

CHAPTER 169

AN ACT

SB 28

Relating to duties of elections officers; amending ORS 253.080, 253.690, 254.431, 254.470 and 255.069.

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

SECTION 1. ORS 253.080 is amended to read:

253.080. (1) Upon receipt of an envelope containing a marked ballot from an absent elector, the clerk shall keep it safely in the office and, before delivering the ballot for counting, shall compare the signature of the absent elector that appears on the back of the ballot envelope with that upon the elector's registration [card] **record**. *[If the signatures appear to be the same, the clerk shall mark the envelope to indicate that the ballot may be counted.]*

(2) Except as otherwise provided in this chapter, ballots for absent electors shall be counted and returns shall be made, as nearly as possible, in the same manner as for other ballots cast at the election.

SECTION 2. ORS 253.690 is amended to read:

253.690. (1) A military or overseas elector described in ORS 253.510 may cast a ballot using a facsimile machine or by electronic mail as provided in this section. Notwithstanding ORS 254.470 (8), a ballot cast under this section shall be counted only if the ballot:

(a) Is received in the office of the county clerk not later than 8 p.m. on the day of the election;

(b) Is accompanied by a return identification envelope containing the signature of the elector and a signed waiver described in subsection (2) of this section; and

(c) The signature is verified as provided in subsection (4) of this section.

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

(a) Space for the elector to provide the elector's full name, residence or mailing address, an electronic mail address, phone or facsimile number where the elector may be contacted and any other necessary information.

(b) A waiver in substantially the following form:

I, _____, acknowledge that by casting my voted ballot using a facsimile machine or by electronic mail I have waived my right to a secret ballot.

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

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

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

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

(4) The county clerk shall verify the signature of each elector on the return identification envelope transmitted by facsimile machine or electronic mail under this section with the signature on the elector's registration [card] **record**, according to the procedure provided by rules adopted by the Secretary of State.

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

SECTION 3. ORS 254.470 is amended to read:

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

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

(b) If the county clerk determines that an active elector of the electoral district as of the 21st day before the date of the election does not receive daily mail service from the United States Postal Service, the county clerk shall mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope to the elector not sooner than the 20th day before the date of an election and not later than the 18th day before the date of the election.

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

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

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

(b) The county clerk shall mail the official ballot of a major political party to an elector not affiliated with any political party if the elector has applied for the ballot as provided in this subsection and that party has provided under ORS 254.365 for a 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. The application shall indicate which major political party ballot the elector wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day before the date of the election.

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

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

(5) The ballot shall contain the following warning:

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

(6)(a) 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.

(b) 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.

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

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

(e) A ballot must be received at the office of the county clerk, at the designated place of deposit or at any location described in ORS 254.472 or 254.474 not later than the end of the period determined under subsection (1) of this section on the date of the election.

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

(8) A ballot shall be counted only if:

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

(b) The envelope is signed by the elector to whom the ballot is issued; and

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

(9) The county clerk shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration [card] **record**, according to the procedure provided by rules adopted by the Secretary of State. If the county clerk determines that an elector to whom a replacement ballot has been issued has voted more than once, the county clerk shall count only one ballot cast by that elector.

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

SECTION 4. ORS 255.069 is amended to read:

255.069. (1) Not later than the 115th day before a regular district election, or not later than the 135th day before a district election held on the date of a primary election or general election, the elections officer shall deliver to each district elections authority[, *by certified mail,*] a form for updating information on members of district boards. The form shall include, at a minimum, the district offices to be filled or for which candidates are to be nominated or elected at the next district election and information concerning the candidates.

(2) Not later than the 105th day before a regular district election or not later than the 125th day be-

fore a district election held on the date of a primary election or general election, the district elections authority shall return to the elections officer the form for updating information on members of district boards.

(3) The elections officer shall prepare the notice required by ORS 255.075 by using the form completed by the district elections authority and any other information available. If the form is not returned by the district elections authority by the deadline specified in subsection (2) of this section, the elections officer shall prepare the notice for the district using the most current information available. If the form is returned by the district elections authority after the deadline, the elections officer shall prepare a corrected notice. The district shall be liable for any additional costs incurred in preparing and publishing a corrected notice.

(4) The elections officer shall retain the completed forms in a file maintained for that purpose. All forms shall be kept for a period of at least four years after the district election for which the form was completed.

(5) If a district is located in more than one county, the elections officer shall immediately certify the information contained on the form required under subsection (2) of this section to the county clerk of any other county in which the district is located.

(6) The Secretary of State by rule shall establish the forms and procedures the elections officer and the district elections authority shall use in maintaining adequate records for preparation of the form required under subsection (1) of this section.

SECTION 5. ORS 254.431, as amended by section 3, chapter 67, Oregon Laws 2014, and section 3, chapter 112, Oregon Laws 2014, is amended to read:

254.431. (1) If a ballot is challenged because it is returned in an unsigned return identification envelope or because the signature of an elector on a return identification envelope does not match the

signature in the voter registration record for the elector, the county clerk shall mail to the elector a notice that describes the nature of the challenge. The Secretary of State shall design a standard form to be used in all notifications sent by county clerks under this subsection.

(2)(a) In order for the vote of the elector to be counted, the elector must provide evidence sufficient to disprove the challenge not later than the 14th calendar day after the date of the election.

(b) If the elector does not provide evidence sufficient to disprove a challenge alleging that the signature of the elector on a return identification envelope does not match the signature in the voter registration record for the elector by the 14th calendar day after the date of the election, the registration of the elector shall be considered inactive.

(3)(a) The [county clerk] **filing officer** may not release as a public record any information that could be used to identify an elector whose ballot has been challenged under this section until the eighth calendar day after the date of an election.

(b) Following the seventh calendar day after the date of an election, the [county clerk] **filing officer** may disclose as a public record under ORS 192.410 to 192.505 the following information about each elector whose ballot was challenged under this section:

- (A) The name of the elector;
- (B) The residence addresses of the elector; and
- (C) The reason the elector's ballot is being challenged.

(4) **As used in this section, "filing officer" means:**

(a) **The Secretary of State, for federal or statewide elections and for elections to the office of state Senator or Representative; or**

(b) **The county clerk, for county, city or district elections.**

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