

TITLE 23

ELECTIONS

- Chapter 246. Administration of Election Laws; Vote Recording Systems
247. Qualification and Registration of Electors
248. Political Parties; Presidential Electors
249. Candidates; Recall
250. Initiative and Referendum
251. Voters' Pamphlet
253. Absent Electors
254. Conduct of Elections
255. Special District Elections
258. Election Contests; Recounts
260. Campaign Finance Regulation; Election Offenses

Chapter 246

2005 EDITION

Administration of Election Laws; Vote Recording Systems

GENERAL PROVISIONS		COUNTY CLERK	
246.012	Definitions	246.200	County clerk to conduct elections; exceptions
246.015	Applicability of certain statutes only to polling place elections	246.210	County clerk to supervise local elections officials
246.021	Time within which election documents must be received by elections officer; electronic facsimile transmissions; statements filed in electronic format	246.245	Notification to county clerk when city boundary changed
246.025	Use of signature stamp by person with disability	246.250	Personnel; equipment, materials and facilities; payment of expenses; administering oaths
246.046	Secretary of State and county clerks to seek out evidence of violations	246.270	Office hours of county clerk on election days
SECRETARY OF STATE		PRECINCT ELECTION BOARDS	
246.110	Secretary of State as chief elections officer	246.310	Precinct election boards
246.120	Directives, instructions and assistance to county clerks	246.320	Distribution of list of persons appointed election board clerks; consideration of objections
246.140	Election law conferences for county clerks	246.330	Compensation of election board clerks; service without compensation
246.150	Rules	246.335	Meetings with county clerk
246.160	Compilations and digests of election laws; distribution of supplies and materials to county clerks and others	PRECINCTS; POLLING PLACES	
246.170	Deposit of moneys received under ORS 246.160 in Secretary of State Miscellaneous Receipts Account	246.410	Establishment and modification of precincts; maximum number of electors in precinct
246.179	Reimbursement of county clerk for special elections for United States Senator or Representative and for recall elections involving state office	246.420	Designation of polling places; preferred use of public buildings; symbol designating access to individuals with disabilities
246.185	Elections Fund	VOTE RECORDING SYSTEMS	
246.190	Help America Vote Act complaint procedures; rules	246.520	Applicable laws; conflicting laws and ordinances inapplicable

ELECTIONS

- | | |
|---|--|
| <p>246.530 Adoption, purchase or procurement of equipment; use thereafter</p> <p>246.540 Joint purchase, maintenance and use</p> <p>246.550 Examination and approval of equipment by Secretary of State</p> <p>246.560 Requirements for approval of equipment</p> <p>246.565 Audit of computerized voting system by Secretary of State; copy of instructions for operation and maintenance; maintenance log</p> <p>246.570 Sale of vote recording systems to counties; security interest</p> <p>246.580 Content of vote recording system sale agreement</p> | <p>246.590 Loans from State Treasurer for purchase of voting equipment or computers; Voting Machine Account</p> <p>246.600 Deposits in Voting Machine Account; repayment to State Treasurer</p> <p style="text-align: center;">COMPELLING OFFICERS, OFFICIALS
TO PERFORM DUTIES</p> <p>246.820 Order to compel county clerk, city elections officer or elections official to comply with interpretation, rule, directive or instruction</p> <p style="text-align: center;">APPEALS FROM OFFICERS, OFFICIALS</p> <p>246.910 Appeal from Secretary of State, county clerk or other elections official to courts; deadline for filing</p> |
|---|--|

246.010 [Repealed by 1957 c.608 §231]

246.011 [1957 c.608 §1; 1975 c.675 §1; repealed by 1979 c.190 §431]

GENERAL PROVISIONS

246.012 Definitions. As used in this chapter:

(1) "Ballot" means any material on which votes may be cast for candidates or measures.

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

(3) "County governing body" means the county court sitting for the transaction of county business or the board of county commissioners.

(4) "Election" means any election held within this state.

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

(6) "Governing body" means the governing body of any subdivision of the state.

(7) "Local elections official" means any person who is:

(a) An official of any election precinct or special district or public corporation organized for public purposes; and

(b) Authorized or required by law to perform functions in connection with elections held in the election precinct or special district or public corporation organized for public purposes.

(8) "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.

(9) "Precinct" means any election precinct.

