

CHAPTER 84

AN ACT

SB 1527

Relating to elections; amending ORS 248.008, 248.015, 248.023, 249.875, 254.458, 254.548, 258.150, 258.161, 258.190 and 260.345; and declaring an emergency.

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

SECTION 1. ORS 254.458 is amended to read:

254.458. (1) Notwithstanding any provision of ORS 254.470:

(a) A county clerk may apply to the Secretary of State for approval of any procedure to be used in lieu of the [*return identification*] **secrecy** envelope procedures described in ORS 254.470; and

(b) Upon receiving an application under paragraph (a) of this subsection, the secretary may approve a procedure to be used in lieu of the [*return identification*] **secrecy** envelope procedures described in ORS 254.470 if the secretary determines that the procedure will provide substantially the same degree of secrecy as ORS 254.470.

(2) A procedure approved by the secretary under this section must comply with the prohibitions set forth in ORS 254.470 (13).

SECTION 2. ORS 258.190 is amended to read:

258.190. (1) After a recount demand is filed, the Secretary of State shall direct the official who conducted the election or the clerk of any county containing precincts in which ballots were cast on the measure or for the nomination or office specified in the demand for a recount to conduct a recount in the precincts specified in the demand.

(2) If the demand for a recount of votes cast for a nomination or office is filed, the Secretary of State, not later than the third day after the filing of the first demand, shall notify the affected candidates **that a recount is to be made in the precincts specified in the demand. The notice shall be sent by electronic mail or, if an electronic mail address for the affected candidate is unavailable, by certified or registered mail [that a recount is to be made in the precincts specified in the demand].**

(3) The official who is to conduct the recount, within a reasonable time before the recount, shall notify the affected candidates or the individual filing the demand for recount for a measure of the date, time and place of the recount.

SECTION 3. ORS 249.875 is amended to read:

249.875. (1) A recall petition shall be void unless completed and filed not later than the [*100th*] **120th** day after filing the prospective petition described in ORS 249.865. Not later than the 90th day after filing the prospective petition the petition shall be submitted to the filing officer who shall verify the signatures not later than the [*10th*] **30th** day after the submission. The filed petition shall contain only original signatures. A recall petition shall not be ac-

cepted for signature verification if it contains less than 100 percent of the required number of signatures. The petition shall not be accepted for filing until 100 percent of the required number of signatures of electors have been verified.

(2) The provisions for verification of signatures on an initiative or referendum petition contained in ORS 250.105, are applicable to the verification of signatures on a recall petition.

SECTION 4. ORS 260.345 is amended to read:

260.345. (1) Any elector may file with any filing officer a written complaint alleging that a violation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260 has occurred and stating the reason for believing that the violation occurred and any evidence relating to it. A complaint and any evidence relating to it may be filed electronically. A complaint alleging a violation involving the Secretary of State, a candidate for the office of Secretary of State, or any political committee or person supporting the Secretary of State or a candidate for the office of Secretary of State may be filed with the Attorney General. The Secretary of State or Attorney General shall not accept an anonymous complaint.

(2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed with any person other than the Secretary of State. If the complaint concerns the Secretary of State, any candidate for the office of the Secretary of State, or any political committee or person supporting the candidacy of the Secretary of State or of another person for the office of Secretary of State, the complaint and any additional information relating to the complaint shall be sent to the Attorney General.

(3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State or Attorney General immediately shall examine the complaint to determine whether a violation of an election law or rule has occurred and shall make any investigation the Secretary of State or Attorney General considers necessary. Except as provided in this subsection, within [*48 hours*] **three business days** of receiving a complaint under subsection (1) or (2) of this section, the Secretary of State or Attorney General shall notify the person who is the subject of the complaint that a complaint has been received. If the Secretary of State or Attorney General receives a complaint or complaints involving [*25*] **10** or more individuals, political committees or petition committees in any [*24-hour*] **48-hour** period, the Secretary of State or Attorney General need not notify the persons who are the subjects of those complaints within [*48 hours*] **three business days** of receiving the complaints but shall notify those persons not later than 10 business days after receiving the complaint or complaints.

