

# Chapter 254

2007 EDITION

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## ELECTIONS

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**GENERAL PROVISIONS**

**254.005 Definitions.** As used in this chapter:

(1) "Ballot" means any material on which votes may be cast for candidates or measures. In the case of a recall election, "ballot" includes material posted in a voting compartment or delivered to an elector by mail.

(2) "Chief elections officer" means the:

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

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

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

(3) "County clerk" means the county clerk or the county official in charge of elections.

(4) "Elector" means an individual qualified to vote under section 2, Article II, Oregon Constitution.

(5) "Major political party" means a political party that has qualified as a major political party under ORS 248.006.

(6) "Measure" includes any of the following submitted to the people for their approval or rejection at an election:

(a) A proposed law.

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

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

(d) Local, special or municipal legislation.

(e) A proposition or question.

(7) "Minor political party" means a political party that has qualified as a minor political party under ORS 248.008.

(8) "Nonpartisan office" means the office of judge of the Supreme Court, Court of Appeals, circuit court or the Oregon Tax Court, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries, any elected office of a metropolitan service district under ORS chapter 268, justice of the peace, county clerk, county assessor, county surveyor, county treasurer, county judge who exercises judicial functions, sheriff, district attorney or any office designated nonpartisan by a home rule charter.

(9) "Prospective petition" means the information, except signatures and other iden-

tification of petition signers, required to be contained in a completed petition.

(10) "Regular district election" means the election held each year for the purpose of electing members of a district board as defined in ORS 255.005 (2).

(11) "Vote tally system" means one or more pieces of equipment necessary to examine and tally automatically the marked ballots.

(12) "Voting machine" means any device that will record every vote cast on candidates and measures and that will either internally or externally total all votes cast on that device. [1979 c.190 §224; 1983 c.392 §5; 1983 c.567 §15; 1985 c.324 §2; 1987 c.707 §16; 1993 c.493 §95; 1995 c.92 §5; 1995 c.107 §2; 1995 c.607 §79; 1999 c.410 §43; 2001 c.430 §2; 2005 c.731 §4; 2005 c.797 §67; 2007 c.154 §19]

**254.007** [1999 c.410 §39; 2001 c.805 §4; repealed by 2007 c.154 §67]

**254.010** [Repealed by 1957 c.608 §231]

**254.015** [1973 c.283 §4; 1977 c.487 §1; repealed by 1979 c.190 §431]

**254.016 Elections conducted under this chapter.** Any primary election, general election or special election held in this state shall be conducted under the provisions of this chapter, unless specifically provided otherwise in the statute laws of this state. [1979 c.190 §225; 1983 c.350 §69a; 1995 c.712 §51; 1999 c.999 §45]

**254.020** [Repealed by 1957 c.608 §231]

**254.025 Construction of statutes applicable to primary elections.** (1) Statutes applicable to primary elections shall be construed as though the primary elections are separate elections for each major political party nominating candidates.

(2) The primary elections shall be conducted as nearly as possible according to the theory expressed in the preamble to chapter 1, Oregon Laws 1905. [1979 c.190 §226; 1987 c.267 §37; 1995 c.712 §53; 1999 c.999 §46]

**254.030** [Amended by 1957 c.608 §167; 1961 c.80 §1; 1969 c.42 §1; repealed by 1979 c.190 §431]

**254.035 Time and place of elections for city officers.** (1) It is the intention of the Legislative Assembly to carry out the provisions of section 14a, Article II, Oregon Constitution.

(2) All elections for city officers shall be held at the same time and place as elections for state and county officers. Unless a city charter or ordinance provides otherwise, the ballots used for state and county elections, if the county clerk considers it practicable, shall be arranged to include city offices and measures. [Formerly 250.230; 2007 c.154 §20]

**254.040** [Amended by 1957 c.608 §168; 1959 c.177 §2; 1967 c.141 §1; 1969 c.42 §2; repealed by 1973 c.392 §1 (254.042 enacted in lieu of 254.040)]

**254.042** [1973 c.392 §2 (enacted in lieu of 254.040); 1975 c.627 §1; 1977 c.487 §2; repealed by 1979 c.190 §431]

**254.045** [1967 c.141 §§3,4; repealed by 1973 c.392 §4]

**254.046 Expense of city election.** If a city holds a special election on a date other than the primary election or general election, it shall bear the expense of the election. [1979 c.190 §228; 1987 c.267 §38; 1995 c.712 §52]

**254.050** [Repealed by 1957 c.608 §231]

**254.055** [1973 c.481 §2; 1979 c.190 §145; 1979 c.345 §3; renumbered 250.065]

**254.056 Date and purpose of general election and primary election.** (1) The general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year. Except as provided in ORS 254.650, at the general election officers of the state and subdivisions of the state, members of Congress and electors of President and Vice President of the United States as are to be elected in that year shall be elected.

(2) The primary election shall be held on the third Tuesday in May of each even-numbered year. At the primary election precinct committee persons shall be elected and major political party candidates shall be nominated for offices to be filled at the general election held in that year. [1979 c.190 §229; 1979 c.316 §20a; 1987 c.267 §1; 1995 c.712 §1; 1999 c.59 §64; 1999 c.999 §28; 2001 c.965 §12; 2003 c.542 §7]

**254.060** [Amended by 1953 c.359 §4; 1957 c.608 §169; 1967 c.364 §1; 1967 s.s. c.3 §1; 1973 c.481 §1; repealed by 1979 c.190 §431]

**254.065 Person receiving most votes nominated or elected; measure adopted by majority of votes; when measure conflicts.** (1) When one person is to be nominated for or elected to an office, the person receiving the highest number of votes shall be nominated or elected. When more than one person is to be nominated for or elected to a single office, the persons receiving the higher number of votes shall be nominated or elected. This subsection does not apply to a candidate for election to an office at a general election if the election for the office must be held at a special election as described in ORS 254.650.

(2) No measure shall be adopted unless it receives an affirmative majority of the total votes cast on the measure. If two or more conflicting laws, or amendments to the Constitution or charter, are approved at the same election, the law, or amendment, receiving the greatest number of affirmative votes shall be paramount regarding each conflict, even though the law, or amendment, may not have received the greatest majority of affirmative votes. [1979 c.190 §230; 2003 c.542 §8]

**254.068 Simulated election for individuals under 18 years of age.** On the date of any election, the county clerk may conduct a simulated election. As used in this section, "simulated election" means a demonstration election held for individuals under 18 years of age for the purpose of encouraging future voter participation. [1991 c.436 §2]

**254.069 Participation in more than one nominating process for partisan public office.** (1) An elector may not participate in more than one nominating process for each partisan public office to be filled at the general election.

(2) An elector is considered to have participated in the nominating process for each partisan public office listed on the ballot at a primary election if the elector returned a ballot of a major political party at the primary election.

(3) An elector is considered to have participated in the nominating process for a partisan public office listed on the ballot at the general election if:

(a) A minor political party nominated a candidate for that office in the manner specified by the party in documents filed under ORS 248.009 and the elector participated in the nominating process; or

(b) The elector participated in the nominating process for that office by signing the minutes of an assembly of electors under ORS 249.735 or by signing a certificate of nomination made by individual electors under ORS 249.740.

(4) If a filing officer described in ORS 249.722 determines that an elector who has signed the minutes of an assembly of electors under ORS 249.735 or a certificate of nomination under ORS 249.740 has attempted to participate in more than one nominating process for the same office to be filled at the general election, the signature of the elector may not be considered for purposes of ORS 249.735 or 249.740. [2005 c.593 §2]

**254.070** [Amended by 1953 c.359 §4; 1957 c.608 §170; 1967 c.634 §7; 1973 c.481 §3; 1977 c.468 §1; repealed by 1979 c.190 §431]

**254.071 Information regarding ballot format and method of voting ballot.** Prior to each election, the county clerk shall make every reasonable effort to acquaint electors with the ballot format to be used in the election and the methods used to mark ballots to cast a valid vote. [2001 c.965 §21; 2007 c.154 §21]

**254.073** [1967 c.364 §3; 1967 s.s. c.3 §2; 1977 c.468 §2; 1979 c.190 §146; 1979 c.345 §14; renumbered 250.075]

**254.074 County elections security plan.** (1) Each county clerk shall file a county elections security plan with the Secretary of State not later than:

- (a) January 31 of each calendar year; and
- (b) One business day after any revision is made to the county elections security plan.