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

(11) "Voting machine" means any device that will record every vote cast on candidates and measures and that will either internally or externally total all votes cast on that device. [1979 c.190 §1; 1983 c.392 §2; 2005 c.731 §1; 2005 c.797 §64]

246.015 Applicability of certain statutes only to polling place elections. ORS 246.310, 246.320, 246.330, 246.335 and 246.420 apply only to elections conducted at polling places as provided in ORS chapter 254. [1999 c.410 §2]

246.020 [Repealed by 1957 c.608 §231]

246.021 Time within which election documents must be received by elections officer; electronic facsimile transmissions; statements filed in electronic format. (1) Except as provided in ORS 247.012, an election document and an accompanying payment of fees required to be filed with the Secretary of State, county clerk or other filing officer must be delivered to and actually received at the office of the designated officer not later than 5 p.m. of the day the document or fee is due or, if the day due is a Saturday, Sunday or holiday, on the next business day.

(2) The exception to subsection (1) of this section is, when at 5 p.m. an individual is physically present in the office of the designated officer and in line waiting to deliver a document, the individual shall be considered as having begun the act of delivering the document and shall be permitted to file it.

(3) Any election document required to be filed with the filing officer other than ballots, voter registration cards or petitions requiring signatures of electors may also be filed by means of an electronic facsimile transmission machine. If an election document is required to be filed by a specified time, the entire document must be received in the office of the filing officer not later than 5 p.m. of the day the document is due or, if the day due is a Saturday, Sunday or holiday, on the next business day.

(4) Notwithstanding any provision of subsections (1) to (3) of this section, if a statement is required to be filed in an electronic format under ORS 260.159:

(a) The statement must be received in an electronic format at the office of the Secretary of State not later than 5 p.m. of the day the statement is due or, if the day due is a Saturday, Sunday or holiday, on the next business day; and

(b) The Secretary of State shall not accept the filing of the statement in any form other than an electronic format.

(5) As used in this section, "election document" includes, but is not limited to, a declaration of candidacy for nomination for public or political party office, completed nominating petitions, statements and portraits for voters' pamphlets, statements of election campaign contributions and expenditures, and initiative, referendum or recall

petitions. [Formerly 246.510; 1967 c.228 §1; 1979 c.190 §2; 1991 c.719 §4; 1993 c.713 §27; 1999 c.824 §9]

Note: The amendments to 246.021 by section 46, chapter 809, Oregon Laws 2005, become operative January 1, 2007. See section 57, chapter 809, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

246.021. (1) Except as provided in ORS 247.012 and subsection (2) of this section, an election document and an accompanying payment of fees required to be filed with the Secretary of State, county clerk or other filing officer must be delivered to and actually received at the office of the designated officer not later than 5 p.m. of the day the document or fee is due or, if the day due is a Saturday, Sunday or holiday, on the next business day.

(2) If, at 5 p.m. of the day an election document is due, an individual is physically present in the office of the secretary, county clerk or other filing officer and in line waiting to deliver the document, the individual is considered to have begun the act of delivering the document and is permitted to file it.

(3) Any election document required to be filed with the filing officer other than ballots, voter registration cards or petitions requiring signatures of electors may also be filed by means of an electronic facsimile transmission machine. If an election document is required to be filed by a specified time, the entire document must be received in the office of the filing officer not later than 5 p.m. of the day the document is due or, if the day due is a Saturday, Sunday or holiday, on the next business day.

(4) Notwithstanding any provision of subsections (1) to (3) of this section, if a statement is required to be filed electronically under ORS 260.057:

(a) The statement must be received electronically at the office of the Secretary of State not later than 5 p.m. of the day the statement is due or, if the day due is a Saturday, Sunday or holiday, on the next business day; and

(b) The Secretary of State may not accept the filing of the statement in any form other than an electronic format.

(5) As used in this section, "election document" includes, but is not limited to, a declaration of candidacy for nomination for public or political party office, completed nominating petitions, statements and portraits for voters' pamphlets, statements of election campaign contributions and expenditures, and initiative, referendum or recall petitions.

246.025 Use of signature stamp by person with disability. (1) A person with a disability who is unable because of the disability to sign any election document, including a voter registration card, ballot return envelope or poll book, may use a signature stamp or other indicator of the person's signature, as specified by the Secretary of State by rule, whenever the signature of the person is required under any election law.

