

## HOUSE AMENDMENTS TO HOUSE BILL 3090

By COMMITTEE ON ELECTIONS AND RULES

May 9

- 1 On page 1 of the printed bill, line 2, delete “254.478.”
- 2 Delete line 3 and insert “258.026, 258.211, 260.695 and 260.993.”
- 3 Delete lines 5 through 20 and insert:
- 4 “**SECTION 1.** ORS 254.505 is amended to read:
- 5 “254.505. (1) Only official ballots shall be counted.
- 6 “(2) Any vote from which it is impossible to determine the elector’s choice for the office or  
7 measure [*shall*] **may** not be counted.
- 8 “(3) Any ballot that has a sticker or other device in violation of ORS 254.405 (2) [*shall be void*  
9 *and shall not be counted*] **is void and may not be counted.**
- 10 “(4) **Except as provided in this subsection, a counting board clerk, other elections official**  
11 **or other person may not alter, write on or in any other way modify a ballot cast by an**  
12 **elector. Where the elector’s choice for the office or measure is clear, a board of election**  
13 **officials may enhance or duplicate the ballot so that the ballot may be counted by a vote tally**  
14 **machine. The members of the board of election officials may not all be members of the same**  
15 **political party. A ballot that is duplicated may be counted only once under this chapter and**  
16 **once in any recount conducted under ORS chapter 258.**
- 17 “(5) Counting board clerks shall disregard misspelling or abbreviations of the names of candi-  
18 dates if it can be ascertained from the ballot for whom the vote was intended.
- 19 “[2] (6) When ballots are counted by counting boards, the board chairperson, using ink, imme-  
20 diately shall initial the back of the wholly or partially void ballot and write on it ‘Not counted  
21 for \_\_\_\_\_’ (stating the office or measure). The election board shall seal the wholly void ballots  
22 in an envelope.”
- 23 On page 2, delete lines 13 through 22 and insert:
- 24 “**SECTION 4.** Subject to ORS 254.478, ballots received by the county clerk shall be stored  
25 in a secure location designated by the county clerk. Only persons authorized by the county  
26 clerk shall have access to the secure location.”
- 27 In line 23, delete “6” and insert “5” and delete “7” and insert “6”.
- 28 Delete lines 24 through 32 and insert:
- 29 “**SECTION 6.** (1) In an election conducted by mail, a person, except an elections official  
30 in performance of duties, may not establish a place of deposit for ballots cast in the election.
- 31 “(2) **Except as provided in subsection (3) of this section, each place of deposit for ballots**  
32 **cast in the election designated under ORS 254.470 shall be staffed by elections officials or**  
33 **individuals who have received training from the county clerk. The place of deposit shall be**  
34 **staffed during all hours that the place of deposit is open. At places of deposit described in**  
35 **this subsection, the county clerk shall post a notice stating:**

1       “(a) The hours that the place of deposit is open; and

2       “(b) That ballots deposited outside the hours the place of deposit is open are left at the  
3 elector’s own risk.

4       “(3) A county clerk may establish permanent receptacles as places of deposit for ballots  
5 in an election conducted by mail. A permanent receptacle is not required to be staffed as  
6 required under subsection (2) of this section. A permanent receptacle shall be locked, secured  
7 to the ground and secure from being moved or tampered with.

8       “(4) A county clerk shall maintain places of deposit for ballots in an election conducted  
9 by mail in the county as follows:

10       “(a) In each election in which 35,000 or more electors in the county are eligible to vote,  
11 the county clerk shall maintain a number of places of deposit equal to at least one place of  
12 deposit for every 20,000 electors eligible to vote in the election; and

13       “(b) In each election in which fewer than 35,000 electors in the county are eligible to vote,  
14 the county clerk shall maintain at least one place of deposit.

15       “(5) Only elections officials or individuals who have received training from the county  
16 clerk may transfer ballots from any place of deposit to the office of the county clerk or other  
17 secure location designated by the county clerk.

18       “(6) A person may not destroy, remove, damage or otherwise tamper with a place of de-  
19 posit for ballots cast in an election conducted by mail.”.

20       In line 33, delete “8” and insert “7”.

21       On page 4, delete lines 7 through 32 and insert:

22       “**SECTION 8.** ORS 254.482 is amended to read:

23       “254.482. (1) This section applies only to elections conducted by mail.

