

# House Bill 4054

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules)

## 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**.

- Expands list of prior violations that prohibit individual from becoming circulator.
- Amends time period for which circulator's criminal records check is valid.
- Permits name of candidate nominated for more than one district office to appear on ballot more than once.
- Permits elector who submitted ballot in unsigned return identification envelope to remain on active voter registration rolls.
- Resolves discrepancy regarding day on which challenged ballot records may be released to public.
- Resolves certification date discrepancy for write-in ballots.
- Limits prohibition on electioneering to business hours.
- Permits person to show person's own marked ballot to another person.

## A BILL FOR AN ACT

Relating to elections; amending ORS 250.048, 254.135, 254.431, 254.548, 255.295 and 260.695.

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

**SECTION 1.** ORS 250.048 is amended to read:

250.048. (1) A person may not pay money or other valuable consideration to another person for obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective petition for a state measure to be initiated, and a person may not receive money or other valuable consideration for obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective petition for a state measure to be initiated, unless the person obtaining the signatures:

(a) Registers with the Secretary of State in the manner prescribed by this section and by rule of the secretary; and

(b) Completes the training program prescribed by rule of the secretary.

(2) A person may apply to the secretary for a registration required under subsection (1) of this section. The application shall include:

(a) The full name and any assumed name of the applicant;

(b) The residential street address of the applicant;

(c) An example of the signature of the applicant;

(d) A list of the prospective petitions on which the applicant will gather signatures;

(e) A list of the initiative, referendum and recall petitions on which the applicant will gather signatures;

(f) If the applicant has been convicted for a criminal offense involving fraud, forgery or identification theft, information relating to the circumstances of the conviction as required by the secretary;

(g) A statement signed by the applicant acknowledging that the applicant has read and under-

**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 stands Oregon law applicable to the gathering of signatures on state initiative, referendum and re-  
2 call petitions and prospective petitions for state measures to be initiated, as the law is summarized  
3 in the training program established by the Secretary of State;

4 (h) Evidence indicating that the applicant has completed the training required by the secretary  
5 by rule;

6 (i) A photograph of the applicant;

7 (j) A statement signed by a chief petitioner of each petition or prospective petition, or a person  
8 designated by a chief petitioner under this paragraph, upon which the applicant will gather signa-  
9 tures acknowledging that the chief petitioner is liable for violations of law or rule committed by the  
10 person obtaining signatures as provided in ORS 260.561. A chief petitioner may designate a person  
11 to sign a statement described in this paragraph on behalf of the chief petitioner; and

12 (k) A copy of the applicant's criminal records check.

13 (3)(a) If an applicant complies with subsection (2) of this section, not later than five business  
14 days after the applicant applies, the secretary shall register the applicant and assign the applicant  
15 a registration number.

16 (b) A person who is registered to obtain signatures on a prospective petition for a state measure  
17 to be initiated need not reapply for a registration under this section in order to obtain signatures  
18 on a state initiative, referendum or recall petition, except that the person shall submit a list of the  
19 initiative, referendum and recall petitions on which the person will gather signatures.

20 (c) A registration to obtain signatures on a state initiative petition or a prospective petition for  
21 a state measure to be initiated is valid until the date that is four months before the next general  
22 election.

23 (d) A registration to obtain signatures on a referendum or recall petition is valid until the date  
24 the petition is filed for signature verification.

25 (4) A person may not apply for registration under this section if, during the five-year period  
26 prior to the date of application, the person:

27 (a) Has been convicted for a criminal offense involving fraud, forgery or identification theft in  
28 any state;

29 (b) Has had a civil penalty imposed under ORS 260.995 for a violation of this section [*or*], ORS  
30 260.262, **260.555**, **260.558**, **260.575**, **260.695** (1) or **260.715** (1) or **Article IV, section 1b, of the**  
31 **Oregon Constitution**; or

32 (c) Has had a civil or criminal penalty imposed for violation of a statute subject to a criminal  
33 penalty under ORS 260.993.

34 (5)(a) Upon request of the secretary, the Department of State Police shall furnish to the secre-  
35 tary any information that the department may have in its possession regarding an applicant, in-  
36 cluding but not limited to the Law Enforcement Data System established in ORS 181.730, other  
37 computerized information and any other information to which the department may have access.  
38 Information obtained under this paragraph may be used to assist in determining the identity of an  
39 applicant or whether an applicant has been convicted of a criminal offense described in subsection  
40 (4) of this section.

41 (b) For purposes of receiving the information described in paragraph (a) of this subsection, the  
42 office of the Secretary of State is a "criminal justice agency" under ORS 181.010 to 181.560 and  
43 181.715 to 181.730 and the rules adopted under ORS 181.555.