(2) A person who desires to use a signature stamp or other indicator of the person's signature as described in subsection (1) of this section shall attest that the person needs to use the stamp or indicator due to a disability. The attestation shall be made at the time the person registers to vote or updates a registration and shall be made on a form designed and supplied by the Secretary of State. [1997 c.189 §2]

246.030 [Repealed by 1957 c.608 §231]

246.035 [1965 c.527 §4; repealed by 1971 c.267 §16]

246.040 [Repealed by 1957 c.608 §231]

246.045 [1967 c.338 §§2,3; 1975 c.675 §2; 1979 c.190 §391; renumbered 260.705]

246.046 Secretary of State and county clerks to seek out evidence of violations. The Secretary of State and each county clerk shall diligently seek out any evidence of violation of any election law. [Formerly 260.325]

246.050 [Repealed by 1957 c.608 §231]

246.055 [1973 c.154 §1; repealed by 1979 c.190 §431]

246.060 [Repealed by 1957 c.608 §231]

246.070 [Repealed by 1957 c.608 §231]

246.080 [Repealed by 1957 c.608 §231]

246.090 [Repealed by 1957 c.608 §231]

246.100 [Repealed by 1957 c.608 §231]

SECRETARY OF STATE

246.110 Secretary of State as chief elections officer. The Secretary of State is the chief elections officer of this state, and it is the secretary's responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws. [1957 c.608 §2; 1979 c.190 §5; 1995 c.607 §1]

246.120 Directives, instructions and assistance to county clerks. In carrying out the responsibility under ORS 246.110, the Secretary of State shall prepare and distribute to each county clerk detailed and comprehensive written directives, and shall assist, advise and instruct each county clerk, on registration of electors and election procedures which are under the direction and control of the county clerk. The directives and instructions shall include relevant sample forms of ballots, documents, records and other materials and supplies required by the election laws. A county clerk affected thereby shall comply with the directives or instructions. [1957 c.608 §3; 1965 c.464 §1; 1979 c.190 §6]

246.130 [1957 c.608 §4; repealed by 1979 c.190 §431]

246.140 Election law conferences for county clerks. (1) In carrying out the responsibility under ORS 246.110, the Secretary of State, not later than December 31 following the date of adjournment of the regular session of the Legislative Assembly, shall organize and conduct at convenient places and times in this state at least three conferences on the administration of the election laws.

(2) The Secretary of State shall give written notice of the place and time of each conference to each county clerk.

(3) Each county clerk or designated deputy shall attend at least one of the conferences and shall comply with the instructions given under the authority of the Secretary of State at each conference the county clerk

or deputy attends. [1957 c.608 §5; 1959 c.263 §1; 1979 c.190 §7; 1983 c.567 §3; 1991 c.719 §19; 2001 c.965 §49]

246.150 Rules. The Secretary of State may adopt rules the secretary considers necessary to facilitate and assist in achieving and maintaining a maximum degree of correctness, impartiality and efficiency in administration of the election laws. [1957 c.608 §8; 1979 c.190 §8; 1985 c.448 §1]

246.160 Compilations and digests of election laws; distribution of supplies and materials to county clerks and others. The Secretary of State shall:

(1) Prepare and print, in appropriate and convenient form, periodic compilations and digests of the state election statutes.

(2) Distribute in appropriate quantities to the county clerks for use by the county clerks and by election boards, copies of such compilations and digests and such supplies and materials necessary to the conduct of elections as the Secretary of State considers appropriate.

(3) Make the compilations and digests available for distribution, free or at cost, to interested persons. [1957 c.608 §125; 1963 c.455 §1; part renumbered 246.170; 1979 c.190 §9; 1991 c.719 §46]

246.170 Deposit of moneys received under ORS 246.160 in Secretary of State Miscellaneous Receipts Account. All moneys received by the Secretary of State under ORS 246.160 shall be deposited into the Secretary of State Miscellaneous Receipts Account established under ORS 279A.290. All moneys received by the Secretary of State under ORS 246.160 and deposited in the account are appropriated continuously to the Secretary of State for the payment of expenses incurred in performing the functions described in ORS 246.160. [Formerly part of 246.160; 1973 c.162 §3; 1979 c.190 §10; 1995 c.144 §7; 2003 c.794 §220]

246.179 Reimbursement of county clerk for special elections for United States Senator or Representative and for recall elections involving state office. (1) Notwithstanding ORS 246.250, the Secretary of State shall reimburse each county clerk for necessary expenses of an election described in subsection (2) of this section based on a claim filed by the county clerk and approved by the Secretary of State. The claim shall be made on a form designed by the Secretary of State. The Secretary of State shall make the reimbursement from funds made available to the Secretary of State by the Emergency Board.

(2) The Secretary of State shall reimburse each county clerk for necessary expenses of:

(a) A special primary election or a special election to fill a vacancy in the election or office of United States Senator or Representative in Congress held on a date other than the date of the primary election or the general election; or

(b) A recall election involving the holder of a state office. As used in this subsection, "state office" has the meaning given that term in ORS 249.002. [1983 c.567 §2; 1987 c.267 §2; 1993 c.194 §§1,2; 1995 c.712 §2]

246.180 [1973 c.283 §9; 1979 c.190 §98; renumbered 249.009]

246.185 Elections Fund. (1) The Elections Fund is established separate and distinct from the General Fund of the State Treasury. Moneys in the Elections Fund may be invested as provided in ORS 293.701 to 293.820. Interest earned by the Elections Fund and the earnings of any investments shall be credited to the fund.

