

# Chapter 254

2003 EDITION

## Conduct of Elections

GENERAL PROVISIONS	
254.005	Definitions
254.007	Statutes applicable only to elections conducted at polling places
254.016	Elections conducted under this chapter
254.025	Construction of statutes applicable to primary elections
254.035	Cities to hold elections for officers at same time and place as state and county elections
254.046	Expense of city election
254.056	Date and purpose of general election and primary election
254.065	Person receiving most votes nominated or elected; measure adopted by majority of votes; when measure conflicts
254.068	Simulated election for individuals under 18 years of age
254.071	Information regarding ballot format and method of voting ballot
254.074	County elections security plan
PREPARATORY PROCEDURES	
254.076	Register of candidates for nomination
254.085	Secretary of State's statement of offices, candidates and measures
254.095	City elections officers' statements of offices, candidates and measures
254.098	Expenses for change in information filed under ORS 254.085 or 254.095
254.103	Filing of measures referred by county governing body
254.108	Numbering county, city and district measures; rules
254.115	Official primary election ballot
254.125	Nominating ballot for candidates to non-partisan office; listing of candidates for judge at primary and general elections; use of term "incumbent"
254.135	Official general or special election ballots
254.145	Design and contents of official ballots
254.155	Order of candidate names on ballot
254.165	Adjusting ballot when vacancy occurs; notice to Secretary of State; exception
254.175	Providing ballot title and financial estimates in lieu of printing on ballot or ballot label; providing statements in recall elections
254.185	Printing and furnishing of ballots by county clerk
254.195	Ballot specifications; sample ballots for polling place elections
254.205	Production and dissemination of facsimile of ballot
254.215	Furnishing of official and sample ballots
254.226	Form of poll book
254.235	Testing of voting machines and vote tally systems; notice of test
254.245	Securing polling places; required facilities
POLLING PLACES AND VOTING	
254.265	Delivery of equipment to polling place
254.275	Oath of election board clerks
254.295	Selecting substitute for absent clerk; compensation
254.315	Location of voting machines, models and labels
254.321	Providing map of proposed boundaries for election on establishing or changing county or city boundaries
254.325	Poll hours; election supplies to be in view of officials
254.335	Examination of equipment during voting
254.345	Procedure when equipment becomes inoperative
254.355	Indication in poll book of ballots delivered
254.365	Voting at primary election by major party members and nonaffiliated electors
254.370	Record of nonaffiliated electors; record of voting in primary election of major political party and in general election
254.375	Judiciary ballot
254.385	Signing poll book; correcting error in residence address in poll book
254.390	Identification in poll book of electors eligible to receive absentee ballot; procedure for voting at polls for elector eligible to receive absentee ballot; rules
254.395	Making notations in poll book, on registration certificate and on ballot when elector votes
254.405	Marking and delivery of ballot; time permitted for voting; disposition of voted ballot; ballot stubs
254.408	Procedure for voting by person for whom no evidence of registration is found
254.411	Voting after name change
254.413	Persons authorized to challenge persons offering to vote and watch receiving and counting of votes in elections conducted at polling places
254.415	Challenging ballot of person offering to vote; statement of challenge; procedure for election conducted by mail
254.419	Challenging a person's right to vote at polling place; procedure for voting challenged ballot
254.426	Procedure on challenged ballot
254.435	Removal of ballot from polling place prohibited; return of unused ballot to clerk for destruction
254.445	Assistance in marking ballot; inability to sign poll book; use of sample ballot as aid in voting
254.455	Spoiled ballot
254.458	Alternatives to secrecy envelope procedures for voting by mail and challenged ballots



**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) "Ballot label" means the material containing the names of candidates or the measures to be voted on.

(3) "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.

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

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

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

(7) "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.

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

(9) "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.

(10) "Prospective petition" means the information, except signatures and other identification of petition signers, required to be contained in a completed petition.

(11) "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).

(12) "Voting machine" means:

(a) Any device which will record every vote cast on candidates and measures and which will either internally or externally total all votes cast on that device.

(b) Any device into which a ballot may be inserted and which is so designed and constructed that the vote for any candidate or measure may be indicated by punching or marking the ballot.