(4) If the Secretary of State believes after an investigation under subsection (3) of this section that a violation of an election law or rule has occurred, the secretary:

(a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall report the findings to the Attorney General and request prosecution. If the violation involves the Attorney General, a candidate for that office or a political committee or person supporting or opposing the Attorney General or a candidate for that office, the Secretary of State shall appoint another prosecutor for that purpose;

(b) In the case of a violation not subject to a penalty under ORS 260.537 or 260.993, may impose a civil penalty under ORS 260.995; or

(c) In the case of a violation under ORS 260.537, may institute civil proceedings in the manner described in ORS 260.537.

(5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section involving an alleged violation subject to a penalty under ORS 260.993 or an alleged violation of ORS 260.537, the Attorney General or other prosecutor immediately shall examine the complaint or report to determine whether a violation of an election law has occurred. If the Attorney General or prosecutor determines that a violation has occurred, the Attorney General or prosecutor immediately shall begin prosecution or civil proceedings in the name of the state. The Attorney General or other prosecutor shall have the same powers in any county of this state as the district attorney for the county.

(6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged violation of an election law or rule not subject to a penalty under ORS 260.537 or 260.993, the Attorney General shall examine the complaint to determine whether a violation of an election law or rule has occurred and shall make any investigation the Attorney General considers necessary. If the Attorney General believes after an investigation that a violation of an election law or rule has occurred, the Attorney General may impose a civil penalty under ORS 260.995.

(7) In the case of an alleged violation subject to a civil penalty under ORS 260.995 or an alleged violation of ORS 260.537, a complaint shall be filed by an elector under this section no later than 90 days following the election at which a violation of an election law or rule is alleged to have occurred, or 90 days following the date the violation of an election law or rule is alleged to have occurred, whichever is later.

(8) A filing officer having reason to believe that a violation of an election law or rule has occurred shall proceed promptly as though the officer had received a complaint. Except as provided in ORS 260.234, a filing officer shall proceed under this subsection no later than two years following the election at which a violation of an election law or rule is alleged to have occurred, or two years following the date the violation of an election law or rule is alleged to have occurred, whichever is later. If a filing officer has not proceeded within two years because of fraud, deceit, misleading representation or

the filing officer could not have reasonably discovered the alleged violation, the filing officer shall proceed no later than five years following the election at which a violation of an election law or rule is alleged to have occurred, or five years following the date the violation of an election law or rule is alleged to have occurred, whichever is later.

SECTION 5. ORS 258.161 is amended to read:

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

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

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

(4) Except as provided in subsection (9) of this section, the person making a demand for a recount may, in the first demand, specify a partial or a full recount. A person making a demand for a partial recount shall specify the precincts in which votes were cast for the nomination or office or on the measure to be recounted. If in the first demand the person requested a partial recount, the person may file a supplemental demand for a recount of all the remainder of the precincts.

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

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

(7) Each demand shall be in the form and shall contain the information prescribed by the Secretary of State, including the names and addresses of all

persons and organizations providing any part of the cash deposit and the amount provided by each.

(8) Except as provided in subsection (9) of this section, the first demand shall be filed in the office of the Secretary of State not later than the [35th] 42nd day and a supplemental demand not later than the [45th] 52nd day after the date of the election in which votes were cast for the nomination, office or measure.

(9) A demand for a recount made under this section on behalf of the electors of presidential and vice presidential candidates shall be for a full recount only and shall be filed no later than five business days after the Secretary of State declares the result of the election under ORS 254.555.

SECTION 6. ORS 254.548 is amended to read:

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

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

(a) Not later than the [39th] 38th day after the election, the filing officer shall:

(A) Prepare and deliver by regular mail the form described in subsection (1) of this section to the individual; *[and]* **or**

(B) If the filing officer has the electronic mail address of the individual, prepare and deliver by electronic mail the form described in subsection (1) of this section to the individual;

(b) Not later than the [41st] 43rd day after the election, if the individual accepts the nomination or office, the individual shall sign and file the form with the filing officer; and

(c) Not later than the 45th day after the election, if the individual files the form by the deadline specified in paragraph (b) of this subsection, the filing officer shall prepare and deliver a certificate of nomination or election to the individual and, if applicable, issue a proclamation declaring the election of the candidate to the office.