(2) The Elections Fund consists of:

(a) Amounts appropriated or otherwise made available by the Legislative Assembly or this state for carrying out the activities for which payments are made to this state under the federal Help America Vote Act of 2002 (P.L. 107-252);

(b) Payments made to this state under the federal Help America Vote Act of 2002 (P.L. 107-252);

(c) Other amounts as may be appropriated by law; and

(d) Interest earned on deposits in the fund.

(3) Moneys deposited to the credit of the Elections Fund are continuously appropriated to the Secretary of State for the purpose of paying the expenses of carrying out the activities for which payments are made to this state under the federal Help America Vote Act of 2002 (P.L. 107-252). [2003 c.64 §2; 2005 c.797 §70]

246.190 Help America Vote Act complaint procedures; rules. (1) The Secretary of State by rule shall establish administrative complaint procedures that meet the requirements of the federal Help America Vote Act of 2002 (P.L. 107-252).

(2) Complaints alleging violations of Title III of the federal Help America Vote Act of 2002 (P.L. 107-252) must be filed as provided in rules adopted under this section. Complaints alleging violations of Title III of the federal Help America Vote Act of 2002 (P.L. 107-252) may not be filed under ORS 260.345. [2003 c.64 §7]

COUNTY CLERK

246.200 County clerk to conduct elections; exceptions. (1) Except as specifically provided otherwise in the statute laws of this state, the county clerk shall be the only elections officer to conduct any election in this state. For the purpose of this section, the conduct of an election includes, but is not limited to, establishing precincts and polling places, preparing ballots and sample ballots, and receiving and processing votes.

(2) Notwithstanding subsection (1) of this section:

(a) The county clerk is not the only elections officer who may accept and verify a filing for nomination or filing of a petition, prepare a voters' pamphlet or ballot title, or prepare or publish an election notice; and

(b) The Secretary of State may receive ballots as provided in ORS 253.585. [1979 c.317 §1; 1983 c.350 §63a; 1987 c.535 §1; 2003 c.64 §3]

246.210 County clerk to supervise local elections officials. (1) Subject to the directives and instructions prepared and distributed or given by the Secretary of State under ORS 246.120 or 246.140, a county clerk may exercise general supervision of administration of election laws by each local elections official in the county for the purpose of achieving and maintaining a maximum degree of correctness, impartiality, efficiency and uniformity in the administration by local elections officials. In this regard the county clerk may assist local elections officials in answering questions concerning the proper administration of election laws.

(2) If under this section two or more county clerks exercise general supervision of the same local elections official, the county clerks shall cooperate and coordinate to insure uniformity of general supervision. [1957 c.608 §9; 1979 c.190 §11; 1985 c.448 §2]

246.220 [1957 c.608 §10; 1979 c.190 §12; repealed by 1985 c.448 §5]

246.230 [1957 c.608 §11; 1965 c.527 §1; 1971 c.660 §1; 1975 c.675 §3; 1979 c.190 §13; repealed by 1985 c.448 §5]

246.235 [1965 c.527 §3; repealed by 1979 c.190 §431]

246.240 [1957 c.608 §12; repealed by 1965 c.527 §5]

246.245 Notification to county clerk when city boundary changed. If the boundary of a city is changed, the city governing body immediately shall send a certified copy of the order, resolution or other action changing the boundary to the county clerk of each county in which the city is located. [1979 c.190 §14]

246.250 Personnel; equipment, materials and facilities; payment of expenses; administering oaths. (1) The county clerk may employ personnel and procure equipment, supplies, materials, books, papers, records and facilities of every kind as the clerk

considers necessary to facilitate and assist in administering the election laws.

(2) The necessary expenses incurred by the county clerk in administering the election laws, including reasonable rental for polling places, shall be allowed by the county governing body and paid out of the county treasury.

(3) The county clerk and deputies may administer oaths and affirmations in connection with the performance of their functions in administering the election laws. [1957 c.608 §14; 1979 c.190 §15]

246.260 [1957 c.608 §15; repealed by 1979 c.190 §431]

246.265 [1977 c.829 §12; repealed by 1979 c.190 §431]

246.270 Office hours of county clerk on election days. On the day of any primary election, general election or special election held throughout the county, the county clerk's office shall remain open for business pertaining to the election from 7 a.m. to 8 p.m. of the same day. [1957 c.608 §18; 1979 c.190 §16; 1987 c.267 §3; 1995 c.712 §3; 1999 c.410 §3; 1999 c.999 §29]

246.300 [1957 c.608 §17; repealed by 1975 c.675 §36]

PRECINCT ELECTION BOARDS

246.310 Precinct election boards. (1) Not later than the 30th day before the primary election:

(a) The county clerk shall appoint persons to serve on election boards. There shall be at least one election board for each polling place.

