

Enrolled House Bill 2005

Sponsored by COMMITTEE ON RULES (at the request of Secretary of State Kate Brown)

CHAPTER

AN ACT

Relating to election petitions; creating new provisions; amending ORS 250.029, 250.045, 250.048, 250.052, 250.105, 260.262, 260.561, 260.563, 260.567, 260.665 and 260.995; and declaring an emergency.

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

SECTION 1. ORS 250.045 is amended to read:

250.045. (1) Before circulating a petition to initiate or refer a state measure under section 1, Article IV, Oregon Constitution, the petitioner shall file with the Secretary of State a prospective petition. The prospective petition for a state measure to be initiated shall contain [*a statement of sponsorship signed by*] **the signatures of** at least 1,000 electors. The [*statement of sponsorship shall*] **signature sheets must** be attached to a full and correct copy of the measure to be initiated.

(2) Before obtaining signatures on a prospective petition for a state measure to be initiated, the chief petitioners shall file with the secretary a statement declaring whether one or more persons will be paid money or other valuable consideration for obtaining signatures of electors on the prospective petition. After a statement has been filed under this subsection, the chief petitioners shall notify the secretary not later than the 10th day after any of the chief petitioners first has knowledge or should have had knowledge that:

(a) Any person is being paid for obtaining signatures, when the statement filed under this subsection declared that no such person would be paid.

(b) No person is being paid for obtaining signatures, when the statement filed under this subsection declared that one or more such persons would be paid.

[(2)] **(3) The secretary by rule shall establish procedures for verifying whether [*the statement of sponsorship*] a prospective petition for a state measure to be initiated contains the required number of signatures of electors.**

[(3)] **(4) The secretary shall date and time stamp the prospective petition and specify the form on which the initiative or referendum petition shall be printed for circulation as provided in ORS 250.052. The secretary shall retain the prospective petition.**

[(4)] **(5) The chief petitioner may amend the state measure to be initiated that has been filed with the secretary without filing another prospective petition, if:**

(a) The Attorney General certifies to the secretary that the proposed amendment will not substantially change the substance of the measure; and

(b) The deadline for submitting written comments on the draft title has not passed.

[(5)] **(6) The cover of an initiative or referendum petition shall designate the name and residence address of not more than three persons as chief petitioners and shall contain instructions for persons obtaining signatures of electors on the petition. The instructions shall be adopted by the sec-**

retary by rule. The cover of a referendum petition shall contain the final measure summary described in ORS 250.065 (1). If a petition seeking a different ballot title is not filed with the Supreme Court by the deadline for filing a petition under ORS 250.085, the cover of an initiative petition shall contain the latest ballot title certified by the Attorney General under ORS 250.067 (2). However, if the Supreme Court has reviewed the ballot title, the cover of the initiative petition shall contain the title certified by the court.

[(6)] (7) The chief petitioners shall 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 initiative or referendum petition. After the prospective petition is filed, the chief petitioners shall notify the filing officer not later than the 10th day after any of the chief petitioners first has knowledge or should have had knowledge that:

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

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

[(7)(a)] (8)(a) Each sheet of signatures on an initiative petition shall contain the caption of the ballot title. Each sheet of signatures on a referendum petition shall contain the subject expressed in the title of the Act to be referred.

(b) Each sheet of signatures on an initiative or referendum petition shall:

(A) Contain a notice describing the meaning of the color of the signature sheet in accordance with ORS 250.052; and

(B) If one or more persons will be paid for obtaining signatures of electors on the petition, contain a notice stating: "Some Circulators For This Petition Are Being Paid." The notice shall be in boldfaced type and shall be prominently displayed on the sheet.

(c) The secretary by rule shall adopt a method of designation to distinguish signature sheets of referendum petitions containing the same subject reference and being circulated during the same period.

[(8)] (9) The reverse side of the cover of an initiative or referendum petition shall be used for obtaining signatures on the initiative or referendum petition.

[(9)] (10) Not more than 20 signatures on the signature sheet of the initiative or referendum petition may be counted. The circulator shall certify on each signature sheet of the initiative or referendum petition that the circulator:

(a) Witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet; and

(b) Believes each individual is an elector.

[(10)] (11) The person obtaining signatures on the petition shall carry at least one full and correct copy of the measure to be initiated or referred and shall allow any person to review a copy upon request of the person.

