

Enrolled House Bill 2634

Sponsored by Representatives ROBLAN, BERGER; Representatives BARKER, CANNON, DEMBROW, FREDERICK, GARRETT, GREENLICK, HARKER, OLSON, Senators BURDICK, DEVLIN, DINGFELDER, MORSE, ROSENBAUM (Presession filed.)

CHAPTER

AN ACT

Relating to elections; creating new provisions; amending ORS 251.185; appropriating money; limiting expenditures; and declaring an emergency.

Whereas the people support the initiative process as a means for Oregon citizens to propose laws and enact or reject laws at an election independent of the Legislative Assembly; and

Whereas informed public discussion and exercise of the initiative power will be enhanced by review of each statewide measure by an independent panel of Oregon voters, reporting to the electorate in the voters' pamphlet; and

Whereas provisional Citizens Statements in 2010, as approved by the Seventy-fifth Legislative Assembly, have been valuable to Oregon voters; now, therefore,

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

SECTION 1. Sections 2 to 9 of this 2011 Act are added to and made a part of ORS chapter 250.

SECTION 2. (1) The Citizens' Initiative Review Commission is established within the executive branch of state government, consisting of 11 members. The members shall be appointed in the following manner:

(a) The Governor shall appoint three members who have at some time been selected by the four appointed members of an explanatory statement committee under ORS 251.205 (5) to prepare an explanatory statement, as follows:

(A) One member recommended by the leadership of the Democratic party in the Senate and one member recommended by the leadership of the Republican party in the Senate.

(B) Except as provided in subparagraph (C) of this paragraph, one member recommended by the leadership of the political party with the largest representation in the Senate that is not the same party as the Governor.

(C) If more than two political parties are represented in the Senate, one member recommended by the leadership of a third political party with the largest representation in the Senate.

(b) Four former moderators shall be appointed as members as described in section 6 of this 2011 Act.

(c) Four electors who have served on a citizen panel shall be appointed as members as described in section 6 of this 2011 Act.

(2) The term of office of a member of the commission is four years, with the terms of no more than six members expiring every two years. Vacancies shall be filled by the Governor for the unexpired term, consistent with subsection (1) of this section.

(3) The commission shall:

(a) Ensure that the citizen panels are convened to review initiated measures in a fair and impartial manner.

(b) Adopt rules necessary to carry out the commission's duties under sections 2 to 9 of this 2011 Act.

SECTION 3. Notwithstanding section 2 of this 2011 Act, the first Citizens' Initiative Review Commission shall consist of seven members to be appointed and serve as follows:

(1) The Governor shall appoint three members who have at some time been selected by the four appointed members of an explanatory statement committee under ORS 251.205 (5) to prepare an explanatory statement, as follows:

(a) One member recommended by the leadership of the Democratic party in the Senate and one member recommended by the leadership of the Republican party in the Senate.

(b) Except as provided in paragraph (c) of this subsection, one member recommended by the leadership of the political party with the largest representation in the Senate that is not the same party as the Governor.

(c) If more than two political parties are represented in the Senate, one member recommended by the leadership of a third political party with the largest representation in the Senate.

(2) The three members appointed by the Governor under subsection (1) of this section shall appoint:

(a) Two members from among persons who have served as a moderator for a citizen panel, one to serve for a term of two years and one to serve for a term of four years; and

(b) Two members from among electors who have served on a citizen panel, one to serve for a term of two years and one to serve for a term of four years.

(3) The Governor shall determine at random which two members appointed under subsection (1) of this section shall serve a term of four years and which member shall serve a term of two years.

(4) In the event that a member's position cannot be filled under this section, the Governor may appoint one or more persons who have experience conducting citizen review panels to be members of the initial commission for a two-year term.

SECTION 4. (1) Except as otherwise provided in this section, the Citizens' Initiative Review Commission may accept contributions of moneys and assistance from the United States Government or its agencies or from any other source, public or private, and agree to conditions placed on the moneys not inconsistent with the duties of the commission. All moneys received by the commission under this subsection shall be deposited into the Citizens' Initiative Review Fund established under section 8 of this 2011 Act.

(2) The commission may not receive contributions of moneys or assistance from:

(a) A political committee, as defined in ORS 260.005;

(b) For-profit corporate treasuries;

(c) Union treasuries; or

(d) Any other source the commission determines might be used to transfer moneys from a political committee, for-profit corporate treasury or union treasury to the commission.

(3) If a person contributes to the commission an aggregate total of more than \$100 in a calendar year, not later than 14 calendar days after the commission receives the contribution, the commission shall make available to the public on the Internet:

(a) The name and address of the person or entity who made the contribution; and

(b) The amount of the contribution.

(4) The commission may enter into contracts and hire any staff the commission deems necessary.