(b) The county clerk may appoint more than one election board for any precinct in which 100 or more ballots were cast at the last general election or in which there are more than 200 electors.

(2) The election board shall consist of a day board to issue ballots and may include a counting board to count ballots. A day board shall consist of three or more clerks. A counting board shall consist of four or more clerks. No election board clerk shall serve on the day board and the counting board at the same time. The county clerk shall designate one clerk of each day board and one clerk of each counting board as chairperson.

(3) The county clerk shall appoint the election board clerks for a term of two years. The county clerk may withdraw the appointment of a clerk at any time. Clerks may be reappointed for more than one term.

(4) Except as provided in this subsection, an election board clerk shall be an elector of the county, shall be able to read, write and speak English and may not serve at a polling place in an electoral district in which the election board clerk is a candidate for any office, except precinct committeeperson,

to be voted on in that election. The clerks of a day board or a counting board may not all be members of the same political party. The Secretary of State shall adopt by rule standards under which county clerks may employ persons to serve as election board clerks who are not electors of the county but who are residents of the county and who are at least 16 years of age. A person who is the spouse, child, son or daughter-in-law, parent, mother or father-in-law, sibling, brother or sister-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of a candidate on the ballot at an election may not serve as election board clerk at a polling place where the candidate may be voted on, unless the candidate is a candidate for precinct committeeperson and is the only such relative who is a candidate on the ballot in the same election. The county clerk shall appoint board clerks who have the necessary capacity and ability to carry out their functions with sufficient skill and dispatch.

(5) In the event of a vacancy in the office of board clerk, the county clerk shall appoint a qualified person to fill the vacancy. [1957 c.608 §22; 1959 c.317 §1; 1963 c.37 §1; 1963 c.159 §1; 1975 c.675 §4a; 1979 c.190 §17; 1983 c.514 §2; 1985 c.471 §1; 1991 c.69 §1; 1995 c.712 §4; 2005 c.797 §53]

246.320 Distribution of list of persons appointed election board clerks; consideration of objections. (1) Immediately after the appointment of election board clerks as provided in ORS 246.310 (1), the county clerk shall:

(a) Make and certify a list of the persons appointed for each precinct, make the list available for public inspection in the office for five days and provide a copy of the list to each political party within the county that is affiliated with a major political party as qualified under ORS 248.006.

(b) Notify by mail each person appointed of the appointment, and keep a record of all notifications.

(2) Not later than the fifth day after the list of appointees is available to the public, any elector may file with the county clerk, without charge, any objection or suggestion respecting the appointments. The county clerk shall consider all objections and suggestions so filed.

(3) If the county clerk revises the list because of objections or suggestions filed under subsection (2) of this section, notification of these additions or deletions shall be delivered to each political party within the county that is affiliated with a major political party. [1957 c.608 §23; 1979 c.190 §18; 1993 c.797 §20]

246.330 Compensation of election board clerks; service without compensation. (1) Each election board clerk shall be

compensated at a rate not less than the federal or state minimum wage whichever is higher. The specific compensation shall be fixed and allowed by the county governing body and paid out of the county treasury.

(2) Nothing in subsection (1) of this section is intended to prohibit an election board clerk from volunteering to serve and serving without compensation. [1957 c.608 §24; 1973 c.588 §1; 1975 c.675 §5; 1975 c.678 §3; 1979 c.190 §19; 1979 c.519 §1a; 1995 c.607 §2]

246.335 Meetings with county clerk. (1) Each county clerk shall meet at a convenient place at least once each biennium with the election board clerks. At the meeting, the county clerk shall advise and instruct the board clerks concerning the proper election and voting procedures to be followed by them. The county clerk's advice and instruction shall conform to applicable rules, directives and instructions of the Secretary of State.

