

House Bill 3090

Sponsored by Representatives KRUMMEL, THATCHER; Representative FLORES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that ballots rejected by vote tally system may not be counted. Prohibits elections official from modifying ballot cast by elector. Directs county clerks to develop security procedures governing counting of ballots. Requires that ballots be stored in secure location.

Prohibits opening of return identification and secrecy envelopes in election conducted by mail until 8:30 a.m. on date of election. Prohibits ballot drop sites established by persons other than elections officials.

Directs county clerks to provide training for persons who watch receiving and counting of votes. Specifies that ballot may not be counted as part of recount unless ballot was counted in original tally of ballots.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; and amending ORS 254.074, 254.478, 254.482, 254.505,
3 258.211 and 260.695.

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

5 **SECTION 1.** ORS 254.505 is amended to read:

6 254.505. (1) Only official ballots shall be counted.

7 (2) Any vote from which it is impossible to determine the elector's choice for the office or
8 measure [*shall*] **may** not be counted.

9 (3) **The following ballots are void and may not be counted:**

10 (a) **Any ballot that has been rejected by a vote tally system; and**

11 (b) Any ballot that has a sticker or other device in violation of ORS 254.405 (2) [*shall be void*
12 *and shall not be counted*].

13 (4) **A counting board clerk or other elections official may not alter, write on, tamper with**
14 **or in any other way modify a ballot cast by an elector.**

15 (5) Counting board clerks shall disregard misspelling or abbreviations of the names of candi-
16 dates if it can be ascertained from the ballot for whom the vote was intended.

17 [(2)] (6) When ballots are counted by counting boards, the board chairperson, using ink, imme-
18 diately shall initial the back of the wholly or partially void ballot and write on it "Not counted
19 for _____" (stating the office or measure). The election board shall seal the wholly void ballots
20 in an envelope.

21 **SECTION 2.** ORS 254.074 is amended to read:

22 254.074. (1) Each county clerk shall file a county elections security plan with the Secretary of
23 State not later than:

24 (a) January 31 of each calendar year; and

25 (b) One business day after any revision is made to the county elections security plan.

26 (2) A county elections security plan shall include, but is not limited to:

27 (a) A written security agreement entered into with any vendor handling ballots;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (b) Security procedures for transporting ballots;
- 2 (c) Security procedures at official places of deposit for ballots;
- 3 (d) Security procedures for processing ballots;
- 4 (e) Security procedures governing election observers;
- 5 (f) Security procedures for ballots located in county elections work areas, buildings and storage
- 6 areas;
- 7 (g) Security procedures for vote tally systems, including computer access to vote tally systems;
- 8 **(h) Security procedures governing the timing, location and method of tallying ballots;** and
- 9 [(h)] (i) Post-election ballot security.

10 (3) A security plan developed and filed under this section is confidential and not subject to dis-
 11 closure under ORS 192.410 to 192.505.

12 **SECTION 3. Section 4 of this 2005 Act is added to and made a part of ORS chapter 254.**

13 **SECTION 4. Subject to ORS 254.478, ballots received by the county clerk prior to 8 p.m.**
 14 **on the date of the election shall be stored unopened in a secure location designated by the**
 15 **county clerk. Only persons authorized by the county clerk shall have access to the secure**
 16 **location.**

17 **SECTION 5.** ORS 254.478 is amended to read:

18 254.478. (1) Not sooner than [*the seventh day before*] **8:30 a.m. on** the date of an election, in
 19 preparation for counting ballots delivered by mail, the county clerk may begin opening return
 20 identification and secrecy envelopes of ballots delivered by mail and received by the county clerk.

21 (2) The county clerk may take any other actions that are necessary to allow the counting of
 22 ballots delivered by mail to begin on **the date of the** election [*day*].

23 **SECTION 6. Section 7 of this 2005 Act is added to and made a part of ORS chapter 254.**

24 **SECTION 7. (1) In an election conducted by mail, a person, except an elections official**
 25 **in performance of duties, may not establish a place of deposit for ballots cast in the election.**

26 (2) **Each place of deposit for ballots cast in the election designated under ORS 254.470**
 27 **shall be staffed by elections officials or individuals who have received training from the**
 28 **county clerk. The place of deposit shall be staffed during all hours that the place of deposit**
 29 **is open.**

30 (3) **Only elections officials or individuals who have received training from the county**
 31 **clerk may transfer ballots from any place of deposit to the office of the county clerk or other**
 32 **secure location designated by the county clerk.**

33 **SECTION 8.** ORS 260.695 is amended to read:

34 260.695. (1) [*No person shall*] **A person may not** print or circulate an imitation of the ballot or
 35 sample ballot, or a portion of the ballot or sample ballot, which contains information which will not
 36 appear, or deletes information which will appear, on the ballot or sample ballot, or that portion of
 37 the ballot or sample ballot, unless the imitation of the ballot or sample ballot, or portion of the
 38 ballot or sample ballot, contains the following statement in bold type: "NOT FOR OFFICIAL
 39 USE." This subsection does not prohibit the printing or circulation of an imitation of a ballot which
 40 illustrates the manner in which a candidate's name may be written in for an office.