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

**254.007 Statutes applicable only to elections conducted at polling places.** ORS 254.205, 254.215, 254.226, 254.245, 254.265, 254.275, 254.295, 254.315, 254.325, 254.335, 254.345, 254.355, 254.385, 254.395, 254.405, 254.413, 254.419, 254.426, 254.435, 254.455, 254.483 and 254.525, apply only to elections conducted at polling places. [1999 c.410 §39; 2001 c.805 §4]

**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 Cities to hold elections for officers at same time and place as state and county elections.** It is the intention of the legislature to carry out the provisions of section 14a, Article II, Oregon Constitution. All elections for city officers shall be held at the same time and place as elections for state and county officers. The election boards for state and county elections shall be the election boards for the city elections. Unless a city charter or ordinance provides otherwise, the ballots and ballot labels 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]

**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. 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 committeepersons 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]

**Note:** The amendments to 254.056 by section 7, chapter 542, Oregon Laws 2003, become effective only if the Oregon Constitution is amended by a vote of the people as proposed by Senate Joint Resolution 19 (2003) in the regular general election held on November 2, 2004. The amendments become effective on the effective date of Senate Joint Resolution 19 (2003). See section 24, chapter 542, Oregon Laws 2003. The text that is effective on and after the effective date of Senate Joint Resolution 19 (2003) is set forth for the user's convenience.

**254.056.** (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 section 2, chapter 542, Oregon Laws 2003, 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 committeepersons shall be elected and major political party candidates shall be nominated for offices to be filled at the general election held in that year.

**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.

(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]

**Note:** The amendments to 254.065 by section 8, chapter 542, Oregon Laws 2003, become effective only if the Oregon Constitution is amended by a vote of the people as proposed by Senate Joint Resolution 19 (2003) in the regular general election held on November 2, 2004. The amendments become effective on the effective date of Senate Joint Resolution 19 (2003). See section 24, chapter 542, Oregon Laws 2003. The text that is effective on and after the effective date of Senate Joint Resolution 19 (2003) is set forth for the user's convenience.

**254.065.** (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 section 2, chapter 542, Oregon Laws 2003.

(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.

**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]

**254.070** [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 or punch ballots to cast a valid vote. [2001 c.965 §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]

**Note:** Sections 2, 3 and 4, chapter 542, Oregon Laws 2003, do not become effective unless the amendment to the Oregon Constitution as proposed by Senate Joint Resolution 19 (2003) is approved by the people at the regular general election held throughout this state on November 2, 2004. See section 24, chapter 542, Oregon Laws 2003. Sections 2, 3 and 4, chapter 542, Oregon Laws 2003, provide:

**Sec. 2.** (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 section 3 of this 2003 Act.

(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]

**Sec. 3.** (1) If the Secretary of State determines that a special election is necessary under section 2 of this 2003 Act, 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) Notwithstanding ORS 254.465, the special election shall be held by mail as provided in ORS 254.470.

(4) There shall be no state voters' pamphlet for any special election called under this section. [2003 c.542 §3]

**Sec. 4.** (1) Notwithstanding ORS 253.045 and 253.065, for a special election called under section 3 of this 2003 Act, 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 section 3 of this 2003 Act 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 section 3 of this 2003 Act, 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 section 3 of this 2003 Act, 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 section 2 of this 2003 Act. [2003 c.542 §4]

**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 or ballot label for the primary election. [Formerly 249.070; 1987 c.267 §39; 1995 c.607 §38; 1995 c.712 §54; 1999 c.999 §47]

**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 ballot title prepared 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]

**Note:** Section 11, chapter 730, Oregon Laws 2003, provides:

**Sec. 11.** (1) Notwithstanding ORS 254.085, for purposes of the general election held in November 2004, the Secretary of State, not later than the 55th day before the date of the general election, shall file with each county clerk a statement containing information regarding candidates for the offices of President and Vice President of the United States.

(2) This section is repealed on January 2, 2005. [2003 c.730 §11]

**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 or ballot label 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) If the election is conducted at polling places as provided in this chapter, any ballot to be issued at a polling place shall also state the number or name of the precinct for which it is intended.

(3) 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.

(4) The ballot shall not contain the name of any person other than those referred to in subsections (1) and (3) 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]

**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 or ballot label 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]

**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 or ballot label 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 or ballot label shall 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) If the election is conducted at polling places as provided in this chapter, any ballot to be issued at a polling place shall also state the number or name of the precinct for which it is intended.

(3) 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 shall not be printed on the general election ballot. A vote for the candidates for President and Vice President shall be 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.

(4)(a) The name of each candidate nominated shall be printed upon the ballot or ballot label 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 in-

cumbent by the Secretary of State under ORS 254.085.

(d) If two or more candidates for the same 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 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]

**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) The names of candidates for nomination for or election to each office shall be arranged on the ballot or ballot label in the order determined under ORS 254.155. The names of candidates for the offices of President and Vice President of the United States, however, shall be arranged in groups. Except as provided in ORS 254.125, 254.135 and this section, no information about the candidate, including any title or designation, other than the candidate's name, shall appear on the ballot. In a precinct in which voting machines are used, spaces shall be provided, either on the ballot or on separate material delivered to the elector with the ballot, in which the elector may write the names of persons for any offices appearing on the ballot label. In other precincts, at the end of the list of candidates for each office shall be a blank space in which the elector may write the name of any person not printed on the ballot. On the left margin of the ballot or ballot label the name of each group or candidate may be numbered. The blank spaces shall not be numbered. A particular number shall not be used to designate more than one candidate at any election.