(2) The Secretary of State may require a county clerk to conduct a meeting in addition to the meeting required by subsection (1) of this section. [1979 c.749 §2 (enacted in lieu of 246.340); 1991 c.719 §20]

246.340 [1957 c.608 §25; 1959 c.89 §1; 1979 c.190 §20; repealed by 1979 c.749 §1 (246.335 enacted in lieu of 246.340)]

246.350 [1975 c.678 §1; repealed by 1979 c.190 §431]

PRECINCTS; POLLING PLACES

246.410 Establishment and modification of precincts; maximum number of electors in precinct. The county clerk, not later than the 30th day before an election, may create, combine or divide one or more precincts. The number of electors to be included in a precinct shall not exceed 5,000. The county clerk shall fix the boundaries of the precincts and designate the precincts by numbers or names. [1957 c.608 §20; 1959 c.317 §2; 1965 c.109 §1; 1973 c.662 §1; 1977 c.301 §5; 1979 c.190 §21; 1979 c.427 §2; 1985 c.528 §1; 1987 c.267 §5; 1995 c.607 §3; 1995 c.712 §5; 1999 c.410 §4; 1999 c.999 §30]

246.420 Designation of polling places; preferred use of public buildings; symbol designating access to individuals with disabilities. (1) Not later than the 10th day before any election conducted at polling places as provided in ORS chapter 254, the county clerk shall designate one polling place for each precinct. The county clerk shall take into account the desirability that a polling place have adequate parking and lighting facilities and be accessible to individuals with disabilities in accordance with rules adopted under ORS 447.231. The county clerk may designate as a polling place any public building, including any schoolhouse, owned or leased by the state or any political subdivision thereof, and the public building may be used as a polling

place without expense to the county. No official in charge of the public building may refuse its use as a polling place. If the public building has an entrance free of architectural barriers as defined by rules adopted under ORS 447.231, that entrance shall be kept unlocked during the hours the polls are open and its location clearly indicated at the main entrance of the building. More than one polling place may be designated in the same building.

(2) Any published list of polling places for use by electors shall indicate by a uniform, nationally recognized symbol those polling places which are accessible to electors with disabilities. [1957 c.608 §21; 1961 c.49 §1; 1961 c.174 §1; 1975 c.675 §6; 1977 c.179 §1; 1979 c.190 §22; 1989 c.224 §36; 1993 c.503 §11; 1999 c.410 §5]

246.510 [1955 c.246 §1; renumbered 246.021]

VOTE RECORDING SYSTEMS

246.520 Applicable laws; conflicting laws and ordinances inapplicable. All the provisions of the election laws and of any county or city charter or ordinance not inconsistent with ORS 246.520 to 246.600 apply to elections where voting machines or vote tally systems are used. Any provision of law or of any county or city charter or ordinance which conflicts with the use of voting machines or vote tally systems as provided in ORS 246.520 to 246.600 does not apply to elections in which voting machines or vote tally systems are used. [Formerly 258.025]

246.530 Adoption, purchase or procurement of equipment; use thereafter. A governing body may adopt, purchase or otherwise procure, and provide for the use of, any voting machine or vote tally system approved by the Secretary of State in all or a portion of the precincts. Thereafter the voting machine or vote tally system may be used for voting at all elections for public and party offices and on all measures, and for receiving, registering and counting the votes in the precincts as the governing body directs. [Formerly 258.045]

246.540 Joint purchase, maintenance and use. (1) In purchasing voting machines or vote tally systems, a governing body of any county and the governing bodies of any incorporated cities, districts or other municipalities in the county, may provide for the joint purchase and subsequent ownership of voting machines or vote tally systems and for the care, maintenance and use of the machines or systems.

(2) The governing body of two or more counties may provide for the joint use of voting machines or vote tally systems. [Formerly 258.105]

246.550 Examination and approval of equipment by Secretary of State. (1) The Secretary of State shall publicly examine all makes of voting machines or vote tally systems submitted to the secretary and determine whether the machines or systems comply with the requirements of ORS 246.560, and can safely be used by electors.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary for examination. For the purpose of assistance in examining the machine or system the secretary may employ not more than three individuals who are expert in one or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or system.

(3) Not later than the 30th day after completing the examination, the secretary shall approve or reject the voting machine or vote tally system. If the secretary approves the machine or system, the secretary shall make a report on the machine or system, together with a written or printed description, drawings and photographs clearly identifying the machine or system and its operation. Upon request, the secretary shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system approved by the secretary may be used for conducting elections. A machine or system rejected by the secretary may not be used at any election. If a machine or system is changed after the machine or system has been approved by the secretary, the secretary is not required to reexamine or reapprove the machine or system if the secretary determines that the change does not impair the accuracy, efficiency or capacity of the machine or system.

(5) If, after consulting with county clerks, the secretary determines that a voting machine or vote tally system approved by the secretary does not comply with the requirements of ORS 246.560, the secretary may revoke the approval. If the secretary revokes approval, the machine or system may not be used in any election. [Formerly 258.155; 2005 c.731 §2; 2005 c.797 §65]

246.560 Requirements for approval of equipment. (1) A voting machine may not be approved by the Secretary of State unless the voting machine is constructed so that it:

(a) Secures to the elector secrecy of voting.