SECTION 7. ORS 248.023 is amended to read:

248.023. (1) Not later than the [20th] 27th day after a primary election, the county elections official shall mail a certificate of election to each newly elected precinct committeeperson within the county. The county elections official also shall mail an "Acceptance of Office" form to each person elected by write-in votes to the office of precinct committeeperson who was nominated under ORS 248.021. The form shall include a statement to be signed by the person elected that the person is qualified to hold the office.

(2) A person elected by write-in votes to the office of precinct committeeperson shall be certified for the office by filing with the county elections official, not later than the [27th] 33rd day after the

date of the primary election, a signed "Acceptance of Office" form.

(3) Not later than the [31st] 35th day after a primary election, the county elections official shall prepare, maintain and furnish to the chairpersons of the respective retiring county central committees within the county and the chairpersons of the state central committees, a list of the party precinct committeepersons elected and certified. At the same time the county elections official shall declare the other offices of precinct committeeperson vacant.

SECTION 8. ORS 248.015 is amended to read:

248.015. (1) A precinct committeeperson shall be a representative of the major political party in the precinct. At the primary election a major political party shall elect from its members a precinct committeeperson for every 250 electors, or major fraction thereof, who are registered in the precinct 251 days before the primary election. In any event the political party members of a precinct shall be entitled to elect not less than two committeepersons in the precinct. A person may not hold office as precinct committeeperson in more than one precinct.

(2) A member of a major political party who meets the party membership requirements set forth in ORS 249.046 may become a candidate for precinct committeeperson of the precinct in which the person is registered, of a precinct within the same county adjoining that precinct or of a precinct that is both in the same county and state Representative district as the precinct in which the person is registered, by filing a declaration of candidacy described in ORS 249.031, except as provided in subsection (3) of this section.

(3) ORS 249.031 (1)(i) does not apply to declarations of candidacy for candidates for precinct committeeperson.

(4) A member of the major political party who has been a member of that party for 180 days before the primary election may be elected by write-in votes as precinct committeeperson of the precinct in which the member is registered, of a precinct within the same county adjoining that precinct or of a precinct that is both in the same county and state Representative district as the precinct in which the person is registered. A member elected by write-in votes must meet the requirements for write-in candidates set forth in this section and ORS 248.019 or 248.021.

(5) Unless a qualified person receives at least three votes, no person is deemed to have been elected as precinct committeeperson and the office of precinct committeeperson shall be vacant.

(6) The term of office of a precinct committeeperson is from the [24th] 35th day after the date of the primary election until the [24th] 35th day after the date of the next following primary election.

(7) A precinct committeeperson is not considered a public officer.

SECTION 9. ORS 258.150 is amended to read:

258.150. (1) The Secretary of State shall be responsible for [insuring] **ensuring** that the procedures to be used in conducting election recounts assure an accurate recount in the shortest time at the least expense. Whenever demands are filed for a recount of a vote for both a measure and a nomination or office, or for more than one measure, nomination or office, the Secretary of State may determine the most appropriate procedure to be used in conducting the recounts simultaneously.

(2)(a) In all election recounts for the office of President and Vice President of the United States, United States Senate, United States House of Representatives, Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Supreme Court, Court of Appeals, Oregon Tax Court, Circuit Court, Oregon Senate, Oregon House of Representatives and statewide measures, the Secretary of State shall ensure that county elections officials conduct the recount in a manner that is consistent, transparent, accurate and in accordance with all applicable laws.

(b) The county clerk in each county involved in a recount described in paragraph (a) of this subsection shall provide notice to the Secretary of State of the date, time and location of the recount and information regarding all aspects of the recount process, including:

- (A) The appointment of counting boards;**
- (B) The conditions for recount observers;**
- (C) The manner in which voter intent is determined; and**
- (D) The counting of ballots.**

(c) The Secretary of State shall review the notices and actual recount processes described in paragraph (b) of this subsection to ensure consistency across counties involved in the recount to the degree reasonably practicable. The Secretary of State shall be responsible for the certification of the results of the election or nomination as reported by the county clerks in the counties involved in the recount.

(d) The Secretary of State may adopt rules necessary to implement this subsection.

SECTION 10. ORS 248.008 is amended to read:

248.008. (1) An affiliation of electors becomes a minor political party in the state, a county or other electoral district, qualified to make nominations for public office in that electoral district and in any other electoral district wholly contained within the electoral district, when the affiliation of electors has acted as described in either paragraph (a) or (b) of this subsection:

(a) When the affiliation of electors has filed with the Secretary of State a petition with the signatures of at least a number of electors equal to one and one-half percent of the total votes cast in the electoral district for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term.