(2) The names of all candidates for the same office shall be listed in the same column on the ballot or ballot label. 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.

(3) In precincts using voting machines, the ballot label shall be clearly marked to indicate when names of candidates for the office are continued on the following page.

(4) 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."

(5) For an election conducted at polling places under this chapter, each official ballot shall have a removable stub. The stub on the ballots for a precinct shall be numbered consecutively.

(6) 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. In precincts not using voting machines 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. On the ballot or ballot label shall be printed words 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]

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

**254.155 Order of candidate names on ballot.** (1) This section governs the procedure for determining the order on the ballot of names of candidates for nomination for or election to all offices at any election.

(2) 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.

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

(4) The county clerk shall arrange by surname the names of the candidates on the ballot or ballot label in the random order of the letters of the alphabet completed by the Secretary of State under subsection (2) of this section. [Formerly 249.362; 1983 c.253 §1; 1987 c.267 §47; 1993 c.713 §49]

**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, become disqualified, or that the candidate will not qualify in time for the office if elected, the name of the candidate shall not be printed on the ballots or ballot labels or, if they have already been printed, shall be

erased or canceled before the ballots are given to the electors. The name of a candidate nominated to fill a vacancy in nomination or office shall be printed on the ballots or ballot labels or, if they have already been printed, the county clerk shall cause the name to appear on the ballots or ballot labels before the ballots are given 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]

**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 or ballot label; providing 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 or ballot label. If the complete ballot title is omitted from the ballots or ballot labels and the election is conducted at polling places, the complete ballot title shall be printed in 14-point type or larger and posted in each voting compartment within view of the elector.

(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 num-

ber on the ballot or ballot label. If the complete ballot title and financial estimates are omitted from the ballots or ballot labels and the election is conducted at polling places, they shall be printed in 14-point type or larger and posted in each voting compartment within view of the elector.

(3) In the case of a recall election:

(a) If the election is conducted at polling places, the statements described in section 18, Article II of the Oregon Constitution, and ORS 249.877 may be posted in each voting compartment within view of the elector; and

(b) If the ballot is delivered by mail, the statements described in section 18, Article II of the Oregon Constitution, and ORS 249.877 shall be included with material delivered to the elector.

(4) The complete text of each ballot title and any financial estimates shall be included with any absentee or mailed official ballot.

(5) Sample ballots and the publication of any facsimile sample ballots shall include the full text of the ballot title and any financial estimates. [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]

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

**254.185 Printing and furnishing of ballots by county clerk.** The county clerk shall print all the required ballots and ballot labels and shall furnish them for use by electors in the county. Only these ballots and ballot labels shall be used in an election. [Formerly 250.080]

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

**254.195 Ballot specifications; sample ballots for polling place elections.** (1) Official ballots and ballot labels shall be printed in black ink upon good quality material. The primary election ballots or ballot labels shall be of different colors for the major political parties.

(2) If the election is conducted at polling places, sample ballots shall be prepared for the information of the elector. The sample ballot shall contain the offices, candidates, measures and other information on the ballots or ballot labels of the precincts for which the sample ballot is issued. The sample ballot need not contain the office of, or candidates for, precinct committeeperson. The sample ballots shall be identified as such, and printed on cheaper, colored paper to distinguish them from official ballots. A sample ballot shall not be voted or counted.

(3) 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]

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

**254.205 Production and dissemination of facsimile of ballot.** (1) For any election conducted at polling places, the county clerk shall produce a facsimile, except as to size, of the ballot in a manner described in this section. For any primary election, a facsimile of the ballot shall include the ballot of each major political party.

(2) The facsimile shall be:

(a) Published or inserted in one or more newspapers as described in subsection (3) of this section; or

(b) Distributed to each residential postal mailing address within the electoral district for which the election is being held.

(3) If the facsimile is published or inserted in a newspaper:

(a) The facsimile shall be published or inserted not later than the fourth day nor earlier than the 15th day before the election.

(b) The facsimile shall be published or inserted in at least one issue of one newspaper in each county with a population of less than 10,000, or in each county in which no more than one newspaper is published. The facsimile shall be published or inserted in at least one issue of two newspapers in each county with a population of 10,000 or more in which more than one newspaper is published. The county governing body, at the first regular meeting each year, shall select the newspaper or newspapers of general circulation in the county in which the facsimile shall be published or inserted and shall notify the county clerk of the selection.

(c) The county governing body may require publication or insertion of the facsimile in additional newspapers and shall select the newspapers at the same time as provided in paragraph (b) of this subsection. The county governing body shall notify the county clerk of any additional selections.

