

House Bill 2891

Sponsored by Representative GOMBERG; Representative GREENLICK, Senator DEMBROW

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**.

Modifies certain provisions relating to state initiative measures that require appropriation or expenditure of \$500,000 or more in public moneys over a 10-year period.

Takes effect only if House Joint Resolution 18 (2019) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed in House Joint Resolution 18 (2019).

A BILL FOR AN ACT

1
2 Relating to initiative measures; creating new provisions; amending ORS 250.035, 250.125 and 250.127;
3 and prescribing an effective date.

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

5 **SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS**
6 **chapter 250.**

7 **SECTION 2. (1) The Secretary of State shall review a state measure to be initiated to**
8 **determine whether the measure complies with the procedural requirements of Article IV,**
9 **section 1, of the Oregon Constitution. The secretary may not review a state measure to be**
10 **initiated for substantive constitutional or legal sufficiency.**

11 **(2) Before obtaining signatures on a petition for a state measure to be initiated, a chief**
12 **petitioner of the measure shall submit to the Secretary of State:**

13 **(a) An estimate of the appropriation or expenditure of public moneys required by the**
14 **measure, if enacted; and**

15 **(b) If the measure requires the appropriation or expenditure of \$500,000 or more in public**
16 **moneys over a 10-year period, an estimate of the sufficiency of the new tax or fee, or the**
17 **increase in the rate of an existing tax or fee, included as part of the measure.**

18 **(3) The chief petitioner shall also submit documentation to support an estimate described**
19 **in subsection (2) of this section. The Secretary of State may consider the estimate and**
20 **documentation submitted to determine whether the measure is in compliance with the pro-**
21 **cedural requirements of Article IV, section 1 (2)(e), of the Oregon Constitution.**

22 **SECTION 3. If the revenue from a new tax or fee, or an increase in the rate of an ex-**
23 **isting tax or fee, included with a measure, is challenged for sufficiency under Article IV,**
24 **section 1 (2)(e), of the Oregon Constitution, the chief petitioner of the measure bears the**
25 **burden of proving by a preponderance of the evidence that the revenue from the new or in-**
26 **creased tax or fee included with the measure is sufficient to cover the immediate and future**
27 **costs of the measure.**

28 **SECTION 4. ORS 250.035 is amended to read:**

29 250.035. (1) The ballot title of any measure, other than a state measure, to be initiated or re-
30 ferred shall consist of:

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 (a) A caption of not more than 10 words which reasonably identifies the subject of the measure;

2 (b) A question of not more than 20 words which plainly phrases the chief purpose of the measure
 3 so that an affirmative response to the question corresponds to an affirmative vote on the measure;
 4 and

5 (c) A concise and impartial statement of not more than 175 words summarizing the measure and
 6 its major effect.

7 (2) The ballot title of any state measure to be initiated or referred shall consist of:

8 (a) A caption of not more than 15 words that reasonably identifies the subject matter of the
 9 state measure. The caption of an initiative or referendum amendment to the Constitution shall begin
 10 with the phrase, "Amends Constitution," which shall not be counted for purposes of the 15-word
 11 caption limit;

12 (b) A simple and understandable statement of not more than 25 words that describes the result
 13 if the state measure is approved. The statement required by this paragraph shall include either the
 14 phrase, "I vote" or "vote yes," or a substantially similar phrase, which may be placed at any point
 15 within the statement;

16 (c) A simple and understandable statement of not more than 25 words that describes the result
 17 if the state measure is rejected. The statement required by this paragraph shall not describe ex-
 18 isting statutory or constitutional provisions in a way that would lead an average elector to believe
 19 incorrectly that one of those provisions would be repealed by approval of the state measure, if ap-
 20 proval would not have that result. Any thing or action described both in the statement required by
 21 paragraph (b) of this subsection and in the statement required by this paragraph shall be described
 22 using the same terms in both statements, to the extent practical. Any different terms must be terms
 23 that an average elector would understand to refer to the same thing or action. The statement shall
 24 include either the phrase, "I vote" or "vote no," or a substantially similar phrase, which may be
 25 placed at any point within the statement; and

26 (d) A concise and impartial statement of not more than 125 words summarizing the state meas-
 27 ure and its major effect.

28 **(3) The ballot title of a state measure to be initiated that includes as part of the measure**
 29 **a new tax or fee, or an increase in the rate of an existing tax or fee, as required by Article**
 30 **IV, section 1 (2)(e), of the Oregon Constitution, shall contain the statement, "If approved,**
 31 **the measure will be paid for from ____.", with a description of the new or increased tax or**
 32 **fee printed in the blank space.**

33 [(3)] (4)(a) The statements required by subsection (2)(b) and (c) of this section shall be written
 34 so that, to the extent practicable, the language of the two statements is parallel.

35 [(4)] (b) The statement required by subsection (2)(b) of this section shall be written so that an
 36 affirmative response to the statement corresponds to an affirmative vote on the state measure.

37 [(5)] (c) The statement required by subsection (2)(c) of this section shall be written so that an
 38 affirmative response to the statement corresponds to a negative vote on the state measure.

39 [(6)] (d) In the statements required by subsection (2)(b), (c) and (d) of this section, reasonable
 40 discretion shall be allowed in the use of articles and conjunctions, but the statements shall not omit
 41 articles and conjunctions that are necessary to avoid confusion to or misunderstanding by an aver-
 42 age elector.