44 (c) Upon submitting an application for registration described in subsection (2) of this section,  
45 an applicant is deemed to have given the consent necessary for purposes of this subsection.

1 (6)(a) A chief petitioner shall ensure that a criminal records check is conducted for each appli-  
 2 cant seeking registration under this section to determine whether the applicant has been convicted  
 3 of any of the crimes described in subsection (4)(a) of this section, or was subject to any of the pen-  
 4 alties described in subsection (4)(b) and (c) of this section.

5 (b) The secretary by rule shall prescribe the scope of the criminal records check to be performed  
 6 pursuant to this subsection. The applicant's criminal records check may be conducted by either the  
 7 chief petitioner or the applicant.

8 (c) An applicant seeking registration under this section is required to have only one criminal  
 9 records check conducted for each period beginning the day [*after a biennial general election and*  
 10 *ending on the day of*] **the applicant registers with the Secretary of State under this section and**  
 11 **ending four months before** the next [*biennial*] general election.

12 (7) If a person receives money or other valuable consideration for obtaining signatures of elec-  
 13 tors on a state initiative, referendum or recall petition or a prospective petition for a state measure  
 14 to be initiated and the person was not registered as required under this section at the time the  
 15 signatures were obtained, the secretary may not include any signatures obtained by the person in  
 16 a count under ORS 250.045 (3) or 250.105 or ORS chapter 249 for purposes of determining whether  
 17 the petition or prospective petition contains the required number of signatures of electors.

18 (8) A person registered under this section shall carry evidence of registration with the person  
 19 while the person is obtaining signatures on a state initiative, referendum or recall petition or a  
 20 prospective petition for a state measure to be initiated. The evidence of registration shall contain  
 21 the photograph and registration number of the person. The secretary by rule shall designate the  
 22 form of the evidence of registration.

23 (9) A photograph of an applicant submitted under subsection (2) of this section shall:

- 24 (a) Be a conventional photograph with a plain background;
- 25 (b) Show the face or the face, neck and shoulders of the applicant; and
- 26 (c) Be prepared and processed for printing as prescribed by the secretary.

27 (10) A person registered under this section may not obtain signatures on a petition or prospec-  
 28 tive petition for which the person is being paid and, at the same time, obtain signatures on a petition  
 29 or prospective petition for which the person is not being paid. The secretary may not include any  
 30 signatures obtained in violation of this subsection in a count under ORS 250.045 (3) or 250.105 or  
 31 ORS chapter 249 for purposes of determining whether a state initiative, referendum or recall petition  
 32 or a prospective petition for a state measure to be initiated contains the required number of signa-  
 33 tures of electors.

34 (11) An organization or entity that pays money or other valuable consideration to a person for  
 35 obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective  
 36 petition for a state measure to be initiated shall register with the Secretary of State by:

- 37 (a) Submitting the name and address of the organization or entity;
- 38 (b) Selecting one or more individuals who represent the organization or entity to complete the  
 39 training program prescribed in subsection (1) of this section; and
- 40 (c) Submitting a statement signed by each individual selected:

41 (A) Acknowledging that the individual has read and understands Oregon law applicable to the  
 42 gathering of signatures on state initiative, referendum and recall petitions and prospective petitions  
 43 for state measures to be initiated, as the law is summarized in the training program established by  
 44 the secretary; and

45 (B) Affirming that the organization or entity operates in compliance with the law.

1 (12) The secretary shall adopt rules necessary to implement this section, including rules:

2 (a) Establishing procedures for registering persons or organizations or entities as described in  
3 this section; and

4 (b) Establishing a training program prescribed in subsection (1) of this section.

5 **SECTION 2.** ORS 254.135 is amended to read:

6 254.135. (1) The official general or special election ballot shall be styled "Official Ballot" and  
7 shall state:

8 (a) The name of the county for which it is intended.

9 (b) The date of the election.

10 (c) The names of all candidates for offices to be filled at the election whose nominations have  
11 been made and accepted and who have not died, withdrawn or become disqualified. The ballot may  
12 not contain the name of any other person.

13 (d) The number, ballot title and financial estimates under ORS 250.125 of any measure to be  
14 voted on at the election.

15 (2) The names of candidates for President and Vice President of the United States shall be  
16 printed in groups together, under their political party designations. The names of the electors may  
17 not be printed on the general election ballot. A vote for the candidates for President and Vice  
18 President is a vote for the group of presidential electors supporting those candidates and selected  
19 as provided by law. The general election ballot shall state that electors of President and Vice  
20 President are being elected and that a vote for the candidates for President and Vice President shall  
21 be a vote for the electors supporting those candidates.