(2) A county elections security plan shall include, but is not limited to:

- (a) A written security agreement entered into with any vendor handling ballots;
- (b) Security procedures for transporting ballots;
- (c) Security procedures at official places of deposit for ballots;
- (d) Security procedures for processing ballots;
- (e) Security procedures governing election observers;
- (f) Security procedures for ballots located in county elections work areas, buildings and storage areas;
- (g) Security procedures for vote tally systems, including computer access to vote tally systems; and
- (h) Post-election ballot security.

(3) A security plan developed and filed under this section is confidential and not subject to disclosure under ORS 192.410 to 192.505. [2001 c.965 §48]

**254.075** [1967 c.364 §4; repealed by 1967 s.s. c.3 §4]

**PREPARATORY PROCEDURES**

**254.076 Register of candidates for nomination.** The chief elections officer shall keep a register of candidates for nomination at the primary election. The register, if applicable, shall contain for each major political party:

- (1) The title of each office for which the major political party will nominate candidates at the primary election.
- (2) The name and mailing address of each candidate for nomination at the primary election.
- (3) The name of the major political party with which the candidate is registered as affiliated.
- (4) The date of filing of the prospective petition for nomination of the candidate.
- (5) The date of filing of the completed petition for nomination of the candidate, the number of valid signatures contained and the number of signatures required.
- (6) The date of filing of the declaration of candidacy of the candidate.
- (7) Such other information as may aid the chief elections officer in arranging the official ballot for the primary election. [Formerly 249.070; 1987 c.267 §39; 1995 c.607 §38; 1995 c.712 §54; 1999 c.999 §47; 2007 c.154 §22]

**254.077** [1967 c.364 §6; 1967 s.s. c.3 §3; 1973 c.481 §4; 1977 c.468 §3; 1979 c.190 §147; 1979 c.345 §5; renumbered 250.085]

**254.080** [Amended by 1953 c.359 §4; 1957 c.608 §171; repealed by 1967 c.364 §8]

**254.083** [1967 c.364 §6; repealed by 1967 s.s. c.3 §4]

**254.085 Secretary of State’s statement of offices, candidates and measures.**

(1) The Secretary of State, not later than the 61st day before the date of a primary or general election, shall file with each county clerk a statement of the state and congressional district offices to be filled or for which candidates are to be nominated in the county at the election, information concerning all candidates for the offices, and the state measures to be voted on.

(2) The information concerning candidates for the Supreme Court, Court of Appeals, Oregon Tax Court and circuit court shall include a designation of incumbent for each candidate who is the regularly elected or appointed judge of the court to which the candidate seeks election. If a candidate was regularly elected or appointed to a specific position or department on the court, the candidate shall be designated as the incumbent only if the person is a candidate for that position or department.

(3) Included with each state measure shall be the measure number, the latest ballot title certified by the Attorney General under ORS 250.067 (2) or, if the Supreme Court has reviewed the title under ORS 250.085, the title certified by the court and the financial estimates under ORS 250.125. The Secretary of State shall keep a copy of the statement. [Formerly 250.020; 1985 c.742 §1; 1991 c.971 §8; 1993 c.493 §28; 1995 c.712 §55; 1999 c.59 §65; 2007 c.159 §4]

**254.090** [Amended by 1953 c.632 §6; repealed by 1979 c.190 §431]

**254.095 City elections officers’ statements of offices, candidates and measures.**

(1) The chief elections officer of any city shall file with the county clerk of the county in which the city hall of the city is located, a statement of the city offices to be filled or for which candidates are to be nominated at the election and information concerning all candidates for the offices not later than the 61st day before the date of the election.

(2) Except as provided in subsection (3) of this section, the chief elections officer of any city shall file with the county clerk of the county in which the city hall is located, a statement of the city measures to be voted on, including the ballot title for each measure, not later than the 61st day before the date of the election.

(3) If a measure to be submitted to the electors of a city at an election held on the

first Tuesday after the first Monday in November was submitted on the election date in ORS 221.230 (1) immediately preceding the first Tuesday after the first Monday in November, the chief elections officer of the city shall file the statement required for that measure in subsection (2) of this section on the 47th day before an election held on the first Tuesday after the first Monday in November.

(4) The chief elections officer of the city shall keep a copy of each statement filed under this section.

(5) If a city is located in more than one county, the county clerk under subsection (1) of this section shall immediately file the statement and information required under subsection (1) of this section with the county clerk of any other county in which the city is located. [Formerly 250.030; 1981 c.639 §2; 1987 c.707 §17; 1987 c.724 §5; 1989 c.503 §13; 1989 c.503 §14; 1989 c.923 §11; 1991 c.71 §8; 1993 c.493 §29; 1993 c.713 §57; 1995 c.712 §118]

**254.098 Expenses for change in information filed under ORS 254.085 or 254.095.** If, after the deadline for filing a statement under ORS 254.085 or 254.095, an electoral district requires a change in the information contained in the statement, the electoral district for which the change is made shall bear the expenses incurred as a result of the change. As used in this section, "electoral district" means the state in the case of a statement filed under ORS 254.085 and a city in the case of a statement filed under ORS 254.095. [1991 c.74 §2; 1993 c.493 §30]

**254.100** [Amended by 1953 c.632 §6; 1957 c.608 §172; repealed by 1979 c.190 §431]

**254.103 Filing of measures referred by county governing body.** (1) The governing body of a county shall file with the county clerk each measure referred by the county governing body not later than the 61st day before the date of the election.

(2) If a measure to be submitted to the electors of a county at an election held on the first Tuesday after the first Monday in November was submitted on the election date in ORS 203.085 (1) immediately preceding the first Tuesday after the first Monday in November, the county governing body shall file the measure with the county clerk not later than the 47th day before an election held on the first Tuesday after the first Monday in November. [1983 c.15 §2; 1985 c.808 §35; 1987 c.707 §18; 1989 c.923 §12; 1991 c.71 §9; 1993 c.713 §58; 1995 c.712 §119]

**254.104** [1953 c.632 §7; repealed by 1979 c.190 §431]

**254.105** [1969 c.299 §§1,2; repealed by 1979 c.190 §431]

**254.106** [1953 c.632 §5; 1957 c.608 §173; repealed by 1979 c.190 §431]

**254.107** [Formerly 250.070; 1981 c.639 §3; repealed by 1983 c.567 §22]

**254.108 Numbering county, city and district measures; rules.** (1) The county clerk shall number county, city and district measures consecutively and shall not repeat any number in any subsequent election. For each election, the numbers assigned shall begin with the number after the last number assigned under this section at the previous election. The measures shall be assigned numbers in the order in which the measures are filed with the clerk and in a manner that will not confuse county, city or district measures with state measures. The number assigned to each county, city and district measure shall be preceded by a unique county prefix number. The Secretary of State by rule shall assign a prefix number to each county for the purpose of carrying out the provisions of this subsection.

(2) If a district or city is located in more than one county, the district elections officer under ORS 255.005 or the county clerk under ORS 254.095 shall immediately certify a district or city measure to the county clerk of any other county in which the district or city is located. [1987 c.724 §4; 1993 c.493 §17; 2001 c.267 §2]

**254.110** [Repealed by 1979 c.190 §431]

**254.115 Official primary election ballot.** (1) The official primary election ballot shall be styled "Official Primary Nominating Ballot for the \_\_\_\_\_ Party." and shall state:

(a) The name of the county for which it is intended.

(b) The date of the primary election.

(c) The names of all candidates for nomination at the primary election whose nominating petitions or declarations of candidacy have been made and filed, and who have not died, withdrawn or become disqualified.

(d) The names of candidates for election as precinct committeeperson.

(e) The names of candidates for the party nomination for President of the United States who qualified for the ballot under ORS 249.078.

(2) The primary election ballot may include any city, county or nonpartisan office or the number, ballot title and financial estimates under ORS 250.125 of any measure.