(B) The petition must contain only original signatures and must be filed not later than two years following the date the prospective petition is filed. The petition must state the intention to form a new political party and designate a name for the political party.

(C) Before circulating the petition, the chief sponsor of the petition must file with the Secretary of State a signed copy of the prospective petition. The chief sponsor must include with the prospective petition a statement declaring whether one or more persons will be paid money or other valuable consideration for obtaining signatures of electors on the petition. After the prospective petition is filed, the chief sponsor must notify the filing officer not later than the 10th day after the chief sponsor first has knowledge or should have had knowledge that:

(i) Any person is being paid for obtaining signatures, when the statement included with the prospective petition declared that no person would be paid for obtaining signatures of electors.

(ii) No person is being paid for obtaining signatures, when the statement included with the prospective petition declared that one or more persons would be paid for obtaining signatures of electors.

(D) The circulator shall certify on each signature sheet that the circulator witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet and that the circulator believes each individual is an elector registered in the electoral district.

(E) The Secretary of State shall verify whether the petition contains the required number of signatures of electors. The Secretary of State may not accept a petition for filing if it contains less than 100 percent of the required number of signatures. The Secretary of State by rule shall designate a statistical sampling technique to verify whether a petition contains the required number of signatures of electors. A petition may not be rejected for the reason that it contains less than the required number of signatures unless two separate sampling processes both establish that the petition lacks the required number of signatures. The second sampling must contain a larger number of signatures than the first sampling. The Secretary of State may employ professional assistance to determine the sampling technique. The statistical sampling technique may be the same as that adopted under ORS 250.105.

(b) When the affiliation of electors has polled for any one of its candidates for any public office in the electoral district at least one percent of the total votes cast in the electoral district for all candidates for:

(A) Presidential elector at the last general election at which candidates for President and Vice President of the United States were listed on the ballot; or

(B) Any single state office to be voted upon in the state at large for which nominations by political parties are permitted by law at the most recent election at which a candidate for the office was elected to a full term.

(2) After satisfying either subsection (1)(a) or (b) of this section, the minor political party may nominate candidates for election at the next general election.

(3) A filing officer may not accept a certificate of nomination of a candidate nominated by a minor political party for a subsequent general election unless the minor political party has maintained status as a minor political party as described in subsection (4) of this section.

(4) In order to maintain status as a minor political party for a subsequent general election:

(a) Following each general election, at any time during the period beginning on the date of the next primary election and ending on the 90th day before the next general election, a number of electors equal to at least *[one-half]* **one-quarter** of one percent of the total number of registered electors in this state must be registered as members of the party; or

(b)(A) Following each general election, at any time during the period beginning on the date of the next primary election and ending on the 90th day before the next general election, a number of electors equal to at least one-tenth of one percent of the total votes cast in the state or electoral district for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term must be registered as members of the party; and

(B) At least once in a four-year period, a candidate or candidates of the party must poll at least one percent of the total votes cast in the electoral district for all candidates for:

(i) Presidential elector at the last general election at which candidates for President and Vice President of the United States were listed on the ballot; or

(ii) Any single state office to be voted upon in the state at large for which nominations by political

parties are permitted by law at the most recent election at which a candidate for the office was elected to a full term.

(5) An affiliation of electors that fails to maintain status as a minor political party ceases to be a minor political party on the 90th day before the date of the next general election.

(6) During the period beginning on the date of the primary election and ending on the 90th day before the date of the general election, the Secretary of State shall determine at least once each month whether registration requirements to maintain status as a minor political party have been satisfied.

(7) If a minor political party changes its name, only those electors who register on or after the effective date of the name change as members of the party under the new party name shall be counted as members of the party.

(8) An affiliation of electors or a minor political party may not nominate a candidate who is the nominee of another political party at the same election in order to satisfy the one percent requirement referred to in subsection (1)(b) or (4)(b)(B) of this section.

(9) For purposes of this section, “subsequent general election” means any general election that is held after the first general election following qualification as a minor political party under subsection (1) of this section.

SECTION 11. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

Approved by the Governor March 23, 2022

Filed in the office of Secretary of State March 30, 2022

Effective date March 23, 2022