 “(8) Except as provided in subsection (9) of this section, the first demand  
27 shall be filed in the office of the Secretary of State not later than the 42nd  
28 day and a supplemental demand not later than the 52nd day after the date  
29 of the election in which votes were cast for the nomination, office or meas-  
30 ure.

1 “(9) A demand for a recount made under this section on behalf of the  
2 electors of presidential and vice presidential candidates shall be for a full  
3 recount only and shall be filed [no] **not** later than five business days after  
4 the Secretary of State declares the result of the election under ORS 254.555.

5 **“(10) For purposes of any election that uses ranked-choice voting,**  
6 **following a demand for a recount under this section, the recount must**  
7 **be conducted in accordance with ORS 258.211 and must include all**  
8 **precincts in which votes were cast for the office for which the candi-**  
9 **date received a vote. The cash deposit required under subsection (5)**  
10 **of this section does not apply to a demand made under this subsection.**

11 **“SECTION 2.** ORS 258.211 is amended to read:

12 “258.211. (1) The ballot boxes containing the ballots to be recounted shall  
13 be opened by the official directed to make the recount only in the presence  
14 of the counting board and the persons referred to in this section.

15 “(2) The counting board shall conduct the recount by hand and, if re-  
16 quested, permit:

17 “(a) In the instance of a nomination or office, an affected candidate or  
18 an elector authorized in writing by an affected candidate, and an elector  
19 authorized in writing by each major or minor political party to be present  
20 to watch the recount.

21 “(b) In the instance of a measure, one elector advocating and one elector  
22 opposing the measure to be present to watch the recount.

23 “(3) For ballots cast using a voting machine:

24 “(a) The county clerk shall deposit the paper record copy recorded by the  
25 machine into the ballot box; and

26 “(b) The paper record copies are the ballots to be recounted under this  
27 section.

28 **“(4) Notwithstanding subsection (2) of this section, for purposes of**  
29 **any election that uses ranked-choice voting, a recount may be con-**  
30 **ducted with a vote tally system that is subject to the provisions of ORS**

1 **246.565.**

2 **“SECTION 3.** ORS 258.280 is amended to read:

3 “258.280. (1) The Secretary of State shall order a full recount of the votes  
4 cast for nomination or election to a public office for which the Secretary of  
5 State is the filing officer, and the county clerk who conducted the election  
6 shall order a full recount of the votes cast for nomination or election to any  
7 other public office if the canvass of votes of the election reveals that:

8 “(a) Two or more candidates for that nomination or office have an equal  
9 and the highest number of votes; or

10 “(b) The difference in the number of votes cast for a candidate apparently  
11 nominated or elected to the office and the votes cast for the closest appar-  
12 ently defeated opponent is not more than one-fifth of one percent of the total  
13 votes for both candidates.

14 “(2)(a) Unless otherwise provided by a home rule charter, at an election  
15 described in ORS 249.088, the Secretary of State shall order a full recount  
16 of the votes cast for nomination or election to a nonpartisan office for which  
17 the Secretary of State is the filing officer, and the county clerk who con-  
18 ducted the election shall order a full recount of the votes cast for nomination  
19 or election to any other nonpartisan office, if the canvass of votes of the  
20 election reveals that the number of votes cast for a candidate differs from  
21 a majority of votes cast for the office by not more than one-fifth of one  
22 percent of the total votes cast for the office.

23 “(b) This subsection does not apply to the office of sheriff, the office of  
24 county clerk, the office of county treasurer or a candidate to fill a vacancy,  
25 as described in ORS 249.091.

26 **“(3) For purposes of any election that uses ranked-choice voting:**

27 **“(a) In a single-winner election, the difference in votes described in**  
28 **subsections (1) and (2) of this section is the difference after the final**  
29 **round of vote tallying.**

30 **“(b) In a multiple-winner election, the difference in votes described**

1 **in subsections (1) and (2) of this section is the difference between the**  
2 **number of votes received by the final candidate to receive the mini-**  
3 **imum number of votes to be elected and the next highest number of**  
4 **votes received by a candidate.**

5 “[3] (4) The cost of a full recount conducted under this section shall be  
6 paid by the county for a county office, by the city for a city office, by the  
7 special district for a special district office or by the state for any other of-  
8 fice.

9 **“SECTION 4. ORS 254.500 is amended to read:**

10 “254.500. (1) This section governs the tally of votes cast for persons whose  
11 names were not printed on the ballot but are written in by electors. All such  
12 write-in votes for each office on the ballot shall be tallied together, except  
13 as follows:

14 “(a) If the total number of write-in votes for candidates for the same  
15 nomination or office equals or exceeds the number of votes cast for any  
16 candidate for the same nomination or office on the ballot who appears to  
17 have been nominated or elected, the county clerk shall tally all write-in  
18 votes cast for the office to show the total number of votes cast for each  
19 write-in candidate.

20 “(b) If no names of candidates are printed on the ballot for an office, the  
21 county clerk shall tally the votes cast for each candidate for the office who  
22 received a vote.

23 “(2) No person other than the county clerk, a member of a counting board  
24 or any other elections official designated by the county clerk may tally  
25 write-in votes.