(3) The ballot may not contain the name of any person other than those referred to in subsections (1) and (2) of this section. The name of each candidate for whom a nominating petition or declaration of candidacy has been filed shall be printed on the ballot in but one place. In the event that two or more candidates for the same nomination or office have the same or similar surnames, the location of their places of residence shall be printed opposite their names to distinguish

one from another. [Formerly 249.354; 1983 c.7 §3; 1983 c.567 §16; 1987 c.267 §42; 1991 c.971 §§9,10; 1993 c.493 §§31,32; 1995 c.712 §56; 1999 c.410 §44; 1999 c.999 §48; 2007 c.154 §23]

**254.118** [1995 c.712 §58; repealed by 1999 c.999 §59]

**254.120** [Amended by 1957 c.608 §174; 1979 c.317 §12; repealed by 1979 c.190 §431]

**254.125 Nominating ballot for candidates to nonpartisan office; listing of candidates for judge at primary and general elections; use of term “incumbent.”**

(1) The names of candidates for a nonpartisan office at a nominating election held on the date of the primary election shall be listed without political party designation on a nominating ballot under the title, and department or position number if any, of the office.

(2) At the primary election or general election:

(a) The names of candidates who are opposed for nomination or election to the Supreme Court, Court of Appeals, Oregon Tax Court and circuit court shall be printed on the ballot before the names of candidates for those offices who are unopposed; and

(b) The word “incumbent” shall follow the name of each candidate for the Supreme Court, Court of Appeals, Oregon Tax Court or circuit court who is designated the incumbent by the Secretary of State under ORS 254.085. [1979 c.190 §236; 1979 c.451 §6; 1979 c.587 §4; 1983 c.7 §4; 1985 c.742 §2; 1993 c.493 §§35,36; 1995 c.658 §99; 1995 c.712 §59; 1999 c.410 §45; 2007 c.154 §24]

**254.130** [Amended by 1957 c.608 §175; 1959 c.457 §7; 1975 c.766 §5a; 1979 c.317 §13; repealed by 1979 c.190 §431]

**254.135 Official general or special election ballots.** (1) The official general or special election ballot shall be styled “Official Ballot” and shall state:

(a) The name of the county for which it is intended.

(b) The date of the election.

(c) The names of all candidates for offices to be filled at the election whose nominations have been made and accepted and who have not died, withdrawn or become disqualified. The ballot may not contain the name of any other person.

(d) The number, ballot title and financial estimates under ORS 250.125 of any measure to be voted on at the election.

(2) The names of candidates for President and Vice President of the United States shall be printed in groups together, under their political party designations. The names of the electors may not be printed on the general election ballot. A vote for the candidates for President and Vice President is a vote for the group of presidential electors supporting those candidates and selected as provided by law. The general election ballot shall state

that electors of President and Vice President are being elected and that a vote for the candidates for President and Vice President shall be a vote for the electors supporting those candidates.

(3)(a) The name of each candidate nominated shall be printed upon the ballot in but one place, without regard to how many times the candidate may have been nominated. The name of a political party shall be added opposite the name of a candidate for other than nonpartisan office according to the following rules:

(A) For a candidate not affiliated with a political party who is nominated by a minor political party, the name of the minor political party shall be added opposite the name of the candidate;

(B) For a candidate not affiliated with a political party who is nominated by more than one minor political party, the name of the minor political party selected by the candidate shall be added opposite the name of the candidate;

(C) For a candidate who is a member of a political party who is nominated by a political party of which the candidate is not a member, the name of the political party that nominated the candidate shall be added opposite the name of the candidate;

(D) For a candidate who is a member of a political party who is nominated by more than one political party of which the candidate is not a member, the name of the political party selected by the candidate shall be added opposite the name of the candidate; and

(E) For a candidate who is nominated by a political party of which the candidate is a member, the name of the political party of which the candidate is a member shall be added opposite the name of the candidate.

(b) If a candidate is required to select the name of a political party to be added on the ballot under paragraph (a) of this subsection, the candidate shall notify the filing officer of the selection not later than the 61st day before the day of the election.

(c) The word “incumbent” shall follow the name of each candidate for the Supreme Court, Court of Appeals, Oregon Tax Court or circuit court who is designated the incumbent by the Secretary of State under ORS 254.085.

(d) The word “nonaffiliated” shall follow the name of each candidate who is not affiliated with a political party and who is nominated by an assembly of electors or individual electors.

(e) If two or more candidates for the same office have the same or similar sur-

names, the location of their places of residence shall be printed opposite their names to distinguish one from another. [Formerly 250.110; 1983 c.7 §5; 1985 c.742 §3; 1991 c.971 §12; 1993 c.493 §38; 1995 c.606 §7; 1999 c.410 §46; 2005 c.797 §46; 2007 c.154 §25]

**254.140** [Amended by 1957 c.608 §176; 1973 c.392 §3; repealed by 1979 c.190 §431]

**254.145 Design and contents of official ballots.** (1)(a) Except as provided in paragraph (b) of this subsection, the names of candidates for nomination for or election to each office shall be arranged on the ballot in the order determined under ORS 254.155.

(b) The names of candidates for the offices of President and Vice President of the United States shall be arranged in groups.

(2) Except as provided in ORS 254.125 and 254.135 and this section, no information about the candidate, including any title or designation, other than the candidate's name, may appear on the ballot.

(3) Spaces shall be provided for any offices appearing on the ballot in which the elector may write the name of any person not printed on the ballot. If a voting machine is used, spaces shall be provided on the ballot, or on separate material delivered to the elector with the ballot, in which the elector may write or enter the names of persons for any offices appearing on the ballot.

(4) On the left margin of the ballot, the name of each group or candidate may be numbered. The blank spaces may not be numbered. A particular number may not be used to designate more than one candidate at any election.

(5) The names of all candidates for the same office shall be listed in the same column on the ballot. If more than one column is needed to list names of all candidates for that office, the names may be arranged in one or more columns in block form. The block shall be set apart by rulings under the title of the office. If a blank space follows the list of candidates, the space shall be in the same column as the names of candidates for that office. If blocks of columns are used, blank spaces shall be included within the ruled block.

(6) The ballot shall be clearly marked to indicate when names of candidates for the office are continued on the following page.

(7) When a measure is submitted to the people, the number, ballot title and financial estimates under ORS 250.125 of each measure shall be printed after the list of candidates. A measure referred by the Legislative Assembly shall be designated "Referred to the People by the Legislative Assembly." A state measure referred by petition shall be

designated "Referendum Order by Petition of the People." A state measure proposed by initiative petition shall be designated "Proposed by Initiative Petition."

(8) The ballot shall be printed to give the elector a clear opportunity to designate the elector's choice for candidates and approval or rejection of measures submitted. If a voting machine is not used, the elector shall indicate a preference by making a cross or check mark inside a voting square corresponding to the candidate or answer for which the elector wishes to vote. A voting square may be printed on the blank, write-in vote spaces. However, the elector is not required to place a mark in the voting square corresponding to a name written in a blank space. Words shall be printed on the ballot to aid the elector, such as "Vote for one," "Vote for three," and regarding measures, "Yes" and "No." [1979 c.190 §238; 1983 c.253 §2; 1991 c.719 §27; 1991 c.971 §13; 1993 c.493 §39; 1993 c.713 §48; 1995 c.607 §80; 1999 c.410 §47; 2007 c.154 §26]

**254.150** [Amended by 1979 c.316 §14; repealed by 1979 c.190 §431]

**254.155 Order of candidate names on ballot.** (1) Not later than the 69th day before the date of any election the Secretary of State shall complete a random ordering of the letters of the alphabet.

(2) Not later than the 68th day before the date of any election the Secretary of State shall mail or deliver to each county clerk a copy of the random ordering of the letters of the alphabet.

(3) The county clerk shall arrange by surname the names of the candidates on the ballot in the random order of the letters of the alphabet completed by the Secretary of State under subsection (1) of this section. [Formerly 249.362; 1983 c.253 §1; 1987 c.267 §47; 1993 c.713 §49; 2007 c.154 §27]

**254.160** [Amended by 1957 c.608 §177; 1979 c.190 §142; renumbered 250.025]

**254.165 Adjusting ballot when vacancy occurs; notice to Secretary of State; exception.** (1) If the filing officer determines that a candidate has died, withdrawn or become disqualified, or that the candidate will not qualify in time for the office if elected, the name of the candidate may not be printed on the ballots or, if they have already been printed, shall be erased or canceled before the ballots are delivered to the electors. The name of a candidate nominated to fill a vacancy in nomination or office shall be printed on the ballots or, if they have already been printed, the county clerk shall cause the name to appear on the ballots before the ballots are delivered to the electors. A filing officer, other than the Secretary of State, shall notify the Secretary of State of any action taken under this section.