SECTION 2. 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;

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

[(e)] **(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;

[(f)] **(g)** A statement signed by the applicant acknowledging that the applicant has read and understands Oregon law applicable to the gathering of signatures on state initiative, referendum and recall petitions **and prospective petitions for state measures to be initiated**, as the law is summarized in the training program established by the Secretary of State;

[(g)] **(h)** Evidence indicating that the applicant has completed the training required by the secretary by rule;

[(h)] **(i)** A photograph of the applicant; and

[(i)] **(j)** A statement signed by a chief petitioner of each petition **or prospective petition, or a person designated by a chief petitioner under this paragraph**, upon which the applicant will gather signatures acknowledging that the chief petitioner is liable for violations of law or rule committed by the person obtaining signatures as provided in ORS 260.561. **A chief petitioner may designate a person to sign a statement described in this paragraph on behalf of the chief petitioner. A person designated under this paragraph incurs no liability for violations of law or rule committed by the person obtaining the signatures.**

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

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

(c) A registration issued by the secretary under this section is valid until the date that is four months before the next general election.

(4) [*A person who has been convicted for a criminal offense involving fraud, forgery or identification theft in any state during the five-year period prior to the date of the application may not apply for registration under this section.*] **A person may not apply for registration under this section if, during the five-year period prior to the date of application, the person:**

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

(b) Has had a civil penalty imposed under ORS 260.995 for a violation of this section or ORS 260.262; or

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

(5) To assist in determining the identity of an applicant or whether an applicant has been convicted for a criminal offense described in subsection (4) of this section, upon consent of the applicant and upon request of the secretary, the Department of State Police shall furnish to the secretary any information that the department may have in its possession from its central bureau of criminal identification, including but not limited to the Law Enforcement Data System established in ORS 181.730, other computerized information and any other information to which the department may have access. For purposes of receiving the information described in this subsection, the office of the Secretary of State is a "criminal justice agency" under ORS 181.010 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555. Upon submitting an application for registration described in subsection (2) of this

section, an applicant is deemed to have given the consent necessary for purposes of this subsection.

[(5)] **(6)** If a person receives 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** and the person was not registered as required under this section at the time the signatures were obtained, the secretary may not [*count the*] **include any signatures obtained by the person in a count** under ORS 250.045 (3) or 250.105 or ORS chapter 249 for purposes of determining whether the petition **or prospective petition** contains the required number of signatures of electors.

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

[(7)] **(8)** A photograph of an applicant submitted under subsection (2) of this section shall:

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

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

[(8)] **(10)** The secretary shall adopt rules necessary to implement this section, including rules:

(a) Establishing procedures for registering persons who may be paid money or other valuable consideration for obtaining signatures of electors on state initiative, referendum or recall petitions **or prospective petitions for state measures to be initiated**; and

(b) Establishing a training program for persons who may be paid money or other valuable consideration for obtaining signatures of electors on state initiative, referendum or recall petitions **or prospective petitions for state measures to be initiated**.

SECTION 3. ORS 250.052 is amended to read:

250.052. (1)(a) For each state initiative, referendum or recall petition, the Secretary of State shall prepare official templates of the cover and signature sheets for the petition. Except as provided in this section, templates of cover and signature sheets for state initiative and referendum petitions are subject to the requirements of ORS 250.045. The templates of signature sheets to be used by persons who are being paid to obtain signatures on the petition shall be a different color from the sheets to be used by persons who are not being paid to obtain signatures on the petition.

(b) For each prospective petition for a state measure to be initiated the secretary shall prepare official templates of the cover and signature sheets. The templates of signature sheets to be used by persons who are being paid to obtain signatures on the prospective petition shall be a different color from the sheets to be used by persons who are not being paid to obtain signatures on the prospective petition. Each signature sheet for the prospective petition shall:

(A) Contain a notice describing the meaning of the color of the signature sheet; and

(B) If one or more persons will be paid for obtaining signatures of electors on the prospective petition, contain a notice stating: "Some Circulators For This Prospective Petition Are Being Paid." The notice shall be in boldfaced type and shall be prominently displayed on the sheet.