(5) The commission may appoint an executive director to serve at the pleasure of the commission.

SECTION 5. (1) The Citizens' Initiative Review Commission shall select one or more state measures proposed by initiative petition to be voted on at a general election and convene a separate citizen panel to review each selected measure.

(2) In selecting a measure to be reviewed by a citizen panel, the commission shall consider the following criteria:

- (a) The fiscal impact of a measure.
- (b) Whether the measure amends the Oregon Constitution.
- (c) The availability of funds to conduct reviews.
- (d) Any other criteria established by the commission by rule.

(3) Each citizen panel shall evaluate and write statements for the measure considered by the panel.

(4)(a) The commission shall select citizens for each panel from a representative sample of anonymous electors, using survey sampling methods that, to the extent practicable, give every elector a similar chance of being selected. Each citizen panel shall consist of not fewer than 18 and not more than 24 electors.

(b) The commission shall ensure, to the extent practicable and legally permissible, that the demographic makeup of each panel fairly reflects the population of the electorate of this state as a whole, with respect to the following characteristics, prioritized in the following order:

- (A) The location of the elector's residence.
- (B) The elector's party affiliation, if any.
- (C) The elector's voting history.
- (D) The elector's age.

(c) In addition to the criteria described in paragraph (b) of this subsection, the commission may also consider:

- (A) The elector's gender.
- (B) The elector's ethnicity.
- (C) Any other criteria.

(5) The commission shall, from moneys in the Citizens' Initiative Review Fund:

(a) Compensate each elector for each day served on a panel in an amount calculated using the average weekly wage as defined in ORS 656.211;

(b) Reimburse each elector who serves on a panel for travel expenses in accordance with reimbursement policies determined by the commission by rule;

(c) Provide for costs required to convene and conduct a citizen panel; and

(d) Transfer to the Secretary of State all moneys necessary to pay the costs of printing any statements described in section 7 of this 2011 Act in the voters' pamphlet.

(6)(a) Each panel shall meet to review the measure on five consecutive days for a total of not less than 25 hours unless otherwise provided by commission rule.

(b) Each panel shall conduct public hearings at which the panel shall receive testimony or other information from both proponents and opponents of the measure. Unless otherwise determined by a majority of the panelists, equal time shall be allotted to proponents and opponents of a measure.

(c) The chief petitioners of the measure shall designate two persons to provide information in favor of the measure to the citizen panel. If the chief petitioners fail to timely designate two persons to appear before the panel, the commission may designate two persons who support the measure to provide information in favor of the measure.

(d) The commission shall designate two persons who oppose the measure to provide information in opposition to the measure.

(e) The commission, by rule, may specify additional criteria regarding the public hearings.

(7) The commission shall provide each panel with any complaints regarding the panel not later than the fourth day the panel convenes.

(8) The commission shall, by rule, establish qualifications for moderators for each citizen panel. A moderator must have experience in mediation and shall complete a training course established by the commission.

(9) The commission shall contract with two moderators for each panel and shall compensate each moderator for service.

SECTION 6. (1) Not later than February 1 of an odd-numbered year, each person who served as a moderator for a citizen panel that evaluated a measure voted on at the most recent general election shall:

(a) Convene to evaluate procedures related to the citizen panels and submit a written report to the Citizens' Initiative Review Commission summarizing the evaluation, along with any recommendations; and

(b) Appoint two moderators from among the moderators convened for the evaluation to be members of the commission.

(2) Not later than February 1 of an odd-numbered year, two electors from each citizen panel shall:

(a) Convene to evaluate procedures related to the citizen panels and submit a written report to the commission summarizing the evaluation, along with any recommendations; and

(b) Appoint two electors from among the former panelists convened for the evaluation to be members of the commission.

(3) Each year in which an evaluation is conducted by moderators and panelists under this section, the commission shall review the evaluations and make any findings and recommendations. The commission shall make all evaluations, findings and recommendations made under this section available to the public.

SECTION 7. (1) Not later than the date set by the Secretary of State by rule, each citizen panel shall prepare and file with the secretary any of the following statements of not more than 250 words each:

(a) A statement in favor of the measure.

(b) A statement opposed to the measure.

(c) A statement that "No panelist took this position." if a panel is unanimous in either supporting or opposing a measure.

(d) A statement of key findings that summarizes the citizen panel's findings in an impartial manner and may include a tally of how many panelists agreed with the key findings.

(e) A statement of additional policy considerations that describes the subject matter of or any fiscal considerations related to the measure. A statement submitted under this paragraph must be supported by at least three-quarters of the panelists.

(2)(a) Before a statement is filed with the Secretary of State under subsection (1) of this section:

(A) A person designated under section 5 (6)(c) of this 2011 Act shall be allowed to review the statement in favor of the measure by the citizen panel and provide feedback to the panel regarding the statement.