(2) Subsection (1) of this section does not apply if the filing officer makes the determination under subsection (1) of this section on or after the 30th day before the date of the election.

(3) As used in this section:

(a) "District" means a district defined in ORS 255.012.

(b) "Filing officer" means the:

(A) Secretary of State, regarding a candidate for a state office or an office to be voted on in the state at large or in a congressional district.

(B) County clerk, regarding a candidate for a county office.

(C) County clerk of the county in which the administrative office of the district is located, regarding a candidate for a district office to be voted on in a district located in more than one county.

(D) County clerk, regarding a candidate for a district office to be voted on in a district situated wholly within the county.

(E) City clerk, auditor or recorder, regarding a candidate for a city office. [Formerly 250.161; 1983 c.514 §12; 1991 c.719 §28; 1999 c.410 §48; 2007 c.154 §28]

**254.170** [Amended by 1957 c.608 §178; repealed by 1979 c.190 §431]

**254.175 Providing ballot title and financial estimates in lieu of printing on ballot; statements in recall elections.** (1) In lieu of printing the complete ballot title of any measure, other than a state measure, the county clerk may print the caption and the question of the ballot title and the measure number on the ballot.

(2) In lieu of printing the complete ballot title and financial estimates of any state measure to be initiated or referred, the county clerk may print the caption of the ballot title, the statements described in ORS 250.035 (2)(b) and (c) and the measure number on the ballot.

(3) In the case of a recall election, the statements described in section 18, Article II of the Oregon Constitution, and ORS 249.877 shall be printed on the ballot.

(4) The complete text of each ballot title and any financial estimates shall be included with each official ballot. [Formerly 258.380; 1981 c.173 §31; 1981 c.391 §10; 1985 c.808 §36; 1991 c.971 §14; 1995 c.534 §1a; 1999 c.410 §49; 2007 c.154 §29]

**254.180** [Amended by 1953 c.150 §2; 1957 c.608 §179; 1979 c.190 §151; renumbered 250.125]

**254.185 Printing or furnishing of ballots by county clerk.** The county clerk shall print or furnish all the required ballots and shall provide them for use by electors in the county. Only ballots printed or furnished

under this section may be used in an election. [Formerly 250.080; 2007 c.154 §30]

**254.190** [Repealed by 1979 c.190 §431]

**254.195 Ballot specifications.** (1) Official ballots shall be printed in black ink upon good quality material. The primary election ballots shall be of different colors for the major political parties.

(2) The governing body of a city, county or district may mail sample ballots to all electors within the city, county or district to assist the electors' preparation for voting. [Formerly 250.090; 1981 c.157 §1; 1985 c.471 §9; 1987 c.267 §48; 1995 c.712 §60; 1999 c.410 §50; 1999 c.999 §49; 2007 c.154 §31]

**254.200** [Repealed by 1957 c.608 §231]

**254.205** [Formerly 250.121; 1989 c.171 §34; 1989 c.773 §1; 1991 c.107 §11; 1995 c.607 §§39,39a; 1999 c.999 §50; repealed by 2007 c.154 §67]

**254.210** [Amended by 1957 c.608 §180; 1965 c.290 §1; 1973 c.712 §1; 1975 c.766 §19; 1979 c.190 §190; renumbered 251.205]

**254.215** [Formerly 250.150; 1989 c.503 §15; repealed by 2007 c.154 §67]

**254.220** [Amended by 1957 c.608 §181; 1965 c.290 §2; repealed by 1973 c.712 §2 (254.222 enacted in lieu of 254.220)]

**254.222** [1973 c.712 §3 (enacted in lieu of 254.220); 1975 c.766 §20; 1979 c.190 §191; renumbered 251.215]

**254.225** [1975 c.766 §28; 1979 c.190 §192; renumbered 251.225]

**254.226** [1979 c.190 §246; 1983 c.514 §13; 1985 c.448 §4; 1985 c.471 §10; 1999 c.410 §51; repealed by 2007 c.154 §67]

**254.230** [1973 c.712 §4; 1979 c.190 §193; renumbered 251.235]

**254.235 Testing of voting machines and vote tally systems; notice of test.** (1) Not later than five business days before an election in which voting machines or vote tally systems are used, the county clerk shall:

(a) Conduct a preparatory test of the machine and system for logic and accuracy to ensure that each ballot format, where appropriate, correctly tallies ballots in each electoral contest by precinct; and

(b) Conduct a public certification test for the vote tally system using a selection of precincts, ballot formats and electoral districts from the preparatory test conducted under this subsection.

(2) Prior to the public certification test under subsection (1)(b) of this section, the county clerk shall mail to each affiliate of a major or minor political party within the county that has notified the clerk that notice is desired, a notice of the time and place where the vote tally system will be publicly tested. One representative of each party is entitled to be present to ensure that the testing is done properly. In nonpartisan elections each candidate may designate one representative who has the same powers as the

political party representatives. The party and candidate representatives shall certify that they have witnessed the testing. The certificates shall be filed with the county clerk. [1979 c.190 §247; 1993 c.797 §23; 2001 c.965 §22; 2007 c.154 §32]

**254.245** [Formerly 250.610; 1987 c.707 §19; repealed by 2007 c.154 §67]

**254.265** [1979 c.190 §249; 1979 c.519 §19a; repealed by 2007 c.154 §67]

**254.275** [1979 c.190 §250; repealed by 2007 c.154 §67]

**254.290** [Repealed by 1957 c.608 §231]

**254.295** [Formerly 250.330; repealed by 2007 c.154 §67]

**254.305** [Formerly 250.430; 1983 c.83 §29; 1985 c.808 §37; 1989 c.503 §40; 1991 c.436 §3; 1993 c.493 §40; 1993 c.797 §24a; repealed by 1999 c.318 §55]

**254.310** [Amended by 1957 c.608 §182; 1959 c.457 §8; 1977 c.516 §1; repealed by 1979 c.190 §431]

**254.315** [Formerly 258.245; repealed by 2007 c.154 §67]

**254.320** [Amended by 1957 c.608 §183; 1975 c.675 §31b; repealed by 1979 c.190 §431]

**254.321 Providing map of proposed boundaries for election on establishing or changing county or city boundaries.** At any election in which the question of establishing or changing the exterior boundaries of a county or city is submitted to a vote, the county clerk shall:

(1) Include with every mailed ballot a map indicating the proposed boundaries; or

(2) Print in a voters' pamphlet prepared for the election a map indicating the proposed boundaries. [1983 c.350 §69; 1999 c.410 §52; 2007 c.154 §33]

**254.325** [Formerly 250.340; 1987 c.72 §1; 1987 c.727 §14; repealed by 2007 c.154 §67]

**254.330** [Amended by 1957 c.608 §184; repealed by 1979 c.190 §431 and by 1979 c.519 §38]

**254.335** [Formerly 258.295; repealed by 2007 c.154 §67]

**254.340** [Amended by 1957 c.608 §185; 1959 c.457 §9; 1979 c.519 §37; repealed by 1979 c.190 §431]

**254.345** [Formerly 258.305; repealed by 2007 c.154 §67]

**254.355** [1979 c.190 §258; repealed by 2007 c.154 §67]

## VOTING

**254.365 Voting at primary election by major party members and nonaffiliated electors.** (1) An elector is not qualified or permitted to vote at any primary election for any candidate of a major political party, and it is unlawful for the elector to offer to do so, unless:

(a) The elector is registered as being affiliated with one of the major political parties nominating or electing its candidates for public office at the primary election; or

(b) The elector is registered as not being affiliated with any political party and wishes

to vote in the primary election of a major political party that has provided under subsection (3) of this section for a primary election that admits electors not affiliated with any political party.

(2) Except as provided in ORS 254.470 (3), any elector offering to vote at the primary election shall be given a ballot of the major political party with which the elector is registered as being affiliated. The elector may not be given a ballot of any other political party at that primary election. An elector not affiliated with any political party and offering to vote at the primary election shall be given the ballot of the major political party in whose primary election the elector wishes to vote if that party has provided under subsection (3) of this section for a primary election that admits electors not affiliated with any political party. An elector not affiliated with any political party who is given a ballot of the major political party associates with the party for the purpose of voting in that primary election.