(2) A person obtaining signatures on a state initiative, referendum or recall petition **or a prospective petition for a state measure to be initiated** may use only the cover and signature sheets

contained in the official templates prepared for the petition **or prospective petition**. A person who is being paid to obtain signatures on the petition **or prospective petition** shall use the signature sheet template designated for use by persons being paid to obtain signatures. A person who is not being paid to obtain signatures on the petition **or prospective petition** shall use the signature sheet template designated for use by persons who are not being paid to obtain signatures.

(3) The secretary shall issue templates for a petition **or prospective petition** only to a chief petitioner of the petition **or prospective petition** or to an agent designated by a chief petitioner.

(4) The secretary shall issue official templates to a chief petitioner or designated agent not later than:

(a) Three business days after the deadline for filing a petition under ORS 250.085 relating to a ballot title certified by the Attorney General for the state initiative petition or, if a petition is filed with the Supreme Court under ORS 250.085, three business days after the Supreme Court certifies to the Secretary of State a ballot title for the state initiative petition; *[or]*

(b) Three business days after a prospective petition is filed under ORS 249.865 or 250.045 for a state recall petition or state referendum petition~~].~~; **or**

(c) Three business days after the chief petitioner files a statement with the secretary under ORS 250.045 (2) for a prospective petition for a state measure to be initiated.

(5) Not later than five business days after the deadline for the secretary to issue templates under subsection (4) of this section, a chief petitioner of a state initiative, referendum or recall petition **or a prospective petition for a state measure to be initiated** may submit to the secretary a written request for modification of the templates. The secretary shall approve or disapprove the request not later than five business days after receiving the request. If the secretary disapproves the request, the secretary shall advise the chief petitioner in writing of the reasons for the disapproval.

(6) In addition to the templates prepared under subsections (1) to (5) of this section, for each state initiative, referendum or recall petition, the secretary shall prepare an official electronic template of a signature sheet for the petition. A template prepared under this subsection shall allow space for the signature of one elector. An elector may print a copy of the electronic signature sheet for a petition, sign the sheet and deliver the signed sheet to a chief petitioner or an agent designated by a chief petitioner. Electronic templates described in this subsection are subject to the requirements of ORS 250.045, other than ORS 250.045 ~~[(5), (8) and (9)]~~ **(6), (9) and (10)**.

(7) The secretary shall adopt rules prescribing the contents and method of production of official templates required under this section.

SECTION 4. ORS 260.262 is amended to read:

260.262. (1) As used in this section, "accounts" means:

(a) Any contract entered into by a chief petitioner of an initiative or referendum petition and any person for purposes of obtaining signatures on the **initiative or referendum petition or on a prospective petition for a state measure to be initiated**;

(b) Any employment manual or training materials provided to persons who obtain signatures on the petition **or prospective petition**;

(c) Payroll records for each employee obtaining signatures on the petition **or prospective petition** showing hours worked, number of signatures collected and amounts paid;

(d) Records identifying the amount and purpose of each payment made by the chief petitioner or any contractor, as defined in ORS 260.563, to any subcontractor, as defined in ORS 260.563, obtaining signatures on the petition **or prospective petition**; and

(e) Copies of signature sheets circulated by persons who are being paid to obtain signatures on the petition **or prospective petition**.

(2) For purposes of enforcing section 1b, Article IV of the Oregon Constitution, a chief petitioner of an initiative or referendum petition who pays any person money or other valuable consideration to obtain signatures on the petition **or prospective petition** shall keep detailed accounts. The accounts shall be current as of not later than the seventh calendar day after the date a payment is made to a person for obtaining signatures on the petition **or prospective petition**.

(3) The Secretary of State shall review the accounts of each chief petitioner described in subsection (2) of this section in the manner and according to a regular schedule adopted by the secretary by rule.

(4) In addition to the review conducted under subsection (3) of this section, the secretary, Attorney General or Commissioner of the Bureau of Labor and Industries may inspect the accounts of a chief petitioner described in subsection (2) of this section under reasonable circumstances at any time before the deadline for filing signatures on the petition or during the period specified for retention of the accounts under subsection (5) of this section. The right of inspection may be enforced by writ of mandamus issued by any court of competent jurisdiction.

(5) A chief petitioner must preserve the accounts pertaining to an initiative or referendum petition **or a prospective petition for a state measure to be initiated** for at least two years after the deadline for filing the petition for verification of signatures or at least two years after the date the last statement is filed under ORS 260.118, whichever is later.