(B) A person designated under section 5 (6)(d) of this 2011 Act shall be allowed to review the statement opposed to the measure by the citizen panel and provide feedback to the panel regarding the statement.

(C) A person designated under section 5 (6)(c) or (d) of this 2011 Act shall be allowed to review the statement of key findings by the citizen panel and provide feedback to the panel regarding the statement.

(b) A citizen panel may adjust any statement after receiving feedback as described in this subsection.

(3) The secretary shall prescribe the size and manner of placement of the statements submitted by a citizen panel to be printed in the voters' pamphlet, except that the state-

ments shall be clearly differentiated from other arguments or statements in the voters' pamphlet and may include, but are not limited to, the use of unique formatting and informative symbols.

(4) The secretary shall provide with any citizen panel statement a description of not more than 150 words of the citizen panel process described in sections 2 to 9 of this 2011 Act and the following explanation:

The opinions expressed in this statement are those of the members of a citizen panel and were developed through the citizen review process. They are NOT official opinions or positions endorsed by the State of Oregon or any government agency. A citizen panel is not a judge of the constitutionality or legality of any ballot measure, and any statements about such matters are not binding on a court of law.

(5) The secretary, by rule, shall set a date by which statements must be filed under this section. The date may not be sooner than the 70th day before the date of the election.

SECTION 8. The Citizens' Initiative Review Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Citizens' Initiative Review Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the Citizens' Initiative Review Commission to carry out the duties, functions and powers of the commission and for expenses under section 5 (5) of this 2011 Act.

SECTION 9. (1) Not later than the date that is four months before the date of the general election in an even-numbered year, the Citizens' Initiative Review Commission shall determine whether moneys in sufficient amount are available in the Citizens' Initiative Review Fund to carry out all the duties, functions and powers of the commission, implement sections 5 to 7 of this 2011 Act and pay for any statements to be printed in the voters' pamphlet under ORS 251.185.

(2)(a) If the commission determines that the fund has sufficient moneys under subsection (1) of this section, the commission shall carry out all the duties, functions and powers of the commission, implement sections 5 to 7 of this 2011 Act and may submit statements to be printed in the voters' pamphlet under ORS 251.185.

(b) If the commission determines that the fund has insufficient moneys under subsection (1) of this section, for the general election in that even-numbered year, the commission may not carry out all the duties, functions and powers of the commission, implement sections 5 to 7 of this 2011 Act or submit statements to be printed in the voters' pamphlet under ORS 251.185.

SECTION 10. ORS 251.185 is amended to read:

251.185. (1) The Secretary of State shall have printed in the voters' pamphlet for a general election or any special election a copy of the title and text of each state measure to be submitted to the people at the election for which the pamphlet was prepared. The pamphlet must include the procedures for filing a complaint under ORS 260.345. Each measure shall be printed in the pamphlet with:

- (a) The number and ballot title of the measure;
- (b) The financial estimates and any statement prepared for the measure under ORS 250.125;
- (c) The explanatory statement prepared for the measure; *[and]*
- (d) Arguments relating to the measure and filed with the Secretary of State[.]; **and**

(e) Any statement submitted for the measure by a citizen panel under section 7 of this 2011 Act.

(2) A county measure or measure of a metropolitan service district organized under ORS chapter 268, and ballot title, explanatory statement and arguments relating to the measure, filed by the

county or metropolitan service district under ORS 251.285 shall be included in the voters' pamphlet described in subsection (1) of this section if required under ORS 251.067.

SECTION 11. (1) Any expenses incurred in the initial appointment and organization of the Citizens' Initiative Review Commission under section 3 of this 2011 Act shall be paid by the Oregon Department of Administrative Services from moneys appropriated to the department.

(2) When the Citizens' Initiative Review Commission determines that moneys in sufficient amount are available in the Citizens' Initiative Review Fund, the commission shall reimburse the Oregon Department of Administrative Services, without interest, in an amount equal to the amount paid by the department for expenses under subsection (1) of this section.

SECTION 12. Notwithstanding any other law limiting expenditures, the amount of \$75,000 is established for the biennium beginning July 1, 2011, as the maximum limit for payment from moneys appropriated to the Oregon Department of Administrative Services for expenses incurred in the initial appointment and organization of the Citizens' Initiative Review Commission, as described in section 11 of this 2011 Act.

SECTION 13. Notwithstanding any other law limiting expenditures, the amount of \$1 is established for the biennium beginning July 1, 2011, as the maximum limit for payment of expenses from the Citizens' Initiative Review Fund established under section 8 of this 2011 Act.

SECTION 14. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House May 23, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 1, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State