(3)(a) Not later than the 90th day before the date of the primary election, a major political party may file with the Secretary of State a certified copy of the current party rule allowing an elector not affiliated with any political party to vote in the party's primary election. The party may not repeal the rule as filed during the 90 days before the primary election. The rule shall continue to be effective after the date of the primary election until the party gives written notice to the Secretary of State that the rule has been repealed. Except as provided in paragraph (b) of this subsection, a party rule under this subsection may limit the candidates for whom an elector who is not affiliated with any political party may vote.

(b) The party rule shall allow any elector who is permitted to vote for the most numerous branch of the Legislative Assembly also to vote in federal legislative elections, consistent with section 2, Article I, and the Seventeenth Amendment to the United States Constitution.

(4) If the primary election ballot includes city, county or nonpartisan offices or measures, and it is given to an elector who is not eligible to vote for party candidates, the ballot shall be marked "non-affiliated." [Formerly 249.366; 1987 c.719 §§1,20; 1995 c.712 §62; 1999 c.999 §51; 2007 c.154 §34]

**254.370 Record of nonaffiliated electors; record of voting in primary election of major political party and in general election.** The county clerk shall maintain:

(1) A monthly registration record of all electors registered as not being affiliated with any political party;

(2) At each primary election, a record of the number of electors who voted from each major political party;

(3) A record of all electors registered as not being affiliated with any political party who vote in a primary election of a major political party that has provided under ORS 254.365 for a primary election that admits electors not affiliated with any political party; and

(4) A record of all electors registered as not being affiliated with any political party who vote in the general election. [1987 c.719 §3; 1991 c.719 §52; 1993 c.713 §31; 1995 c.712 §63; 1999 c.999 §52]

**254.375** [1979 c.190 §260; repealed by 2007 c.154 §67]

**254.385** [Formerly 250.645; 1981 c.142 §3; repealed by 2007 c.154 §67]

**254.390** [1999 c.1002 §3; repealed by 2007 c.154 §67]

**254.395** [Formerly 250.631; repealed by 2007 c.154 §67]

**254.405** [Formerly 250.655; 1995 c.607 §40; repealed by 2007 c.154 §67]

**254.407** [1989 c.666 §2; repealed by 1993 c.713 §43]

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

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

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

(4) The elector shall insert the ballot into a small envelope provided by the county clerk and then insert the small envelope into a larger envelope. The larger envelope shall be delivered to the county clerk and shall be segregated and not counted until the registration of the elector is verified under this section.

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

(6) A vote shall be counted only if the elector is qualified to vote for the particular office or on the measure. [Formerly 247.205; 1999 c.410 §53; 2007 c.154 §35]

**254.409** [1989 c.666 §3; repealed by 1993 c.713 §43]

**254.410** [Amended by 1957 c.608 §186; 1977 c.487 §3; repealed by 1979 c.190 §431]

**254.411 Voting after name change.** (1) Any elector whose name has been changed

may vote once in the county in which the elector is registered under the elector's former name.

(2) Following the election, the registration of the elector shall be considered inactive.

(3) In order to vote at subsequent elections the elector whose name has changed must update the elector's registration. [1987 c.733 §12; 1993 c.713 §32; 1999 c.410 §54; 2007 c.154 §36]

**254.413** [2001 c.805 §2; repealed by 2007 c.154 §67]

**254.415 Challenging ballot of person offering to vote; statement of challenge.**

(1) The county clerk, an elections official or any elector shall challenge the ballot of any person offering to vote whom the clerk, official or elector knows or suspects not to be qualified as an elector.

(2) The clerk, official or elector challenging the ballot shall make, under oath or affirmation before a county clerk or other elections official, a written and numbered statement of challenge. The statement shall contain the name and residence address of the challenger, the name of the person challenged and a statement of the facts upon which the challenge is based.

(3) A person's ballot may be challenged at any time before the ballot is removed from its return envelope for processing. [Formerly 250.350; 1981 c.142 §4; 1985 c.808 §38; 1991 c.14 §1; 1995 c.607 §81; 1999 c.410 §55; 2007 c.154 §37]

**254.419** [1995 c.607 §83; repealed by 2007 c.154 §67]

**254.420** [Amended by 1975 c.627 §2; 1977 c.487 §4; 1979 c.190 §138; renumbered 249.875]

**254.425** [Formerly 250.400; 1983 c.83 §30; repealed by 1991 c.14 §4]

**254.426 Procedure on challenged ballot.** (1) Whenever any person votes a challenged ballot, the county clerk shall ensure that the ballot offered by the person includes the number of the written statement of challenge so that the ballot may be identified in any future contest of the election.

(2) The county clerk shall examine the challenge and determine if the person is validly registered to vote and if the vote was properly cast. The ballot shall be counted only if the county clerk determines the person is validly registered.

(3) The county clerk shall ensure that the information on the numbered written statement is treated as confidential so that in the event of a recount of votes it cannot be determined how any challenged person voted.

(4) The registration of any person voting under this section and ORS 254.415 shall be verified not later than the last business day prior to the last day for the official certification of election results required by ORS 254.545 (3) and 255.295 (1) in order for the

vote of the person to be counted. [1991 c.14 §3; 1993 c.713 §33; 1995 c.607 §82]

**254.430** [Repealed by 1973 c.392 §4]

**254.435** [Formerly 250.700; 2007 c.70 §58; repealed by 2007 c.154 §§67,67a]

**254.440** [Amended by 1975 c.683 §4; 1977 c.487 §5; repealed by 1979 c.190 §431]

**254.445 Assistance in marking ballot; use of sample ballot as aid in voting.** (1) If an elector is within the county and, because of a physical disability or an inability to read or write, is unable to mark the ballot, the elector may request and shall receive the assistance of two persons of different parties provided by the clerk or of some other person chosen by the elector in marking the ballot. The persons assisting the elector shall ascertain the wishes of the elector and assist the elector in voting the ballot accordingly, and thereafter may give no information regarding the vote.

(2) A person may not assist an elector under subsection (1) of this section if the person:

(a) Is an employer of the elector or an agent of the employer; or

(b) Is an officer or agent of the union of which the elector is a member.

(3) In preparing the ballot, an elector may use or copy a sample ballot, which may be marked in advance to assist the elector in marking the official ballot. [Formerly 250.690; 1985 c.471 §11; 1999 c.410 §56; 2007 c.154 §38]

**254.450** [Amended by 1979 c.190 §137; renumbered 249.870]

**254.455** [Formerly 250.680; 1995 c.607 §41; repealed by 2007 c.154 §67]

**254.458 Alternatives to secrecy envelope procedures.** Notwithstanding any provision of ORS 254.470:

(1) A county clerk may apply to the Secretary of State for approval of any procedure to be used in lieu of the envelope procedures described in ORS 254.470; and

(2) Upon receiving an application under subsection (1) of this section, the secretary may approve a procedure to be used in lieu of the envelope procedures described in ORS 254.470 if the secretary determines that the procedure will provide substantially the same degree of secrecy as ORS 254.470. [1995 c.607 §84; 2007 c.154 §39]

**254.460** [Amended by 1979 c.190 §139; renumbered 249.880]

**254.462** [1999 c.410 §40; 2003 c.14 §121; repealed by 2007 c.154 §67]

**254.465 Elections to be conducted by mail; rules.** (1) County clerks shall conduct all elections in this state by mail.

(2) The Secretary of State shall adopt rules to:

(a) Provide for uniformity in the conduct of state elections by mail; and

(b) Govern the procedures for conducting elections by mail. [1981 c.805 §1; 1983 c.199 §1; 1985 c.575 §1; 1987 c.267 §80; 1987 c.357 §2; 1991 c.719 §12; 1993 c.493 §§41,42; 1995 c.712 §64; 1999 c.3 §1; 1999 c.999 §53; 2007 c.154 §1]

**254.470 Procedures for conducting election by mail; rules.** (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) and (c) of this subsection, the county clerk shall mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope not sooner than the 18th 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 identification 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 long-term absent electors, the county clerk may mail the ballots not sooner than the 29th day before the date of the election.

(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 subsection and that party has provided under ORS 254.365 for a pri-

mary 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 shall 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) 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 envelope 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.

(5) The ballot shall contain the following warning:

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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.

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(6) 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. 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. The ballot must be returned in the return identification envelope. If the elector returns the ballot by mail, the elector must provide the postage. A 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.