(6) If a chief petitioner does not produce accounts under subsection (3) or (4) of this section:

(a) There is a rebuttable presumption that a violation of section 1b, Article IV of the Oregon Constitution, has occurred; and

(b) The chief petitioner may not obtain additional signatures on the petition **or prospective petition** until the chief petitioner is able to supply the accounts to the secretary, Attorney General or commissioner.

(7) Accounts are not subject to disclosure under ORS 192.410 to 192.505.

SECTION 5. ORS 260.561 is amended to read:

260.561. (1)(a) If a chief petitioner of a statewide initiative or referendum petition has knowledge of a violation of any provision of Oregon Revised Statutes, [or] of any rule adopted by the Secretary of State under ORS chapters 246 to 260 related to the circulation of a statewide initiative or referendum petition **or section 1b, Article IV of the Oregon Constitution**, committed by a person obtaining signatures on the chief petitioner's petition **or prospective petition**, the violation by the person obtaining signatures [shall be] **is** conclusively considered a violation by the chief petitioner.

(b) **If a chief petitioner of a statewide initiative or referendum petition has knowledge or should have had knowledge of a violation of ORS 250.048, 260.262, 260.555, 260.558, 260.567, 260.575, 260.665 or 260.715 (1) or section 1b, Article IV of the Oregon Constitution, or any rule adopted by the Secretary of State related to section 1b, Article IV of the Oregon Constitution, petition sheets or circulator training, registration or certification, committed by a person obtaining signatures on the chief petitioner's petition or prospective petition or a contractor or subcontractor, as defined in ORS 260.563, the violation by the person obtaining signatures or the contractor or subcontractor is conclusively considered a violation by the chief petitioner.**

(2) A chief petitioner [shall not be] **is not** liable under subsection (1) of this section if the chief petitioner notifies the Secretary of State in writing not later than one business day after the chief petitioner obtains knowledge of a potential violation. The notice shall state:

(a) That a potential violation has occurred;

(b) The nature of the potential violation; and

(c) All specific information known to the chief petitioner regarding the potential violation.

(3) If a statewide initiative or referendum petition has more than one chief petitioner, each chief petitioner [with] **who has knowledge or should have had** knowledge may be held liable under subsection (1) of this section.

[*(4) This section does not apply to a violation of law that is subject to criminal penalty.*]

SECTION 6. ORS 260.563 is amended to read:

260.563. (1) As used in this section:

(a) "Contractor" means a person who contracts on predetermined terms with a chief petitioner, or a person acting on behalf of a chief petitioner, of an initiative or referendum petition **or a prospective petition for a state measure to be initiated** for the purpose of obtaining signatures on the petition **or prospective petition**.

(b) "Subcontractor" means a person who contracts on predetermined terms with a contractor for the purpose of obtaining signatures on an initiative or referendum petition **or a prospective petition for a state measure to be initiated** and who has no direct contractual relationship with a chief petitioner or other person acting on behalf of a chief petitioner.

(2) If a contractor has knowledge **or should have had knowledge** of [*an unreported*] a violation of **ORS 250.048, 260.555, 260.558, 260.567, 260.575, 260.665 or 260.715 (1) or section 1b, Article IV** of the Oregon Constitution, **or any rule adopted by the Secretary of State related to section 1b, Article IV of the Oregon Constitution, petition sheets or circulator training, registration or certification**, by a subcontractor, the violation by the subcontractor is conclusively considered a violation by the contractor.

(3) A contractor is not liable under subsection (2) of this section if the contractor notifies the Secretary of State in writing not later than one business day after the contractor obtains knowledge of [*an unreported*] a potential violation. The notice shall state:

- (a) That a potential violation has occurred;
 - (b) The nature of the potential violation; and
 - (c) All specific information known to the contractor regarding the potential violation.
- [*(4) This section does not apply to a violation of law that is subject to criminal penalty.*]

SECTION 7. ORS 260.567 is amended to read:

260.567. (1) Except as provided in subsection (2) of this section, a person other than the person who signed the signature sheet of an initiative, referendum, recall or candidate nominating petition, **a prospective petition for a state measure to be initiated** or a certificate of nomination may not write, alter, correct, clarify or obscure on the signature sheet any information about the person who signed the signature sheet.