(d) The facsimile shall not be published in any newspaper unless the newspaper agrees that no paid political advertisement shall be placed on the same page as the facsimile or on the page facing the facsimile. If a newspaper selected under paragraph (b) or (c) of this subsection does not so agree, the county governing body shall select another newspaper in the county with as nearly as possible the same qualifications for the publication of the facsimile.

(4) A facsimile distributed to each residential post office mailing address within the electoral district for which the election is being held shall have postage prepaid and shall be considered to give notice when

mailed. Facsimile ballots mailed under this subsection shall be mailed not sooner than the 15th day nor later than the 10th day before the election. Proof of mailing shall be by affidavit of the county clerk.

(5) A facsimile printed in a county voters' pamphlet prepared and distributed in accordance with ORS chapter 251 shall be considered to satisfy the requirements of this section.

(6) As used in this section, "electoral district" means a county, city or district. [Formerly 250.121; 1989 c.171 §34; 1989 c.773 §1; 1991 c.107 §11; 1995 c.607 §§39,39a; 1999 c.999 §50]

**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 Furnishing of official and sample ballots.** (1) The county clerk shall provide each precinct with at least as many official ballots as there are electors listed in the poll books of the precinct, and as many additional ballots as may be expected to be required. The county clerk shall provide as many sample ballots as the county clerk considers necessary to supply persons requesting them at polling places and to distribute to the public.

(2) The county clerk, at the request of any person, candidate, political party or political committee, shall furnish to them sample ballots. The county clerk may collect from the requesting person the cost of the sample ballots furnished. [Formerly 250.150; 1989 c.503 §15]

**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 Form of poll book.** (1) The county clerk shall prepare the poll book of each precinct. The poll book shall list alphabetically the electors in the precinct, and the residence address and political affiliation of each. The poll book shall indicate clearly each electoral district in which the elector is eligible to vote.

(2) If a person registers before the 20th day before the election, the person's name shall be listed in the poll book of the person's precinct.

(3) The poll book shall be ruled so that in a column for ballot numbers sufficient space appears for inserting the number of the ballot given to the elector.

(4) The county clerk shall have attached to, or printed in, the poll book blank oaths of office for the election board clerks. [1979 c.190 §246; 1983 c.514 §13; 1985 c.448 §4; 1985 c.471 §10; 1999 c.410 §51]

**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.

(3) In an election where voting machines are used, the county clerk shall prepare a certificate that the ballot labels have been properly placed in the machine. [1979 c.190 §247; 1993 c.797 §23; 2001 c.965 §22]

**254.245 Securing polling places; required facilities.** In sufficient time before the election, the county clerk shall secure and take possession of the places designated as polling places. The county clerk shall provide suitable compartments, shelves or tables at which electors are to mark their ballots. The arrangement shall insure that the ballot boxes, compartments, shelves or tables, and the electors while marking their ballots, shall not be hidden from view of the election board clerks, yet they shall be so arranged that the elector may conveniently mark the ballot with absolute secrecy. There shall be provided in each polling place not less than one compartment, shelf or table for every 120 electors to vote at that polling place. A polling place shall have at least three compartments, shelves or tables. [Formerly 250.610; 1987 c.707 §19]

## POLLING PLACES AND VOTING

**254.265 Delivery of equipment to polling place.** (1) In sufficient time before opening of the polls, the county clerk shall deliver to each election board the poll book, tally and return sheets, ballots, ballot boxes and other equipment necessary for conduct of the election. The county clerk also shall deliver to the election board a notice specifying where the board is to return the equipment.

(2) The county clerk may provide a flag of the United States for each polling place. In this event, the election board shall display the flag at the polling place during voting hours.

(3) The county clerk shall keep a record of, and prepare a receipt for, the equipment delivered. The election board clerk who receives the equipment shall sign the receipt. The receipt immediately shall be returned to the county clerk. [1979 c.190 §249; 1979 c.519 §19a]

**254.275 Oath of election board clerks.** Before beginning their duties, the election board clerks shall take the oath of office included in the poll book. The oath shall be administered by any officer authorized to administer oaths or by the board chairperson. If these persons are not present, any clerk may administer the oaths. [1979 c.190 §250]

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

**254.295 Selecting substitute for absent clerk; compensation.** If an election board clerk is not present when required, the other clerks shall elect a qualified person to act as clerk until the absent clerk arrives, and if the absent clerk does not arrive within one-half hour, to serve in that clerk's place. The substitute clerk need not be of the same political affiliation as the absent clerk, unless all clerks of the board would have the same political affiliation. The substitute clerk shall take the official oath before acting. Compensation which would have been paid to the absent clerk for the period served by the substitute clerk shall be paid to the substitute clerk and deducted from the pay of the absent clerk. [Formerly 250.330]

**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 Location of voting machines, models and labels.** The election board clerks, when preparing a voting machine before the polls open, shall:

(1) Place the voting machine where it can be conveniently attended by the clerks and conveniently operated by the electors and where the ballot labels on the machine

can be plainly seen by the clerks and the public when the machine is not in use.