(7) 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.

(8) 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; and

(c) The signature is verified as provided in subsection (9) of this section.

(9) The county clerk shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration card, 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.

(10) 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. [1981 c.805 §2; 1983 c.199 §2; 1985 c.575 §2; 1987 c.357 §3; 1987 c.733 §7a; 1993 c.493 §44; 1995 c.607 §43; 1995 c.712 §65; 1995 c.742 §17; 1999 c.410 §57; 1999 c.999 §54a; 1999 c.1002 §11; 2001 c.104 §79; 2001 c.805 §7; 2001 c.965 §14; 2005 c.797 §47; 2007 c.71 §78; 2007 c.154 §40a]

**254.471 Extension of deadline for returning ballots in case of emergency.** (1) Notwithstanding ORS 171.185, 203.085, 221.230, 221.621, 254.056, 254.470, 254.655, 255.335, 255.345, 258.075, 545.135 and 568.520, the Governor by written proclamation may extend the deadline for returning ballots in any state, county, city or district election if the Governor receives a written request for the extension from the Secretary of State. The secretary may request the Governor to extend the deadline for returning ballots under this section if, after consultation with affected county clerks, the secretary determines that it would be impossible or impracticable for electors to return ballots or for elections officials to tally ballots due to an emergency as defined in ORS 401.025 (4).

(2) The Governor may not extend the deadline for returning ballots in any state, county, city or district election under subsection (1) of this section for more than seven calendar days after the date of the election.

(3) The written proclamation required under subsection (1) of this section shall state:

(a) The determination of the Governor;

(b) The reason the deadline for returning ballots was extended; and

(c) The date and time by which ballots must be returned in the election.

(4) Notwithstanding any other provision of this chapter, if the Governor extends the deadline for returning ballots under subsection (1) of this section, a county clerk in any county in this state may not order a tally report from any vote tally machine in the election until the date and time set by the Governor by which ballots must be returned in the election. [2007 c.183 §2]

**254.472 Compartments for marking ballots.** The county clerk shall provide, at any location where ballots are issued, at least three suitable compartments, shelves or tables at which electors may mark their ballots. The arrangement of the compartments, shelves or tables shall ensure that the elector may conveniently mark the ballot with absolute secrecy. The compartments, shelves or tables shall be available during the entire time that ballots may be issued. [1999 c.410 §42]

**254.474 Voting booths for primary and general elections.** (1) At each primary election and general election, the county clerk shall maintain voting booths in the county as follows:

(a) In each county with 35,000 or more electors in the county, the county clerk shall maintain a number of voting booths equal to at least one voting booth for every 20,000 electors in the county; and

(b) In each county with fewer than 35,000 electors in the county, the county clerk shall maintain at least one voting booth.

(2) The county clerk may determine the location of the voting booths required under this section. [1999 c.1002 §4; 1999 c.999 §54b; 2007 c.154 §41]

**254.475** [Formerly 250.225; 1987 c.267 §51; 1993 c.713 §35; 1995 c.607 §44; renumbered 254.483 in 1999]

**254.476 Personnel for counting ballots.** The county clerk may employ personnel as necessary to open envelopes, prepare ballots for counting and count ballots. Such personnel shall not all be members of the same political party. A person who is the spouse, child, son-in-law, daughter-in-law, parent, mother-in-law, father-in-law, sibling, brother-

in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of a candidate on the ballot at an election shall not be employed and may not serve as a volunteer in the capacity described in this section. [1999 c.410 §41]

**254.478 Preparation for counting ballots.** Not sooner than the seventh day before the date of an election, in preparation for counting ballots delivered by mail, the county clerk may begin opening return identification and secrecy envelopes of ballots delivered by mail and received by the county clerk. The county clerk may take any other actions that are necessary to allow the counting of ballots delivered by mail to begin on election day. [1999 c.1002 §2; 2001 c.965 §15]

**254.480 Replacement ballots.** (1) An elector may obtain a replacement ballot described in ORS 254.470. To vote a replacement ballot, the elector must complete and sign a replacement ballot request form. The request for a replacement ballot may be made electronically, by telephone, in writing, in person or by other means designated by the Secretary of State by rule.

(2) The replacement ballot request form shall be mailed or made available to the elector along with the replacement ballot.

(3) Upon receiving a request for a replacement ballot, the county clerk shall:

(a) Verify the registration of the elector and ensure that another ballot has not been returned by the elector;

(b) Note in the list of electors that the elector has requested a replacement ballot;

(c) Mark the return identification envelope clearly so that it may be readily identified as a replacement ballot; and

(d) Issue the replacement ballot by mail or other means.

(4) The completed and signed replacement ballot request form and the voted replacement ballot must be received at the office of the county clerk, a place of deposit designated by the county clerk or at any location described in ORS 254.472 or 254.474 not later than the end of the period determined under ORS 254.470 (1) on the date of the election.

(5) Upon receiving a voted replacement ballot, the county clerk shall verify that a completed and signed replacement ballot request form has been received by the county clerk or is included with the voted replacement ballot. If a request form has been completed and signed by the elector and received by the county clerk, the county clerk shall process the ballot. If the request form is not completed or signed by the elector or received by the county clerk, the county clerk

may not process the ballot. [2001 c.965 §27; 2007 c.154 §42]

**254.482 Persons authorized to watch receiving and counting of votes.** After the date that ballots are mailed as provided in ORS 254.470, the county clerk, if requested, shall permit authorized persons to be at the office of the county clerk to watch the receiving and counting of votes. The authorization shall be in writing, shall be signed by an officer or its county affiliate of a political party, a candidate or the county clerk and shall be filed with the county clerk. The county clerk shall permit only so many persons as watchers under this section as will not interfere with an orderly procedure at the office of the county clerk. [2001 c.805 §3; 2005 c.797 §56]

**POST-ELECTION PROCEDURES**

**254.483 Procedures after 8 p.m. on election day; unused ballots.** Immediately after 8 p.m. on the day of an election:

(1) The county clerk shall destroy all unused absentee and regular ballots in the county clerk’s possession.

(2) Each county shall provide for the security of, and shall account for, unused ballots. [Formerly 254.475; 2007 c.154 §43]

**254.485 Tally of ballots; test of vote tally system.** (1) Ballots may be tallied by a vote tally system or by a counting board. A counting board may tally ballots at the precinct or in the office of the county clerk. In any event, the ballots shall be tallied and returned by precinct.

(2) If a vote tally system is used, the county clerk shall repeat the public certification test described under ORS 254.235 (1). The test shall be conducted on the date of the election and prior to beginning the tally of ballots. The test may be observed by persons described in ORS 254.235 (2). The county clerk shall certify the results of the test.

(3) If a vote tally system is used or if a counting board has been appointed, the tally of ballots may begin on the date of the election.

(4)(a) If ballots are tallied by a counting board, after the tally has begun it shall continue until completed. Except as provided in paragraph (b) of this subsection, a counting board shall tally without adjournment and in the presence of the clerks and persons authorized to attend.

(b) A counting board may be relieved by another board if the tally is not completed after 12 hours.

(5) A counting board shall audibly announce the tally as it proceeds. The board shall use only pen and ink to tally.

(6) For ballots cast using a voting machine, the county clerk shall:

(a) Enter the ballots cast using the machine into the vote tally system; and

(b) In the event of a recount, provide the paper record copy recorded by the machine to the counting board.

(7) A person other than the county clerk, a member of a counting board or any other elections official designated by the county clerk may not tally ballots under this chapter. [1979 c.190 §270; 1995 c.607 §45; 1999 c.318 §37; 1999 c.410 §58; 2001 c.965 §23; 2005 c.731 §5; 2005 c.797 §68; 2007 c.154 §44]

**254.495 Tally and return sheets; counting and tallying ballots.** (1) To tally ballots by hand, the counting board shall use the tally sheets and two copies of the return sheet.

(2) The completed tally and return sheets shall contain:

(a) The offices on the ballot;

(b) The number and name of each candidate who received a vote;

(c) The total number of votes cast for each candidate and each measure voted upon; and

(d) The total number of votes cast for and against the measure.