(2) A person other than the person who signed the signature sheet may:

(a) Alter, correct, clarify or obscure on the signature sheet any information about the person who signed the signature sheet if the line on which the signature appears is subsequently initialed by the person who signed the signature sheet; or

(b) Write, alter, correct, clarify or obscure on the signature sheet any information about the person who signed the signature sheet if the person who signed the signature sheet is a person with a disability and requests assistance in writing, altering, correcting, clarifying or obscuring on the signature sheet any information about the person.

(3) As used in this section:

(a) "Information about the person who signed the signature sheet" means any information regarding the person who signed the signature sheet of an initiative, referendum, recall or candidate nominating petition, **a prospective petition for a state measure to be initiated** or a certificate of nomination, in addition to the signature of the person, that is required or requested to be supplied on a signature sheet of an initiative, referendum, recall or candidate nominating petition, **a prospective petition** or a certificate of nomination.

(b) "The person who signed the signature sheet" means the person whose signature will be submitted for verification under ORS chapter 249 or ORS **250.045 (3)**, 250.105, 250.215, 250.315 or 255.175 for the purpose of determining whether the petition, **prospective petition** or certificate contains the required number of signatures of electors.

SECTION 8. ORS 250.105 is amended to read:

250.105. (1)(a) An initiative or referendum petition relating to a state measure must be filed with the Secretary of State for the purpose of verifying whether the petition contains the required number of signatures of electors.

(b) Signatures **previously verified** on a prospective petition for a state measure to be initiated shall be [*considered*] **included in the calculation** under this section for the purpose of verifying whether the initiative petition contains the required number of signatures of electors.

(c) When filing an initiative or referendum petition, the chief petitioner shall sort the signature sheets on the basis of the name of the person who obtained the signatures on the sheet.

(d) The secretary shall adopt rules establishing procedures for verifying signatures on an initiative or referendum petition.

(e) [The] A filed initiative or referendum petition must contain only original signatures. The secretary or county clerk shall verify each petition in the order in which the petitions are filed with the secretary.

(2)(a) Once every month, the chief petitioner of an initiative petition relating to a state measure shall file with the secretary all signature sheets containing signatures of electors obtained by a person being paid to obtain signatures on the petition since the previous monthly filing. The secretary shall hold all signature sheets filed under this subsection unless the chief petitioner withdraws the petition.

(b) The secretary shall adopt rules prescribing the dates by which signature sheets must be filed each month. The secretary may not accept signature sheets containing signatures of electors obtained by a person being paid to obtain signatures on the petition before the previous monthly filing deadline prescribed under this paragraph for purposes of determining whether an initiative petition relating to a state measure contains the required number of signatures of electors under this section.

[(2)] (3) The secretary may not accept [an initiative or] a referendum petition relating to a state measure for filing if the petition contains less than 100 percent of the required number of signatures. **The secretary may not determine whether an initiative petition contains the required number of signatures of electors unless at least 100 percent of the required number of signatures have been filed with the secretary.**

[(3)] (4) If **the total number of signatures required on** an initiative **petition** or referendum petition is submitted not less than 165 days before the election at which the proposed measure is to be voted upon and if the secretary determines that insufficient signatures have been submitted but the deadline for filing **signatures on** the petition has not passed, the petitioners may submit additional signatures.

[(4)] (5) The secretary 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. If two samplings are required under this subsection, the total number of signatures verified on the petition shall be not less than five percent of the total number of signatures on the petition.

[(5)] (6) For purposes of estimating the number of duplicate signatures contained in a petition, the secretary shall apply at least an eight percent duplication rate in the first sampling of signatures on all petitions. If a second sampling of signatures is required under subsection [(4)] (5) of this section, the secretary shall calculate an estimated signature duplication rate for each petition for which a second sampling is required. The calculation shall be based on the number of electors the secretary determines have signed a specific petition more than once.

[(6)] (7) When verifying signatures for a state initiative or referendum petition, the secretary or county clerk shall identify on an elector's voter registration record or other database that the elector signed the specific initiative or referendum petition.

[(7)] (8) The Secretary of State may employ professional assistance to determine the sampling technique to be designated under subsection [(4)] (5) of this section.