(2) Place a model of a portion of the face of a voting machine where an elector can conveniently operate it and receive instructions on the manner of voting before proceeding to the voting compartment, shelf or table.

(3) Determine that the ballot labels are in the proper places on the machine.

(4) Certify the performance of these duties in the poll book. [Formerly 258.245]

**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) Post in each voting compartment a map indicating the proposed boundaries;

(2) Include with any mailed ballot a map indicating the proposed boundaries; or

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

**254.325 Poll hours; election supplies to be in view of officials.** (1) The polls shall be open from 7 a.m. to 8 p.m. of the same day except that if federal law or regulations require a particular hour for poll closure, the polls, for any election, shall close at that hour.

(2) The first election board shall meet not later than 6:30 a.m. at the polling place on election day. It shall act until the count and tally of ballots is completed, until the polls are closed and the ballots removed for counting, or until relieved by an additional board. While the polls are open, no more than one board clerk shall be out of the presence of the others.

(3) The election board, immediately before the opening of the polls, shall insure that the ballot boxes are empty. The boxes shall not be reopened except to count the ballots.

(4) At 7 a.m. the board chairperson shall publicly announce the opening of the polls. Thirty minutes before closing the polls the chairperson shall publicly announce that the polls will be closed in half an hour.

(5) The ballot boxes, poll book, ballot stubs, return sheets and tally sheets shall be constantly kept together in view of the board clerks and other persons permitted to be present from the opening of the polls until the clerks complete their duties.

(6) If an elector attempts to vote at the wrong polling place, the board shall assist the elector in locating the proper polling place.

(7) When the polls close, electors who are at the polling place waiting to vote shall be considered to have begun the act of voting. [Formerly 250.340; 1987 c.72 §1; 1987 c.727 §14]

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

**254.335 Examination of equipment during voting.** If voting machines are used, the board clerks occasionally shall examine the face of the machine and the ballot labels to determine that the machine or labels have not been tampered with or damaged. [Formerly 258.295]

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

**254.345 Procedure when equipment becomes inoperative.** (1) If a voting machine becomes inoperative, a clerk immediately shall notify the county clerk.

(2) If possible, the county clerk shall repair the voting machine at once or substitute another machine.

(3) If no other machine can be procured and the inoperative machine cannot be repaired in time for further use at the election, or when in the discretion of a majority of the election board it is impracticable to use the machine, the board clerks shall permit the electors to use paper ballots. The paper ballots shall be furnished by the county clerk. The ballots shall not be tallied and returned by the board clerks. Instead, these ballots shall be delivered to the county clerk for tally and canvass. [Formerly 258.305]

**254.355 Indication in poll book of ballots delivered.** The election board shall write, and certify as correct, in the poll book the number of ballots initially delivered and the number of ballots thereafter delivered to the precinct. [1979 c.190 §258]

**254.365 Voting at primary election by major party members and nonaffiliated electors.** (1) An elector shall not be qualified or permitted to vote at any primary election for any candidate of a major political party, and it shall be 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 (4), 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 shall 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) 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 shall 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. A party rule under this subsection may limit the candidates for whom an elector who is not affiliated with any political party may vote. The party rule shall, however, allow any elector who is permitted to vote for the most numerous branch of the Legislative Assembly to also 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 "limited." [Formerly 249.366; 1987 c.719 §§1,20; 1995 c.712 §62; 1999 c.999 §51]

**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 Judiciary ballot.** In a district where circuit judges are elected at large and not for departments or positions, an elector may vote for as many candidates as there are offices to be filled. [1979 c.190 §260]

**254.385 Signing poll book; correcting error in residence address in poll book.**

(1) An elector before receiving a ballot shall sign the poll book following the elector's name.

(2) If the residence address of a person in the poll book is not correct because of an error in preparation of the poll book, the chairperson of the election board shall ascertain the correct address from the person by a statement made under oath or affirmation before the election board. Thereafter a correction shall be made in the poll book. [Formerly 250.645; 1981 c.142 §3]

**254.390 Identification in poll book of electors eligible to receive absentee ballot; procedure for voting at polls for elector eligible to receive absentee ballot; rules.**

(1) For purposes of ensuring that electors do not vote more than once at the same election, for each election not conducted by mail, the county clerk shall identify electors who applied for an absentee ballot or whose applications as absent electors remain valid under ORS 253.030 (5). Electors described in this subsection shall be identified in poll books or in another manner specified by the Secretary of State by rule.