(3) The tally and return sheets, when completed, shall be certified correct by the counting board that kept them. [Formerly 250.471; 2007 c.154 §45]

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

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

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

(2) No person other than the county clerk, a member of a counting board or any other elections official designated by the

county clerk may tally write-in votes. [1985 c.508 §2; 1993 c.493 §45; 1995 c.607 §46; 1999 c.318 §38]

**254.505 Ballots to be counted; void ballots; partially void ballots.** (1) Only official ballots may be counted. Any vote from which it is impossible to determine the elector's choice for the office or measure may not be counted. An elector may not place on the ballot a sticker bearing the name of a person or use any other method or device, except writing or using a voting machine, to vote for a person whose name is not printed on the ballot. Any ballot that has a sticker or other device is void and may not be counted. Counting board clerks shall disregard misspelling or abbreviations of the names of candidates if it can be ascertained from the ballot for whom the vote was intended.

(2) When ballots are counted by counting boards, the board chairperson, using ink, immediately shall initial the back of the wholly or partially void ballot and write on it "Not counted for \_\_\_\_\_" (stating the office or measure). The counting board shall seal the wholly void ballots in an envelope. [Formerly 250.510; 1999 c.410 §59; 2007 c.154 §46]

**254.510** [Repealed by 1979 c.190 §431]

**254.515 Counting ballots marked "Presidential only."** Ballots marked "Presidential only" may be counted only for the offices for which the elector is entitled to vote. Votes on the ballot for other offices may not be counted. [Formerly 250.520; 1999 c.410 §60; 2005 c.797 §57]

**254.520** [Repealed by 1979 c.190 §431]

**254.525 Test of vote tally system.** If a vote tally system is used, the county clerk shall repeat the public certification test described under ORS 254.235 (1) for the vote tally system used to conduct the election. The test shall be conducted after all the ballots are tallied but before the final results of the election are certified or before the vote tally system is shut down. The test may be observed by persons described in ORS 254.235 (2). The county clerk shall certify the results of the test. [1979 c.190 §274; 1993 c.713 §36; 1999 c.410 §61; 2001 c.965 §24; 2007 c.154 §47]

**254.529 Hand count of ballots at general election; comparison with tally of vote tally system; procedures.** (1) At each general election, the county clerk shall conduct a hand count of ballots as described in this section and compare the tally of votes for those ballots produced by a vote tally system with the tally of votes for those ballots produced by the hand count.

(2)(a) In the event that the unofficial tally of ballots produced by a vote tally system reveals that the margin of victory between the two candidates receiving the largest number of votes in the county is less

than one percent of the total votes cast in that election in the county, the county clerk shall conduct a hand count of ballots in at least 10 percent of all precincts or of ballots in at least 10 percent of all batches of ballots collected by the county clerk.

(b) In the event that the unofficial tally of ballots reveals that the margin of victory between the two candidates receiving the largest number of votes in the county is greater than or equal to one percent but less than two percent of the total votes cast in the county, the county clerk shall conduct a hand count of ballots in at least five percent of all precincts or of ballots in at least five percent of all batches of ballots collected by the county clerk.

(c) In the event that the unofficial tally of ballots reveals that the margin of victory between the two candidates receiving the largest number of votes in the county is greater than or equal to two percent of the total votes cast in the county, the county clerk shall conduct a hand count of ballots in at least three percent of all precincts or of ballots in at least three percent of all batches of ballots collected by the county clerk.

(3) The Secretary of State shall select the precincts at random. At the general election, no fewer than 150 ballots must have been cast in at least one of the precincts selected. The county clerk shall conduct a hand count of ballots cast in the election contest between the two candidates receiving the largest number of votes in the county, an election contest for a state office and, if possible, an election contest for a state measure.

(4) Not later than the day after the date of the general election, the Secretary of State shall advise county clerks in writing of:

(a) The election contests for which ballots are to be hand counted; and

(b) The precincts in which ballots are to be hand counted.

(5) A county clerk shall begin the hand counts prescribed by this section not later than the 20th day after the election and complete the hand counts not later than the 30th day after the election. The results of the hand counts shall be provided to the Secretary of State, who shall make the results publicly available on the Secretary of State's website.

(6) The county clerk shall conduct the hand counts required by this section in the manner provided in ORS 258.200 and 258.211.

(7) A comparison of the tally of votes produced by a vote tally system with the tally of votes produced by the hand count required by this section must show that the



tally of votes produced by the vote tally system differs by no more than one-half of one percent from the tally of votes produced by the hand count.

(8)(a) If a hand count conducted under this section results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference for each race is equal to or less than one-half of one percent, the tally of votes produced by the vote tally system is the official tally of votes for that vote tally system.

(b) If a hand count conducted under this section results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference in any race is greater than one-half of one percent, the county clerk shall conduct a second hand count of the same ballots.

(c) If the second hand count conducted under this subsection results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference for each race is equal to or less than one-half of one percent, the tally of votes produced by the vote tally system is the official tally of votes for that vote tally system.

(d) If the second hand count conducted under this subsection results in a tally of votes for a candidate or measure that is different from the tally of votes produced by the vote tally system for that candidate or measure, and the difference in any race is greater than one-half of one percent, the county clerk shall conduct a hand count of all ballots counted by that vote tally system. The hand count is the official tally of votes for that vote tally system. If the hand count is the official tally of votes, not later than the 30th day after the election, the county clerk shall certify amended abstracts of votes to appropriate elections officials.

(9) For purposes of conducting the hand counts required under this section, the county clerk shall:

(a) Retain custody of the ballots; and

(b) Provide for security for the ballots and the information required to be collected under this subsection.

(10) Subsections (1) to (9) of this section do not apply if federal law requires a post-election hand count of ballots at the general election to verify election results and the Secretary of State determines that the requirements of federal law are at least as

stringent as the requirements of subsections (1) to (9) of this section. [2007 c.881 §2]

**254.530** [Amended by 1957 c.608 §187; repealed by 1979 c.190 §431]

**254.535 Preservation of certain materials; retention of records.** (1) Except as provided in subsection (3) of this section, each tally sheet, return sheet and ballot return identification envelope shall be preserved for two years after the election to which it relates.

(2) Except as provided in subsection (3) of this section, the county clerk shall destroy the ballots and written challenge statements not sooner than the 90th day after the final day permitted for a contest of the election, unless otherwise ordered by the court.

(3) In accordance with 42 U.S.C. 1974, any ballot, voter registration records and any other materials relating to any election at which a candidate is nominated or elected to federal office shall be retained for not less than 22 months following the date of the election. [1979 c.190 §275; 1999 c.410 §62; 2007 c.154 §48]

**254.540** [Repealed by 1979 c.190 §431]

**254.545 Duties of county clerk after election.** Subject to ORS 254.548, the county clerk:

(1) As soon as possible after any election, shall prepare abstracts of votes. The abstract for election of Governor shall be on a sheet separate from the abstracts for other offices and measures.

(2) On completion of the abstracts, shall record a complete summary of votes cast in the county for each office, candidate for office and measure. The county clerk shall sign and certify this record.

(3) Not later than the 20th day after the election, shall deliver a copy of the abstracts for other than county offices to the appropriate elections officials. The abstract for election of Governor shall be delivered separately to the Secretary of State as provided in section 4, Article V, Oregon Constitution.

(4) Not later than the 30th day after the election, shall proclaim which county measure is paramount, if two or more approved county measures contain conflicting provisions.

(5) Shall prepare and deliver a certificate of nomination or election to each candidate having the most votes for nomination for or election to county or precinct offices.

(6) Shall prepare, and file with the county governing body, a certificate stating the compensation to which the board clerks are entitled. The county governing body shall order the compensation paid by county funds. [1979 c.190 §276; 1987 c.267 §52; 1995 c.712 §66; 1999 c.410 §63; 1999 c.999 §55; 2005 c.157 §2; 2005 c.797 §48]

**254.546 Duties of county clerk after recall election; official declaration of result of recall election.** (1) In the case of a recall election held on a date other than the date of the primary election or general election, the county clerk shall prepare an abstract of the votes and deliver it to the elections official authorized to order the recall election not later than the 20th day after the election.

(2) Except as provided in subsection (3) of this section, for purposes of section 18, Article II, Oregon Constitution, the result of the recall election referred to in subsection (1) of this section shall be considered officially declared on the date the abstract of the votes is delivered.