(b) Provides facilities for voting for the candidates of as many political parties or organizations as may make nominations and

for or against as many measures as may be submitted.

(c) Permits the elector to vote for any person and as many persons for an office and upon any measure for which the elector has the right to vote.

(d) Permits the elector, except at a primary election, to vote for all the candidates of one party or in part for the candidates of one party and in part for the candidates of one or more other parties.

(e) Correctly records on a separate ballot the votes cast by each elector for any person and for or against any measure.

(f) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting machine or vote tally system except for President and Vice President and electors for those offices.

(g) Provides that straight party pointers shall be disconnected from all candidate pointers.

(h) Contains a device that will duplicate the votes cast by each elector onto a paper record copy.

(i) Contains a device that will allow each elector to view the elector's paper record copy while preventing the elector from directly handling the paper record copy.

(2) A vote tally system shall be:

(a) Capable of correctly counting votes on ballots on which the proper number of votes have been marked for any office or measure that has been voted.

(b) Capable of ignoring the votes marked for any office or measure if more than the allowable number of votes have been marked, but shall correctly count the properly voted portions of the ballot.

(c) Capable of accumulating a count of the specific number of ballots tallied for a precinct, accumulating total votes by candidate for each office, and accumulating total votes for and against each measure of the ballots tallied for a precinct.

(d) Capable of tallying votes from ballots of different political parties, from the same precinct, in a primary election.

(e) Capable of accommodating the procedure established under ORS 254.155.

(f) Capable of automatically producing precinct totals in either printed, marked, or punched form, or combinations thereof. [Formerly 258.165; 1987 c.267 §6; 1993 c.713 §47; 1995 c.712 §6; 1999 c.999 §31; 2005 c.731 §3; 2005 c.797 §66]

246.565 Audit of computerized voting system by Secretary of State; copy of instructions for operation and maintenance; maintenance log. (1) Any voting machine or vote tally system involving the

use of computers, a computer network, computer program, computer software or computer system shall be subject to audit by the Secretary of State at any time for the purpose of checking the accuracy of the voting machine or vote tally system.

(2) The county clerk shall obtain a copy of the written instructions for the operation and maintenance of any component of a vote tally system described in subsection (1) of this section. The clerk shall obtain the copy from the manufacturer or vendor of any component and shall retain the copy.

(3) The county clerk shall keep a log of all maintenance performed on any component of a vote tally system after the component is purchased and installed. The county clerk shall distinguish maintenance performed during the period that occurs after the preparatory test conducted under ORS 254.235 (1) and before the public certification test conducted under ORS 254.525 (4).

(4) As used in this section:

(a) "Computer" means, but is not limited to, an electronic device which performs logical, arithmetic or memory functions by the manipulations of electronic or magnetic impulses and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network.

(b) "Computer network" means, but is not limited to, the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals or a complex consisting of two or more interconnected computers.

(c) "Computer program" means, but is not limited to, a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(d) "Computer software" means, but is not limited to, computer programs, procedures and associated documentation concerned with the operation of a computer system.

(e) "Computer system" means, but is not limited to, a set of related, connected or unconnected computer equipment, devices and software. [1989 c.959 §2; 2001 c.965 §25]

246.570 Sale of vote recording systems to counties; security interest. (1) The Secretary of State may enter into an agreement, for a term of not more than five years, with any county within the state for the sale to the county of approved voting machines or vote tally systems or computers or computer systems described in ORS 246.590. The

agreement shall include a provision creating a security interest for the Secretary of State in the voting machines or vote tally systems or computers or computer systems. The security interest shall not be released until the sale is completed and the terms of the sale agreement are satisfied.

(2) The Secretary of State on having entered into an agreement with a county may purchase the necessary voting machines or vote tally systems or computers or computer systems using money made available under the provisions of ORS 246.590. [Formerly 258.405; 1995 c.144 §15]

246.580 Content of vote recording system sale agreement. The sale agreement shall provide for:

(1) Annual payments of not less than 20 percent of the cost of the voting machines or vote tally systems or computers or computer systems, plus interest, payable on or before December 15.

(2) Payment by the county of maintenance, supplies, storage and transportation costs of the voting machines or vote tally systems or computers or computer systems. [Formerly 258.415; 1985 c.808 §1; 1995 c.144 §16]

246.590 Loans from State Treasurer for purchase of voting equipment or computers; Voting Machine Account. (1) The State Treasurer, in the capacity of investment officer for the Oregon Investment Council, may lend moneys in the investment funds as provided in ORS 293.701 to 293.820 for the acquisition of:

(a) The voting machines or vote tally systems that the Secretary of State has contracted to sell to a county.