41 (2) [*No person*] **A person may not**, within any building in which a polling place is located or,
 42 in an election conducted by mail, after the date that ballots are mailed as provided in ORS 254.470,
 43 within any building in which ballots are issued, or within 100 feet measured radially from any en-
 44 trance to the building, [*shall*] do any electioneering, including circulating any cards or hand bills,
 45 or soliciting signatures to any petition. [*No person shall*] **A person may not** do any electioneering

1 by public address system located more than 100 feet from an entrance to the building but capable
 2 of being understood within 100 feet of the building. The electioneering need not relate to the
 3 election being conducted.

4 (3) *[No person shall]* **A person may not** obstruct an entrance of a building in which a polling
 5 place is located. In an election conducted by mail, from the date that ballots are mailed as provided
 6 in ORS 254.470 until the time designated by the county clerk for closure of the building on election
 7 day, *[no person shall]* **a person may not** obstruct an entrance of a building in which a place des-
 8 ignated for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS
 9 254.474 is located.

10 (4) *[No person shall]* **A person may not** vote or offer to vote in any election knowing the person
 11 is not entitled to vote.

12 (5) *[No person at a polling place]* **A person**, other than an election board member, *[shall]* **may**
 13 **not** deliver a ballot to an elector **at a polling place**.

14 (6) *[No]* **An** elector at a polling place *[shall]* **may not** knowingly receive a ballot from any other
 15 person than an election board member.

16 (7) *[No person shall]* **A person may not** make a false statement about the person's inability to
 17 mark a ballot.

18 (8) *[No]* **A** person, except an elections official in performance of duties or other person providing
 19 assistance to an elector as described in ORS 254.445, *[shall]* **may not** ask a person at the polling
 20 place for whom that person intends to vote, or examine or attempt to examine the person's ballot.

21 (9) *[No person shall]* **A person may not** show the person's own marked or punched ballot to
 22 another person to reveal how it was marked or punched.

23 (10) *[No]* **An** elections official, other than in the performance of duties, *[shall]* **may not** disclose
 24 to any person any information by which it can be ascertained for whom any elector has voted.

25 (11) *[No]* **A** person, except an elections official in performance of duties, *[shall]* **may not** do
 26 anything to a ballot to permit identification of the person who voted.

27 (12) *[No]* **An** elector at a polling place *[shall]* **may not** deliver a ballot to an election board
 28 member except the ballot the elector received from an election board member. *[Nothing in this sub-*
 29 *section shall]* **This subsection does not** prohibit a person from delivering any absentee ballot or
 30 ballots to an election board member.

31 (13) *[No]* **A** person at a polling place, except an election board member, *[shall]* **may not** receive
 32 from an elector other than an absent elector a marked or punched ballot.

33 (14) *[No elector shall]* **An elector may not** willfully leave in the polling place anything that will
 34 show how the elector's ballot was marked or punched. In an election conducted by mail, *[no elector*
 35 *shall]* **an elector may not** willfully leave at any place designated for the deposit of ballots under
 36 ORS 254.470 or in any voting booth maintained under ORS 254.474, anything that will show how the
 37 elector's ballot was marked or punched.

38 (15) *[No]* **A** person, except an elections official in performance of duties, *[shall]* **may not** remove
 39 a ballot from any polling place, any place designated for the deposit of ballots under ORS 254.470
 40 or any voting booth maintained under ORS 254.474.

41 (16) *[No]* **A** person, except an elections official in performance of duties or a person authorized
 42 by that official, *[shall]* **may not** willfully deface, remove, alter or destroy a posted election notice.

43 (17) *[No]* **A** person, except an elections official in performance of duties, *[shall]* **may not**
 44 willfully remove, alter or destroy election equipment or supplies, or break the seal or open any
 45 sealed package containing election supplies.

1 (18) [No] A person [other than], **except** an elections official [shall] **in performance of duties,**
 2 **may not** attempt to collect voted ballots within 100 feet measured radially from a location desig-
 3 nated for deposit of ballots under ORS 254.470.

4 [(19) No person, except an elections official in performance of duties, in an election conducted by
 5 mail, shall establish a location to collect ballots voted by electors unless the person prominently dis-
 6 plays at the location a sign stating: "NOT AN OFFICIAL BALLOT DROP SITE."]

7 **SECTION 9.** ORS 254.482 is amended to read:

8 254.482. (1) This section applies only to elections conducted by mail.

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

15 **(3) The county clerk shall provide training for persons authorized to watch the receiving**
 16 **and counting of votes under this section.**

17 **SECTION 10.** ORS 258.211 is amended to read:

18 258.211. (1) The ballot boxes containing the ballots to be recounted shall be opened by the offi-
 19 cial directed to make the recount only in the presence of the counting board and the persons re-
 20 ferred to in this section.

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

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

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

27 **(3) A ballot may not be counted in any recount conducted under this chapter unless the**
 28 **ballot was counted in the original tally of ballots for the measure, nomination or office con-**
 29 **ducted under ORS chapter 254.**

30 **SECTION 11.** Sections 4 and 7 of this 2005 Act and the amendments to ORS 254.074,
 31 254.478, 254.482, 254.505, 258.211 and 260.695 by sections 1, 2, 5 and 8 to 10 of this 2005 Act
 32 apply only to elections conducted on or after the effective date of this 2005 Act.