22 (3)(a) The name of each candidate nominated shall be printed on the ballot in but one place,  
23 without regard to how many times the candidate may have been nominated. The name of a political  
24 party, or names of political parties, shall be printed with the name of a candidate for other than  
25 nonpartisan office according to the following rules:

26 (A) For a candidate not affiliated with a political party who is nominated by a minor political  
27 party, the name of the minor political party shall be printed with the name of the candidate;

28 (B) For a candidate not affiliated with a political party who is nominated by more than one  
29 minor political party, the names of not more than three minor political parties selected by the can-  
30 didate shall be printed with the name of the candidate;

31 (C) For a candidate who is a member of a political party who is nominated by a political party  
32 of which the candidate is not a member, the name of the political party that nominated the candi-  
33 date shall be printed with the name of the candidate;

34 (D) For a candidate who is a member of a political party who is nominated by more than one  
35 political party of which the candidate is not a member, the names of not more than three political  
36 parties selected by the candidate shall be printed with the name of the candidate;

37 (E) For a candidate who is nominated only by a political party of which the candidate is a  
38 member, the name of the political party of which the candidate is a member shall be printed with  
39 the name of the candidate; and

40 (F) For a candidate who is nominated by a political party of which the candidate is a member  
41 and by any political party or parties of which the candidate is not a member, the name of the poli-  
42 tical party of which the candidate is a member and the names of not more than two other political  
43 parties selected by the candidate shall be printed with the name of the candidate.

44 (b) If a candidate is required to select the name of a political party to be printed on the ballot  
45 under paragraph (a) of this subsection, the candidate shall notify the filing officer of the selection

1 not later than the 61st day before the day of the election.

2 (c) The word “incumbent” shall be printed with the name of each candidate for the Supreme  
 3 Court, Court of Appeals, Oregon Tax Court or circuit court who is designated the incumbent by the  
 4 Secretary of State under ORS 254.085.

5 (d) The word “nonaffiliated” shall be printed with the name of each candidate who is not affil-  
 6 iated with a political party and who is nominated by an assembly of electors or individual electors.

7 (e) If two or more candidates for the same office have the same or similar surnames, the location  
 8 of their places of residence shall be printed with their names to distinguish one from another.

9 **(4) Notwithstanding subsection (3)(a) of this section, the name of a candidate nominated**  
 10 **for more than one district office that is to be filled at the same election shall be separately**  
 11 **printed upon the ballot for each district office for which the candidate is nominated.**

12 **SECTION 3.** ORS 254.431 is amended to read:

13 254.431. (1) If a ballot is challenged because it is returned in an unsigned return identification  
 14 envelope or because the signature of an elector on a return identification envelope does not match  
 15 the signature in the voter registration record for the elector, the county clerk shall mail to the  
 16 elector a notice that describes the nature of the challenge. The Secretary of State shall design a  
 17 standard form to be used in all notifications sent by county clerks under this subsection.

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

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

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

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

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

33 **SECTION 4.** ORS 254.548 is amended to read:

34 254.548. (1) An individual nominated or elected to a public office by write-in votes shall sign and  
 35 file a form indicating that the individual accepts the nomination or office before the filing officer  
 36 may issue a certificate of nomination or election. The Secretary of State by rule shall prescribe the  
 37 form to be used under this section.

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

39 (a) Not later than the *[30th]* **27th** day after the election, the filing officer shall prepare and de-  
 40 liver the form described in subsection (1) of this section to the individual;

41 (b) Not later than the *[45th]* **35th** day after the election, if the individual accepts the nomination  
 42 or office, the individual shall sign and file the form with the filing officer; and

43 (c) Not later than the *[50th]* **40th** day after the election, if the individual files the form by the  
 44 deadline specified in paragraph (b) of this subsection, the filing officer shall prepare and deliver a  
 45 certificate of nomination or election to the individual and, if applicable, issue a proclamation de-

1 claring the election of the candidate to the office.

2 **SECTION 5.** ORS 255.295 is amended to read:

3 255.295. (1) Not later than the 20th day after the date of an election, the county clerk shall  
 4 prepare an abstract of the votes and deliver it to the district elections authority. Not later than the  
 5 [30th] **40th** day after receiving the abstract, the district elections authority shall determine from it  
 6 the result of the election.

7 (2) Subject to ORS 254.548, the county clerk may issue a certificate of election only after the  
 8 district elections authority has notified the county clerk in writing of the result of the election. The  
 9 notification to the county clerk shall contain a statement indicating whether any candidate elected  
 10 to district office is qualified to hold the office.