SECTION 9. ORS 250.029 is amended to read:

250.029. (1) **Except as provided in subsection (2) of this section,** the chief petitioners of an initiative or referendum petition may withdraw the petition at any time prior to the submission of the petition for signature verification.

(2) The chief petitioners of an initiative petition relating to a state measure may withdraw the petition at any time prior to the submission of the total number of signatures required on the petition for signature verification.

(3) The Secretary of State by rule shall design a form for use in filing a withdrawal of any initiative or referendum petition. The withdrawal form must be signed by all of the chief petitioners and filed with the filing officer.

SECTION 10. ORS 260.665 is amended to read:

260.665. (1) As used in this section, "undue influence" means force, violence, restraint or the threat of it, inflicting injury, damage, harm, loss of employment or other loss or the threat of it, or giving or promising to give money, employment or other thing of value.

(2) A person, acting either alone or with or through any other person, may not directly or indirectly subject any person to undue influence with the intent to induce any person to:

(a) Register or vote;

(b) Refrain from registering or voting;

(c) Register or vote in any particular manner;

(d) Be or refrain from or cease being a candidate;

(e) Contribute or refrain from contributing to any candidate, political party or political committee;

(f) Render or refrain from rendering services to any candidate, political party or political committee;

(g) Challenge or refrain from challenging a person offering to vote; [or]

(h) Apply or refrain from applying for an absentee ballot; or

(i) Sign or refrain from signing a prospective petition or an initiative, referendum, recall or candidate nominating petition.

(3) A person may not solicit or accept money or other thing of value as an inducement to act as prohibited by subsection (2) of this section.

(4) This section does not prohibit:

(a) The employment of persons to render services to candidates, political parties or political committees;

(b) The public distribution by candidates, political parties or political committees of sample ballots or other items readily available to the public without charge, even though the distributor incurs costs in the distribution;

(c) Public or nonpromissory statements by or on behalf of a candidate of the candidate's intentions or purposes if elected;

(d) A promise by a candidate to employ any person as administrative assistant, secretary or other direct personal aide;

(e) Free custody and care of minor children of persons during the time those persons are absent from those children for voting purposes;

(f) For persons voting, free transportation to and from places designated for the deposit of ballots under ORS 254.470 or to and from locations described in ORS 254.472 or 254.474; but no means of advertising, solicitation or inducement to influence the vote of persons transported may be used with that transportation;

(g) Individuals or political committees from providing refreshments incidental to a gathering in support of or in opposition to a candidate, political committee or measure; or

(h) The public distribution of registration cards by a person approved by the Secretary of State under ORS 247.171 to print, copy or otherwise prepare and distribute registration cards, even though the distributor incurs costs in the distribution.

SECTION 11. ORS 260.995 is amended to read:

260.995. (1) Except as provided in subsection (2) of this section, following an investigation under ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed \$250 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter preliminary to or relating to an election, for which [no] a **civil** penalty is **not** otherwise provided.

(2) The secretary or the Attorney General may impose a civil penalty not to exceed:

(a) \$1,000 for each violation of ORS 251.049 (3) or 251.405 (3); [or]

(b) \$1,000 plus the amount converted to personal use for each violation of ORS 260.407; or
(c) **\$10,000 for each violation of ORS 260.555, 260.558, 260.575 or 260.715 (1) or section 1b, Article IV of the Oregon Constitution.**

(3) Except as otherwise provided by this section, civil penalties under this section shall be imposed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall include:

(a) A statement of the authority and jurisdiction under which the hearing is to be held; and

(b) If the person is an agency, corporation or an unincorporated association, a statement that such person must be represented by an attorney licensed in Oregon, unless the person is a political committee which may be represented by any officer identified in the most recent statement of organization filed with the filing officer.

(4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation shall be held by the secretary or Attorney General:

(a) Upon request of the person against whom the penalty may be assessed, if the request is made not later than the 20th day after the date the person received notice sent under subsection (3) of this section; or

(b) Upon the secretary's or Attorney General's own motion.

(5) The person against whom a penalty may be assessed need not appear in person at a hearing held under this section, but instead may submit written testimony or other evidence, sworn to before a notary public, to the secretary or Attorney General for entry in the hearing record. The testimony or other evidence must be received by the secretary or Attorney General not later than three business days before the day of the hearing.