(2) If an elector offers to vote at a polling place and the elector is identified in the poll book or in another manner under subsection (1) of this section as having applied for an absentee ballot for that election or as an elector whose application as an absent elector remains valid under ORS 253.030 (5), the elector may cast a ballot but the ballot shall not be counted until the county clerk determines whether the elector has voted more than once at the same election. The Secretary of State shall adopt rules specifying procedures for the handling of ballots cast under this subsection. This subsection shall operate in each county at the discretion of the county clerk.

(3) If an elector applies for an absentee ballot after the poll book is printed, any absentee ballot cast by the elector at the election shall not be opened and counted until the county clerk determines whether the elector cast a ballot at a polling place. [1999 c.1002 §3]

**254.395 Making notations in poll book, on registration certificate and on ballot when elector votes.** (1) The stub number of each official ballot given an elector shall be recorded in the poll book opposite the name of the elector or on the registration certificate of the elector.

(2) If an elector is permitted to vote only on certain offices or measures, the chairperson of the election board shall determine on which offices or measures the elector is qualified to vote, and shall note the determination on the ballot and in the poll book or on the registration certificate of the elector.

(3) An election board clerk shall enter in the poll book the name and residence address of an elector who is permitted to vote but is not listed in the poll book and is not voting under a registration certificate.

(4) If an elector votes under a registration certificate, the elector shall sign the certificate in view of the board clerk. The signed certificate shall be considered part of the poll book. [Formerly 250.631]

**254.405 Marking and delivery of ballot; time permitted for voting; disposition of voted ballot; ballot stubs.** (1) On receiving a ballot, the elector shall retire to a compartment, shelf or table provided and mark or punch the ballot. Except as provided in ORS 254.445, not more than one person at one time shall be permitted to occupy a compartment, shelf or table. No elector shall occupy the compartment, shelf or table longer than five minutes. If the elector refuses to leave at the end of that time, the board clerks may remove the elector. However, the clerks may grant the elector a longer time.

(2) An elector shall not place on the ballot a sticker bearing the name of a person, or use any other method or device, except writing, to vote for a person whose name is not printed on the ballot.

(3) The elector, without exposing the contents of the ballot, shall deliver the ballot to a board clerk. The ballot shall be deposited in the ballot box by a clerk in the presence of the elector or by the elector.

(4) The ballot stub shall be removed from the ballot by a board clerk at any time after the stub number of the ballot is recorded in the poll book and before the ballot is deposited in the ballot box. [Formerly 250.655; 1995 c.607 §40]

**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 polling place on the date of the election, the elector shall vote 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 election board and then insert the small envelope into a larger envelope. The larger envelope shall be deposited in the ballot box. When the ballot box is opened, the larger envelopes 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]

**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 precinct in which the elector is registered under the elector's former name.

(2) If the elector votes at a polling place, the election board clerk shall enter into the poll book the fact that the elector's name has changed.

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

(4) 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]

**254.413 Persons authorized to challenge persons offering to vote and watch receiving and counting of votes in elections conducted at polling places.** (1) This section applies only to elections conducted at polling places.

(2) The election board, if requested, shall permit authorized persons to be at the polling place to challenge persons offering to vote and 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 board. The board shall permit only

so many persons as challengers or watchers under this subsection as will not interfere with an orderly procedure at the polling place. [2001 c.805 §2]

**254.415 Challenging ballot of person offering to vote; statement of challenge; procedure for election conducted by mail.** The county clerk, a member of an election board or any elector shall challenge the ballot of any person offering to vote whom the clerk, member or elector knows or suspects not to be qualified as an elector. The clerk, member or elector challenging the ballot shall make, under oath or affirmation before a county clerk or member of an election board, 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. For an election conducted by mail, 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]

**254.419 Challenging a person's right to vote at polling place; procedure for voting challenged ballot.** (1) At elections held at polling places, an election board clerk or elector present shall challenge any person offering to vote whom the clerk or elector knows or suspects not to be qualified as an elector. The person's right to vote may be challenged at any time before the ballot is actually deposited in the ballot box.

(2) A person offering to vote under subsection (1) of this section shall complete and sign a written statement containing the name, residence address and mailing address of the person and the oath or affirmation required by this subsection. The statement shall be printed on the larger envelope described in this section.

(3) The oath or affirmation shall be signed before any member of the election board and shall state that the person is registered and qualified to vote and that the person has not already voted at the same election. If the person signs the statement, the person shall be permitted to vote, subject to ORS 254.426. If the person does not sign the statement, the person shall not be permitted to vote.