11 **SECTION 6.** ORS 260.695 is amended to read:

12 260.695. (1)(a) If a person prints or circulates an imitation of the ballot or sample ballot:

13 (A) The imitation ballot or sample ballot and the back of any return envelope enclosed with the  
 14 ballot or sample ballot shall state the following: “THIS IS NOT A REAL BALLOT. DO NOT USE  
 15 TO VOTE.” The statement on the imitation ballot or sample ballot shall be in bold print that is at  
 16 least two times as large as the majority of the text on the ballot or sample ballot or 20-point type,  
 17 whichever is larger. The statement on the back of a return envelope shall be in bold print that is  
 18 at least 36-point type.

19 (B) The word “UNOFFICIAL” must be superimposed on the imitation ballot or sample ballot so  
 20 that the word extends diagonally across the ballot from one margin of the text to the other. The  
 21 superimposed word may be printed in lighter ink than other text on the ballot or sample ballot.

22 (b) For purposes of this subsection, an imitation of the ballot or sample ballot includes an imi-  
 23 tation of a portion of the ballot or sample ballot.

24 (2) A person may not do any electioneering, including circulating any cards or handbills, or so-  
 25 liciting of signatures to any petition, within any building in which any state or local government  
 26 elections office designated for the deposit of ballots under ORS 254.470 is located, or within 100 feet  
 27 measured radially from any entrance to the building. A person may not do any electioneering by  
 28 public address system located more than 100 feet from an entrance to the building if the person is  
 29 capable of being understood within 100 feet of the building. The electioneering need not relate to  
 30 the election being conducted. This subsection applies **during the business hours of the building**  
 31 **or, if the building is a county elections office, during the hours the office is open to the**  
 32 **public**, during the period beginning on the date that ballots are mailed to electors as provided in  
 33 ORS 254.470 and ending on election day at 8 p.m. or when all persons waiting in line at the building  
 34 who began the act of voting as described in ORS 254.470 (10) by 8 p.m. have finished voting.

35 (3) A person may not obstruct an entrance of a building in which ballots are issued or a place  
 36 designated for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS  
 37 254.474 is located. This subsection applies during the period beginning on the date that ballots are  
 38 mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all  
 39 persons waiting in line at the building or location who began the act of voting as described in ORS  
 40 254.470 (10) by 8 p.m. have finished voting.

41 (4) A person may not vote or offer to vote in any election knowing the person is not entitled  
 42 to vote.

43 (5) A person may not make a false statement about the person’s inability to mark a ballot.

44 (6) A person, except an elections official in performance of duties or another person providing  
 45 assistance to an elector as described in ORS 254.445, may not ask a person at any place designated

1 for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472 or 254.474  
2 for whom that person intends to vote, or examine or attempt to examine the person's ballot.

3 [(7) *A person may not show the person's own marked ballot to another person to reveal how it was*  
4 *marked.*]

5 [(8) (7) An elections official, other than in the performance of duties, may not disclose to any  
6 person any information by which it can be ascertained for whom any elector has voted.

7 [(9) (8) A person, except an elections official in performance of duties, may not do anything to  
8 a ballot to permit identification of the person who voted.

9 [(10) (9) An elector may not willfully leave at any place designated for the deposit of ballots  
10 under ORS 254.470 or at any location described in ORS 254.472 or 254.474 anything that will show  
11 how the elector's ballot was marked.

12 [(11) (10) A person, except an elections official in performance of duties, may not remove a  
13 ballot from any place designated for the deposit of ballots under ORS 254.470 or any location de-  
14 scribed in ORS 254.472 or 254.474.

15 [(12) (11) A person, except an elections official in performance of duties or a person authorized  
16 by that official, may not willfully deface, remove, alter or destroy a posted election notice.

17 [(13) (12) A person, except an elections official in performance of duties, may not willfully re-  
18 move, alter or destroy election equipment or supplies, or break the seal or open any sealed package  
19 containing election supplies.

20 [(14) (13) A person, except an elections official in performance of duties, may not provide  
21 elections advice or attempt to collect voted ballots within any building in which any state or local  
22 government elections office designated for the deposit of ballots under ORS 254.470 is located, or  
23 within 100 feet measured radially from any entrance to the building.

24 [(15) (14) A person, except an elections official in performance of duties, may not establish a  
25 location to collect ballots voted by electors unless:

26 (a) The person prominently displays at the location a sign stating: "NOT AN OFFICIAL BAL-  
27 LOT DROP SITE"; and

28 (b) The sign is printed in all capital letters in bold 50-point type.

29