24       “(2) After the date that ballots are mailed as provided in ORS 254.470, the county clerk, if re-  
25 quested, shall permit authorized persons to be at the office of the county clerk to watch the re-  
26 ceiving and counting of votes. The authorization shall be in writing, shall be signed by an officer  
27 or its county affiliate of a political party, a candidate or the county clerk and shall be filed with the  
28 county clerk. The county clerk shall permit only so many persons as watchers under this subsection  
29 as will not interfere with an orderly procedure at the office of the county clerk.

30       “(3) Any person authorized to watch the receiving and counting of votes under this sec-  
31 tion must first receive training provided by the county clerk. The county clerk shall schedule  
32 the training prior to any election conducted by mail. A person is not required to receive  
33 training under this subsection more than once in a calendar year.

34       “**SECTION 9.** ORS 258.211 is amended to read:

35       “258.211. (1) The ballot boxes containing the ballots to be recounted shall be opened by the of-  
36 ficial directed to make the recount only in the presence of the counting board and the persons re-  
37 ferred to in this section.

38       “(2) The counting board shall conduct the recount by hand and, if requested, permit:

39       “(a) In the instance of a nomination or office, an affected candidate or an elector authorized in  
40 writing by an affected candidate, and an elector authorized in writing by each major or minor poli-  
41 tical party to be present to watch the recount.

42       “(b) In the instance of a measure, one elector advocating and one elector opposing the measure  
43 to be present to watch the recount.

44       “(3) Unless ordered by a court, a ballot may not be counted in any recount conducted  
45 under this chapter unless the ballot was counted in the original tally of ballots for the

1 **measure, nomination or office conducted under ORS chapter 254. This subsection does not**  
2 **prevent the filing of a petition contesting the results of the election under this chapter.**

3 **“SECTION 10.** ORS 260.993 is amended to read:

4 “260.993. (1) The penalty for violation of ORS 260.532 is limited to that provided in ORS 260.532  
5 (6) and (8).

6 “(2) Violation of ORS 247.125, 247.171 (5), 247.420 (2), 253.710, 260.402, 260.555, 260.558, 260.575,  
7 260.615, 260.645, 260.665 (2) or (3) involving any action described in ORS 260.665 (2)(d) to (f),  
8 260.715, [or] 260.718 **or section 6 (6) of this 2005 Act** is a Class C felony.

9 “(3) Violation of ORS 260.695 (4) is a Class A misdemeanor.

10 “(4) Violation of ORS 247.171 (6) is a Class C misdemeanor.

11 **“SECTION 11.** ORS 258.026 is amended to read:

12 “258.026. (1) The nomination or election of a person [*shall*] **may** not be set aside for any cause  
13 listed in ORS 258.016 (3) to (5) unless:

14 “(a) The person nominated or elected had knowledge of or connived in the cause of the contest;  
15 [*or*]

16 “(b) The number of votes taken from the person nominated or elected by reason of the cause  
17 of the contest would reduce the legal votes of the person below the number of legal votes given to  
18 another person for the same nomination or office; **or**

19 **“(c) In the case of a mistake in the canvass of votes, it can be determined that the**  
20 **nomination or election would have been given to one of the candidates other than the can-**  
21 **didate nominated or elected if all votes not canvassed due to the mistake had been canvassed**  
22 **for the other candidate.**

23 “(2) The nomination or election of a person [*shall*] **may** not be set aside for the cause described  
24 in ORS 258.016 (6) unless it can be determined that the nomination or election would have been  
25 given to one of the candidates other than the candidate nominated or elected if all votes not cast  
26 or tallied due to the error had been cast or tallied for the other candidate.

27 “(3) The approval or rejection of a measure [*shall*] **may** not be set aside unless it appears that:

28 “(a) The number of votes taken from the approval or rejection by reason of the contest would  
29 reverse the outcome of the election; [*or*]

30 “(b) The outcome of the election would have been reversed if all votes not cast or tallied due  
31 to an error under ORS 258.016 (6) had been cast or tallied for approval or rejection of the  
32 measure; **or**

33 **“(c) In the case of a mistake in the canvass of votes, the outcome of the election would**  
34 **have been reversed if all votes not canvassed due to the mistake had been canvassed for**  
35 **approval or rejection of the measure.**

36 **“SECTION 12.** Sections 4 and 6 of this 2005 Act and the amendments to ORS 254.074,  
37 254.482, 254.505, 258.026, 258.211, 260.695 and 260.993 by sections 1, 2 and 7 to 11 of this 2005  
38 **Act apply only to elections conducted on or after the effective date of this 2005 Act.”.**