(4) A person voting a ballot challenged under this section shall insert the ballot into a small envelope provided by the election board and then insert the small envelope into a larger envelope. The written statement of challenge shall be attached to the larger envelope. The larger envelope shall be deposited in the ballot box. When the ballot box is opened, the larger envelopes shall be seg-

regated and not counted until the registration of the person is verified. [1995 c.607 §83]

**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 Removal of ballot from polling place prohibited; return of unused ballot to clerk for destruction.** (1) Subject to ORS 254.485, no person shall take an official ballot from the polling place, except a board clerk may take a ballot to a handicapped elector offering to vote immediately outside the polling place.

(2) An elector who does not vote the ballot before leaving the polling place shall return the ballot to a board clerk. The clerk shall write on the stub "Not voted" and initial the stub. The clerk then shall treat the stub and the ballot as a spoiled ballot. The clerk shall draw a line with pen and ink in the poll book across the signature of the elector and write the words "Not voted." [Formerly 250.700]

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

**254.445 Assistance in marking ballot; inability to sign poll book; use of sample ballot as aid in voting.** (1) Any elector who is within the county and, because of a physical disability or an inability to read or write, is unable to mark or punch the ballot, upon request, 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 or punching 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 shall 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) If the election is conducted at polling places:

(a) The board chairperson may require a declaration of disability to be made by the elector under oath. Whenever an elector receives assistance in this manner, a clerk shall make a notation of it in the poll book following the name of the elector.

(b) When any elector, because of a physical disability or an inability to read or write, is unable to sign the poll book, a clerk, under supervision of the chairperson, shall enter the words "unable to sign" in the place provided for the elector's signature.

(4) 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 or punching the official ballot. [Formerly 250.690; 1985 c.471 §11; 1999 c.410 §56]

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

**254.455 Spoiled ballot.** If an elector by accident or mistake spoils a ballot, the elector, on returning the spoiled ballot, shall receive another. If the elector spoils three ballots, it shall be conclusive evidence that the elector is unable to prepare a ballot without assistance. When the elector spoils a ballot and returns it, a board clerk shall immediately destroy the spoiled ballot without anyone inspecting its contents. The clerk then shall issue another ballot to the elector, and write the number of the spoiled ballot on the stub of the new ballot. A notation of spoiling of a ballot shall be made in the poll book following the name of the elector. [Formerly 250.680; 1995 c.607 §41]

**254.458 Alternatives to secrecy envelope procedures for voting by mail and challenged ballots.** Notwithstanding any provision of ORS 254.419 or 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 254.419 or 254.470; and

(2) The Secretary of State, upon receiving an application under subsection (1) of this

section, may approve a procedure to be used in lieu of the envelope procedures described in ORS 254.419 or 254.470 if the Secretary of State determines that the procedure will provide substantially the same degree of secrecy as ORS 254.419 or 254.470. [1995 c.607 §84]

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

**VOTING BY MAIL**

**254.462 Statutes applicable only to elections conducted by mail.** ORS 254.465, 254.470, 254.472, 254.476, 254.480 and 254.482 apply only to elections conducted by mail. [1999 c.410 §40; 2003 c.14 §121]

**254.465 Elections required or eligible to be conducted by mail; rules.** The following rules apply to elections conducted by mail:

(1) An election held on the date of the primary or general election shall be conducted by mail.

(2) A state election not described in subsection (1) of this section may be conducted by mail. The Secretary of State by rule shall direct that a state election authorized to be conducted by mail under this subsection be conducted uniformly by mail or at polling places.

(3) A county clerk may conduct an election not described in subsections (1) and (2) of this section by mail in the county, in a city or in a district defined in ORS 255.012, under the supervision of the Secretary of State. In deciding to conduct an election by mail, the county clerk may consider requests from the governing body of the county, city or district and shall consider whether conducting the election by mail will be economically and administratively feasible.

(4) The Secretary of State shall adopt rules to provide for uniformity in the conduct of state 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]

**254.470 Procedures for conducting election by mail; rules.** (1) An election by mail shall be conducted as provided in this section. The Secretary of State may adopt rules governing the procedures for conducting an election by mail.

(2) The Secretary of State by rule shall establish requirements and criteria for the designation of places of deposit for the ballots cast in the 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.

(3)(a) Except as provided in paragraphs (b), (c) and (d) 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 conducted by mail 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) Notwithstanding paragraph (a) of this subsection, 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 conducted by mail and not later than the 18th day before the date of the election.

(c) Notwithstanding paragraph (a) of this subsection, the Secretary of State by rule shall specify the date on which all ballots shall be mailed for any state election conducted by mail under ORS 254.465 (2).

(d) Notwithstanding paragraph (a) of this subsection, 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.

(4) 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) An elector not affiliated with any political party shall be mailed the ballot of a major political party in whose primary election the elector wishes to vote if the elector has applied for the ballot as provided in this subsection and that party has provided under ORS 254.365 for a primary election that admits electors not affiliated with any political party.