26 **“(3) For purposes of any election that uses ranked-choice voting:**

27 **“(a) If a write-in candidate is required to be certified prior to the**  
28 **date of the election, any write-in candidate who is not certified shall**  
29 **be eliminated following the first round of vote tallying.**

30 **“(b) In any round of vote tallying, if the total number of write-in**

1 **votes for candidates for the same nomination or election equals or**  
2 **exceeds the votes cast for any candidate for the same nomination or**  
3 **election on the ballot, the county clerk shall tally all write-in votes**  
4 **cast for the office to show the total number of votes cast for any**  
5 **certified write-in candidate before proceeding with the tabulation.**

6 **“SECTION 5.** ORS 254.005 is amended to read:

7 “254.005. As used in this chapter:

8 “(1) ‘Ballot’ means any material on which votes may be cast for candi-  
9 dates or measures. In the case of a recall election, ‘ballot’ includes material  
10 posted in a voting compartment or delivered to an elector by mail.

11 “(2) ‘Chief elections officer’ means the:

12 “(a) Secretary of State, regarding a candidate for a state office or an of-  
13 fice to be voted on in the state at large or in a congressional district, or a  
14 measure to be voted on in the state at large.

15 “(b) County clerk, regarding a candidate for a county office, or a measure  
16 to be voted on in a county only.

17 “(c) City clerk, auditor or recorder, regarding a candidate for a city office,  
18 or a measure to be voted on in a city only.

19 “(3) ‘County clerk’ means the county clerk or the county official in charge  
20 of elections.

21 “(4) ‘Elector’ means an individual qualified to vote under section 2, Arti-  
22 cle II, Oregon Constitution.

23 “(5) ‘Major political party’ means a political party that has qualified as  
24 a major political party under ORS 248.006.

25 “(6) ‘Measure’ includes any of the following submitted to the people for  
26 their approval or rejection at an election:

27 “(a) A proposed law.

28 “(b) An Act or part of an Act of the Legislative Assembly.

29 “(c) A revision of or amendment to the Oregon Constitution.

30 “(d) Local, special or municipal legislation.

1 “(e) A proposition or question.

2 “(7) ‘Minor political party’ means a political party that has qualified as  
3 a minor political party under ORS 248.008.

4 “(8) ‘Nonpartisan office’ means the office of judge of the Supreme Court,  
5 Court of Appeals, circuit court or the Oregon Tax Court, Commissioner of  
6 the Bureau of Labor and Industries, any elected office of a metropolitan  
7 service district under ORS chapter 268, justice of the peace, county clerk,  
8 county assessor, county surveyor, county treasurer, county judge who exer-  
9 cises judicial functions, sheriff, district attorney or any office designated  
10 nonpartisan by a home rule charter.

11 “(9) ‘Prospective petition’ means the information, except signatures and  
12 other identification of petition signers, required to be contained in a com-  
13 pleted petition.

14 “(10) **‘Ranked-choice voting’ means a method of conducting an**  
15 **election in which electors may rank candidates in order of the**  
16 **electors’ preference.**

17 “[10] (11) ‘Regular district election’ means the election held each year  
18 for the purpose of electing members of a district board as defined in ORS  
19 255.005 (2).

20 “[11] (12) ‘Vote tally system’ means one or more pieces of equipment  
21 necessary to examine and tally automatically the marked ballots.

22 “[12] (13) ‘Voting machine’ means any device that will record every vote  
23 cast on candidates and measures and that will either internally or externally  
24 total all votes cast on that device.

25 **“SECTION 6.** ORS 258.006 is amended to read:

26 “258.006. As used in this chapter:

27 “(1) ‘Candidate’ means a candidate for nomination or election to any  
28 elective office.

29 “(2) ‘Contestant’ means any person who files a petition of contest under  
30 ORS 258.036.

1 “(3) ‘Contestee’ means:

2 “(a) In a contest of the nomination of a person for an office or the  
3 election of a person to an office, all candidates for the nomination or office,  
4 other than a candidate who is a contestant.

5 “(b) In a contest of the approval or rejection of a measure proposed by  
6 initiative petition, the chief petitioner of the petition, unless the chief  
7 petitioner is a contestant, and any other person involved in the cause of the  
8 contest.

9 “(c) In a contest of the result of a recall election, the public officer sub-  
10 ject to the recall.

11 “(d) If the cause of the contest is ORS 258.016 (6) or (7), the county clerk.

12 “(4) ‘County clerk’ means the county clerk or the county official in charge  
13 of elections.

14 “(5) ‘Elector’ means an individual qualified to vote under section 2, Arti-  
15 cle II, Oregon Constitution.

16 “(6) ‘Full recount’ means a recount of all the precincts in which votes  
17 were cast for the nomination or office for which a candidate received a vote  
18 or on any measure that appeared on the ballot.

19 “(7) ‘Measure’ includes any of the following submitted to the people for  
20 their approval or rejection at an election:

21 “(a) A proposed law.

22 “(b) An Act or part of an Act of the Legislative Assembly.

23 “(c) A revision of or amendment to the Oregon Constitution.

24 “(d) Local, special or municipal legislation.

25 “(e) A proposition or question.

26 “(8) ‘Partial recount’ means a recount conducted in a number of precincts  
27 equal to the greater of:

28 “(a) Five percent of the precincts in which votes were cast for the nomi-  
29 nation or office for which a candidate received a vote or on any measure that  
30 appeared on the ballot; or



1       “(b) Three specified precincts in which votes were cast for the nomination  
2 or office for which a candidate received a vote or on any measure that ap-  
3 peared on the ballot.

4       “(9) **‘Ranked-choice voting’ has the meaning given that term in ORS**  
5 **254.005.**”.

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