(3) If the elections official authorized to order the recall election is the Secretary of State, the Secretary of State shall officially declare the result of the election not later than the 30th day after the election. [1999 c.318 §36; 2005 c.797 §49]

**254.548 Individual nominated or elected by write-in votes; form; rules.** (1) An individual nominated or elected to a public office by write-in votes shall sign and file a form indicating that the individual accepts the nomination or office before the filing officer may issue a certificate of nomination or election. The Secretary of State by rule shall prescribe the form to be used under this section.

(2) In the case of an individual nominated or elected by write-in votes to a public office:

(a) Not later than the 30th day after the election, the filing officer shall prepare and deliver the form described in subsection (1) of this section to the individual;

(b) Not later than the 45th day after the election, if the individual accepts the nomination or office, the individual shall sign and file the form with the filing officer; and

(c) Not later than the 50th day after the election, if the individual files the form by the deadline specified in paragraph (b) of this subsection, the filing officer shall prepare and deliver a certificate of nomination or election to the individual and, if applicable, issue a proclamation declaring the election of the candidate to the office. [1991 c.719 §56; 2005 c.157 §1]

**254.550** [Repealed by 1979 c.190 §431]

**254.555 Secretary of State's duties after election; Governor's proclamation.** (1) Except as provided in ORS 254.548, not later than the 30th day after any election, the Secretary of State, regarding offices for which the secretary receives filings for nomination, shall:

(a) Canvass the votes for the offices, except the office of Governor after the general election.

(b) Enter in a register of nominations after the primary election the name and, if applicable, major political party of each candidate nominated, the office for which the candidate is nominated, and the date of entry.

(c) Prepare and deliver a certificate of nomination or election to each candidate having the most votes for nomination for or election to the office. The Secretary of State shall sign the certificate under the seal of the state.

(d) Issue a proclamation declaring the election of candidates to the offices.

(2) Not later than the 30th day after the election:

(a) The Secretary of State, regarding measures for which the secretary as the filing officer, shall canvass the votes for each measure.

(b) The Governor shall issue a proclamation giving the number of votes cast for or against each such measure, and declaring the approved measures as the law on the effective date of the measure. If two or more approved measures contain conflicting provisions, the Governor shall proclaim which is paramount. [1979 c.190 §277; 1987 c.267 §53; 1995 c.712 §67; 1997 c.249 §76; 1999 c.999 §56; 2005 c.157 §3]

**254.560** [Repealed by 1979 c.190 §431]

**254.565 Duties of city elections officer after election.** Subject to ORS 254.548, the chief city elections officer:

(1) After the primary election, shall enter in a register of nominations:

(a) The name of each candidate for city office nominated at the primary election.

(b) The office for which the candidate is nominated.

(c) If applicable, the name of the major political party nominating the candidate.

(d) The date of the entry.

(2) After the general election, shall prepare and deliver a certificate of election to each qualified candidate having the most votes for election to a city office.

(3) Not later than the 30th day after any election, shall canvass the vote on each city measure, and if two or more of the approved measures contain conflicting provisions, proclaim which is paramount. [Formerly 249.491; 1987 c.267 §54; 1995 c.712 §68; 1999 c.318 §39; 2005 c.157 §4]

**254.568 Certificate of election required before taking oath of office.** When a candidate elected to public office is required by law to take, file, subscribe or indorse an oath of office before entering upon the duties of the office, the candidate shall not take, file, subscribe or indorse the oath until the candidate has been granted a certificate of election. [1993 c.493 §101]

**254.570** [Repealed by 1979 c.190 §431]

**254.575 Procedure when tie vote.** When two or more candidates for the same office, after a full recount of votes, have an equal and the highest number of votes:

(1) For election to state Senator or Representative, a party office, or a public office for which the elections officer is other than the Secretary of State, the elections officer shall have the candidates meet publicly to decide by lot who is elected.

(2) For election to a public office other than Governor or those referred to in subsection (1) of this section, the Secretary of State by proclamation shall order a new election to fill the office.

(3) For election to Governor, the Legislative Assembly at the beginning of the next regular session shall meet jointly and elect one of the candidates.

(4) For nomination by one major political party to an office, the elections officer who receives filings for nomination to the office shall have the candidates meet publicly to decide by lot who is nominated. [1979 c.190 §279; 2001 c.965 §43]

**254.580** [Amended by 1957 c.608 §188; 1979 c.190 §378; renumbered 260.575]

**254.590** [Amended by 1979 c.190 §377; renumbered 260.565]

**254.600** [Amended by 1975 c.683 §5; 1977 c.178 §1; 1979 c.190 §379; 1979 c.519 §28; renumbered 260.585]

**SPECIAL ELECTION IN CASE OF DEATH OF NOMINEE**

**254.650 Special election in case of death of nominee of major political party within 30 days of general election.** (1) If the Secretary of State determines that a vacancy exists in the nomination of a candidate of a major political party for state office, that the vacancy is due to the death of the candidate and that the vacancy occurred after the 30th day before the date of the general election:

(a) The election for that state office may not be held at the general election;

(b) The county clerks may not count ballots cast for candidates for that state office at the general election; and

(c) The Secretary of State shall order a special election as provided in ORS 254.655.

(2) The candidates listed on the ballot at the special election shall be:

(a) The candidates who were listed on the general election ballot, other than the candidate whose nomination became vacant; and

(b) The candidate selected to fill the vacancy in the nomination as provided in ORS 249.190 or 249.205.

(3) As used in this section “state office” means the office of Governor, Secretary of State, State Treasurer, Attorney General, state Senator or state Representative. [2003 c.542 §2]

**254.655 Order calling special election; date.** (1) If the Secretary of State determines that a special election is necessary under ORS 254.650, the secretary shall issue an order calling the election. The secretary shall issue the order not later than the fifth business day after the date of the general election.

(2) The date of the special election shall be determined by the Secretary of State by rule. The special election shall be held not sooner than January 2 of the odd-numbered year following the date of the general election and not later than the Friday before the second Monday in January of the odd-numbered year.

(3) A state voters’ pamphlet may not be prepared for any special election called under this section. [2003 c.542 §3; 2007 c.154 §49]

**254.660 Conduct of special election; rules.** (1) Notwithstanding ORS 253.045 and 253.065, for a special election called under ORS 254.655, long-term absentee ballots shall be mailed not later than the 30th day before the date of the election. County clerks shall make other absentee ballots available not later than the 28th day before the date of the special election.

(2) Notwithstanding ORS 254.545, not later than 5 p.m. of the third day after the date of the special election, the county clerk shall deliver to the Secretary of State a copy of the abstracts for the offices voted upon at the special election. The abstract for election of Governor shall be delivered separately to the secretary as provided in section 4, Article V of the Oregon Constitution.

(3) Notwithstanding ORS 253.135, not later than 5 p.m. of the first day after the date of the special election, a county clerk who received a ballot originating in another county shall forward the ballot by overnight mail or delivery or by the most expeditious means available to the county clerk of the county from which the ballot originated.

(4) Notwithstanding ORS 254.555, not later than 5 p.m. of the fourth business day after the date of the special election, the

Secretary of State shall issue a proclamation declaring the election of candidates to offices or shall order recounts of the votes cast as provided in ORS 258.280.

(5)(a) Notwithstanding ORS 258.161, a recount may not be conducted for any special election under this section unless the recount is required by ORS 258.280.

(b) If a recount for any special election is required by ORS 258.280, the Secretary of State shall complete the recount as expeditiously as possible to minimize disruption to the sessions of the Legislative Assembly and shall issue a proclamation declaring the election of a candidate to office upon completion of the recount.

(6) The cost of all special elections called under ORS 254.655 shall be paid by the state.

(7) The ballot at a special election described in this section may not contain:

(a) Any measure; or

(b) Any candidate other than those candidates for which a special election is necessary.

(8) If there is a vacancy in the nomination of a candidate at a special election called under ORS 254.655, the vacancy in the nomination shall be filled in the manner provided in ORS chapter 249 and the special election shall be held as scheduled.

(9) When the office of state Senator or state Representative is vacant at the beginning of a session of the Legislative Assembly due to a special election called under ORS 254.655, the vacancy may not be filled as provided in ORS 171.051 unless, before entering upon the duties of the office to which the person was elected, the person elected at the special election dies, resigns or is declared disqualified by the house to which the person was elected.

(10) The Secretary of State may adopt rules governing the procedures for conducting a special election required by ORS 254.650. [2003 c.542 §4]

**254.990** [Repealed by 1979 c.190 §431]

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