(c) An elector not affiliated with any political party who wishes to vote in the primary election of a major political party shall apply to the county clerk in writing.

Except for electors described in subsection (5) 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, an elector not eligible to vote for party candidates shall be mailed a ballot limited to those offices and measures for which the elector is eligible to vote.

(5) 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.

(6) The ballot or ballot label 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, upon conviction, to imprisonment or to a fine, or both.

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(7) 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, 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 (2) of this section on the date of the election.

(8) 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 (3) or (4) of this section, a replacement ballot may be mailed, made available in the office of the county clerk or made available at one central lo-

cation 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.

(9) 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 (10) of this section.

(10) 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.

(11) At 8 p.m. on election day, electors who are at the county clerk's office, a site designated under subsection (2) 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]

**254.472 Compartments for marking ballots issued at election conducted by mail.** 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) Notwithstanding ORS 254.465 (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]

**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 at election conducted by mail.** 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 delivered by mail.** 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 in elections conducted by mail.** (1) In an election conducted by mail, an elector may obtain a replacement ballot described in ORS 254.470 (8). 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 deter-

mined under ORS 254.470 (2) 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]

**254.482 Persons authorized to watch receiving and counting of votes in elections conducted by mail.** (1) This section applies only to elections conducted by mail.

(2) 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 subsection as will not interfere with an orderly procedure at the office of the county clerk. [2001 c.805 §3]

## POST-ELECTION PROCEDURES

**254.483 Procedures after polls close; poll book; unused ballots.** Immediately after the close of the polls:

(1) The names of electors who voted shall be counted and the number written in the poll book.

(2) If the election board has unused ballots in its custody that can be used for another election:

(a) The board, by an examination of the poll book, shall determine the number of ballots voted and the number of ballots spoiled. These totals shall be written in the poll book; and

(b) The board shall count the unused ballots in its custody and shall write this number in the poll book.

(3) The election board shall destroy all unused ballots which are printed or identified for a particular election.

(4) The board chairperson and clerks shall certify the accounting as written in the poll book by signing the poll book.

(5) At a polling place in which ballot labels are used, the election board shall seal the ballot labels closed.

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

(7) Each county shall provide for the security of, and shall account for, unused ballots. [Formerly 254.475]

**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 before the polls close.

(4) If ballots are tallied by a counting board, after the tally has begun it shall continue until completed. A counting board shall tally without adjournment and in the presence of the clerks and persons authorized to attend. However, the 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) 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 ballots under this chapter. [1979 c.190 §270; 1995 c.607 §45; 1999 c.318 §37; 1999 c.410 §58; 2001 c.965 §23]

**254.495 Tally and return sheets; counting and tallying ballots.** The election board, to tally ballots, shall use the tally sheets and two copies of the return sheet. The completed sheets shall contain the offices on the ballot, the number and name of each candidate who received a vote, the total number of votes cast for each candidate and each measure voted upon, and the total number of votes cast for and against the measure. The tally and return sheets, when completed, shall be certified correct by the election board which kept them. [Formerly 250.471]

**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 shall be counted. Any vote from which it is impossible to determine the elector's choice for the office or measure shall not be counted. Any ballot that has a sticker or other device in violation of ORS 254.405 (2) shall be void and shall 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 election board shall seal the wholly void ballots in an envelope. [Formerly 250.510; 1999 c.410 §59]

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

**254.515 Counting certain ballots.** Ballots marked "Presidential only" or "federal offices only" shall be counted only for the offices or measures that the elector is entitled to vote. Votes on the ballot for other offices or measures shall not be counted. [Formerly 250.520; 1999 c.410 §60]

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

**254.525 Duties immediately after vote tally; test of vote tally system.** (1) Immediately after the tally of votes:

(a) The board chairperson shall count the regular and absentee ballots either tallied or rejected, and write the number in the poll book. The number shall be certified as correct by board members.

(b) If all votes cast at the polling place are tallied there, the election board shall post one copy of the return sheet in a prominent location outside the polling place.

(c) The election board shall deliver under seal to the county clerk one copy of the return sheet, the tally sheet, ballots, ballot stubs, ballot boxes and written challenge statements. The board also shall deliver the other equipment to the county clerk.

(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 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]

**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 poll book, 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, ballot stubs 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]

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

**254.545 Duties of county clerk after election.** 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. After the primary election, the county clerk, for each office for which the clerk is filing officer, shall enter in a register of nominations 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.

(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]

**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 appropriate officials not later than the 20th day after the election.

(2) 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. [1999 c.318 §36]

**254.548 Individual nominated or elected by write-in votes; form; rules.** 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. [1991 c.719 §56]

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

**254.555 Secretary of State's duties after election; Governor's proclamation.** (1) 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]

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

**254.565 Duties of city elections officer after election.** 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]

**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]

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

**ELECTIONS**

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