(6) All hearings under this section shall be held not later than 30 days after the deadline for the person against whom the penalty may be assessed to request a hearing. However, if requested by the person against whom the penalty may be assessed, a hearing under subsection (4) of this section shall be held not later than 45 days after the deadline for the person against whom the penalty may be assessed to request a hearing.

(7) The secretary or Attorney General shall issue an order not later than 90 days after a hearing or after the deadline for requesting a hearing if no hearing is held.

(8) All penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund.

(9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the person against whom the penalty is assessed:

(a) Is personally responsible for the payment of the civil penalty;

(b) Shall pay the civil penalty from personal funds of the person; and

(c) May not pay the civil penalty from contributions received by a candidate or the principal campaign committee of a candidate.

SECTION 12. Section 13 of this 2009 Act is added to and made a part of ORS chapter 260.

SECTION 13. The Secretary of State may not include in a count under ORS 250.045 (3) or 250.105 or ORS chapter 249 for purposes of determining whether an initiative, referendum or recall petition or a prospective petition for a state measure to be initiated contains the required number of signatures of electors, any signatures obtained by a person who the secretary determines, during the five-year period prior to the date the signatures were obtained:

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

(2) Has had a civil penalty imposed under ORS 260.995 for a violation of ORS 250.048 or 260.262; or

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

SECTION 14. (1) The amendments to ORS 250.045 and 250.048 by sections 1 and 2 of this 2009 Act apply to payment or receipt of money or other valuable consideration for obtaining

signatures of electors on a state initiative, referendum or recall petition or prospective petition for a state measure to be initiated that are obtained on or after January 1, 2010.

(2) The amendments to ORS 250.052 by section 3 of this 2009 Act apply to prospective petitions for state measures to be initiated that are circulated on or after January 1, 2010.

SECTION 15. (1) The amendments to ORS 260.262 by section 4 of this 2009 Act apply to prospective petitions for state measures to be initiated that are circulated on or after the effective date of this 2009 Act. A chief petitioner of a state measure to be initiated shall maintain accounts pertaining to a prospective petition under ORS 260.262 for activities that occur on or after the effective date of this 2009 Act.

(2) The amendments to ORS 260.561 and 260.563 by sections 5 and 6 of this 2009 Act apply to violations that occur on or after January 1, 2010.

(3) The amendments to ORS 260.567 by section 7 of this 2009 Act apply to signature sheets for prospective petitions for state measures to be initiated that are signed on or after January 1, 2010.

SECTION 16. (1) The amendments to ORS 250.105 by section 8 of this 2009 Act apply to:

(a) Signature sheets for state initiative petitions that, if filed with the required number of signatures of electors, will be submitted to the people at the general election held on the first Tuesday after the first Monday in November 2010.

(b) Signature sheets for state initiative petitions that, if filed with the required number of signatures of electors, will be submitted to the people at an election held after the first Tuesday after the first Monday in November 2010.

(2) The amendments to ORS 250.029 by section 9 of this 2009 Act apply to:

(a) State initiative petitions that, if filed with the required number of signatures of electors, will be submitted to the people at a general election held on the first Tuesday after the first Monday in November 2010.

(b) State initiative petitions that, if filed with the required number of signatures of electors, will be submitted to the people at an election held after the first Tuesday after the first Monday in November 2010.

SECTION 17. Section 13 of this 2009 Act and the amendments to ORS 250.029, 250.045, 250.048, 250.052, 250.105, 260.561, 260.563, 260.567, 260.665 and 260.995 by sections 1 to 3 and 5 to 11 of this 2009 Act become operative on January 1, 2010.

SECTION 18. The Secretary of State may take any action before January 1, 2010, that is necessary to enable the secretary to exercise, on and after January 1, 2010, all the duties, functions and powers conferred on the secretary by section 13 of this 2009 Act and the amendments to ORS 250.029, 250.045, 250.048, 250.052, 250.105, 260.561, 260.563, 260.567, 260.665 and 260.995 by sections 1 to 3 and 5 to 11 of this 2009 Act.

SECTION 19. If any part of this 2009 Act is held unconstitutional, the remaining parts shall remain in force unless the court specifically finds that the remaining parts, standing alone, are incomplete and incapable of being executed.

SECTION 20. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House May 19, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 15, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State