(b) Computers or computer systems for the purpose of maintaining and updating elector registration files or for establishing cross-county elector registration files, including those that the Secretary of State has contracted to sell to a county.

(2) The Voting Machine Account is established in the General Fund. The account consists of moneys lent to the Secretary of State under this section and payments collected from counties under ORS 246.600. Moneys in the account are continuously appropriated to the secretary for:

(a) The purchase of voting machines or vote tally systems or computers or computer systems described in subsection (1) of this section; and

(b) Repayment of moneys lent under this section, plus interest.

(3) Moneys lent under this section shall be repaid within five years together with in-

terest at a rate agreed upon by the State Treasurer and the Secretary of State. [Formerly 258.425; 1993 c.713 §62; 1995 c.144 §17; 2005 c.755 §6]

246.600 Deposits in Voting Machine Account; repayment to State Treasurer.

All payments collected from the counties from the sale of voting machines, computers or vote tally or computer systems shall be deposited in the Voting Machine Account. An amount of money equal to the amount of payments collected from the counties from the sale of voting machines, computers or vote tally or computer systems during the calendar year, plus interest at a rate agreed upon by the State Treasurer and the Secretary of State, shall be paid to the State Treasurer as the repayment of money advanced for the acquisition of voting machines, computers or vote tally or computer systems. Payment shall be made to the State Treasurer not later than December 31 of each year. [Formerly 258.435; 1995 c.144 §18]

246.610 [Formerly 258.445; 1995 c.144 §19; repealed by 2005 c.755 §59]

246.810 [1957 c.608 §6; 1979 c.190 §35; repealed by 1985 c.448 §5]

COMPELLING OFFICERS, OFFICIALS TO PERFORM DUTIES

246.820 Order to compel county clerk, city elections officer or elections official to comply with interpretation, rule, directive or instruction. (1) Whenever it appears to the Secretary of State that a county clerk, city elections officer or a local elections official has failed to comply with an interpretation of any election law made by the Secretary of State under ORS 246.110 or has failed to comply with a rule, directive or instruction made by the Secretary of State under ORS 246.120, 246.140 or 246.150, the Secretary of State may apply to the appropriate circuit court for an order to compel the county clerk, city elections officer or local elections official to comply.

(2) The court shall dispose of the matter under subsection (1) of this section as soon as possible, but in any case not later than the fifth day after the Secretary of State applies for an order.

(3) The remedy provided in this section is cumulative and does not exclude any other remedy against a county clerk, city elections officer or local elections official who fails to comply with an interpretation of any election law or the rule, directive or instruction. [1957 c.608 §7; 1979 c.190 §36; 1985 c.448 §3; 1995 c.607 §9]

246.830 [1957 c.608 §13; 1979 c.190 §37; repealed by 1985 c.448 §5]

**APPEALS FROM OFFICERS,
OFFICIALS**

246.910 Appeal from Secretary of State, county clerk or other elections official to courts; deadline for filing. (1) A person adversely affected by any act or failure to act by the Secretary of State, a county clerk, a city elections officer or any other county, city or district official under any election law, or by any order, rule, directive or instruction made by the Secretary of State, a county clerk, a city elections officer or any other county, city or district official under any election law, may appeal therefrom to the circuit court for the county in which the act or failure to act occurred or in which the order, rule, directive or instruction was made.

(2) An appeal described in subsection (1) of this section of an order of the Secretary of State approving or disapproving a state initiative petition for circulation for the purpose of obtaining signatures of electors must be filed within 60 days following the date the order is served.

(3) Any party to the appeal proceedings in the circuit court under subsection (1) of this section may appeal from the decision of the circuit court to the Court of Appeals.

(4) The circuit courts and Court of Appeals, in their discretion, may give precedence on their dockets to appeals under this section as the circumstances may require.

(5) The remedy provided in this section is cumulative and does not exclude any other remedy against any act or failure to act by the Secretary of State, a county clerk, a city elections officer or any other county, city or district official under any election law or against any order, rule, directive or instruction made by the Secretary of State, a county clerk, a city elections officer or any other county, city or district official under any election law. [1957 c.608 §19; 1975 c.227 §2; 1979 c.190 §38; 1983 c.514 §3; 1995 c.607 §10; 2005 c.797 §26]

246.990 [Repealed by 1957 c.608 §231]

246.991 [1967 c.338 §4; 1975 c.675 §7; repealed by 1979 c.190 §431]

ELECTIONS