43 **SECTION 5.** ORS 250.125 is amended to read:

44 250.125. (1) When a state measure involves expenditure of public moneys by the state, reduction
 45 of expenditure of public moneys by the state, reduction of state revenues or raising of funds by the

1 state by imposing any tax or incurring any indebtedness, the financial estimate committee created
2 under this section shall estimate:

3 (a) The amount of direct expenditure, direct reduction of expenditure, direct reduction in state
4 revenues, direct tax revenue or indebtedness and interest that will be required to meet the pro-
5 visions of the measure if it is enacted; *[and]*

6 (b) The aggregate amount of direct expenditure, direct reduction of expenditure, direct reduction
7 in revenues, direct tax revenue or indebtedness and interest that will be required by any city,
8 county or district to meet the provisions of the measure if it is enacted~~[,]~~; **and**

9 **(c) In addition to the estimate under paragraph (a) of this subsection, in the case of a**
10 **state measure described in Article IV, section 1 (2)(e), of the Oregon Constitution, the**
11 **amount of direct revenue that will be generated from a new tax or fee, or an increase in the**
12 **rate of an existing tax or fee, included as part of the measure, if the measure is enacted.**

13 (2) For a state measure for which an estimate is required to be prepared under subsection (1)
14 of this section, the financial estimate committee may estimate the aggregate amount of direct ex-
15 penditure, direct reduction of expenditure, direct reduction in revenues, direct tax revenue or
16 indebtedness and interest that will be required by any federally recognized Native American or
17 American Indian tribal government to meet the provisions of the measure if it is enacted.

18 (3) If the Legislative Assembly has enacted a law that will apply only if the measure for which
19 an estimate is required to be prepared under subsection (1) of this section is not enacted, the fi-
20 nancial estimate committee may also estimate the amount of direct expenditure, direct reduction of
21 expenditure, direct reduction in revenues, direct tax revenue or indebtedness and interest that will
22 result for the state, any city, county or district or any federally recognized Native American or
23 American Indian tribal government if the measure is not enacted.

24 (4) For a state measure for which an estimate is required to be prepared under subsection (1)
25 of this section, the financial estimate committee shall consult with the Legislative Revenue Officer
26 to determine if the measure has potentially significant indirect economic or fiscal effects. If the
27 committee determines that the indirect economic or fiscal effects of the measure are significant and
28 can be estimated, the Legislative Revenue Officer shall prepare on behalf of the committee an im-
29 partial estimate of the indirect economic or fiscal effects of the measure. The Legislative Revenue
30 Officer shall use the best available economic models and data to produce the estimate. The financial
31 estimate committee shall incorporate relevant parts of the estimate prepared by the Legislative Re-
32 venue Officer into the estimate prepared by the committee under subsection (1) of this section.

33 **(5)(a) For a state measure described in Article IV, section 1 (2)(e), of the Oregon Con-**
34 **stitution, the financial estimate committee shall consult with the Legislative Revenue Officer**
35 **to determine whether the revenue to be generated from a new tax or fee, or an increase in**
36 **the rate of an existing tax or fee, included as part of the measure, is sufficient to cover the**
37 **immediate and future costs of the measure, if enacted.**

38 **(b) The Legislative Revenue Officer shall prepare on behalf of the financial estimate**
39 **committee an impartial estimate of the revenue of the new or increased tax or fee and an**
40 **impartial estimate of the economic or fiscal effects of the measure. The Legislative Revenue**
41 **Officer shall use the best available economic models and data to produce the estimates. The**
42 **estimates of revenue and immediate and future costs may be expressed as a specific amount**
43 **or a range of amounts but the estimates must be expressed in the same terms.**

44 **(c) The financial estimate committee may determine that the amount of direct revenue**
45 **from the new or increased tax or fee is sufficient to cover the immediate and future costs**

1 of the measure, if enacted, only if:

2 (A) The estimated amount of direct revenue from the new or increased tax or fee is equal
 3 to or greater than the estimated amount of the immediate and future costs of the measure,
 4 if enacted; or

5 (B) The lowest amount expressed in the estimated range of the amount of direct revenue
 6 from the new or increased tax or fee is equal to or greater than the highest amount ex-
 7 pressed in the estimated range of the immediate and future costs of the measure, if enacted.

8 (d) The financial estimate committee shall incorporate its determination into the esti-
 9 mate prepared by the committee under subsection (1) of this section.

10 [(5)] (6) Except as provided in subsection [(6)] (7) of this section, the estimates described in
 11 subsections (1) to (3) of this section shall be printed in the voters' pamphlet and on the ballot. The
 12 estimates shall be impartial, simple and understandable and shall include the following information:

13 (a) A statement of the amount of financial effect on state, local or tribal government expen-
 14 ditures, revenues or indebtedness, expressed as a specific amount or as a range of amounts;

15 (b) A statement of any recurring annual amount of financial effect on state, local or tribal gov-
 16 ernment expenditures, revenues or indebtedness;

17 (c) A description of the most likely financial effect or effects of the adoption of the measure;
 18 [and]

19 (d) If an estimate is made under subsection (3) of this section, a description of the most likely
 20 financial effect or effects if the measure is not enacted[.]; and

21 (e) In the case of a state measure described in Article IV, section 1 (2)(e), of the Oregon
 22 Constitution, a statement as to whether a new tax or fee, or an increase in the rate of an
 23 existing tax or fee, included as part of the measure, is sufficient to cover the immediate and
 24 future costs of the measure, if enacted.

25 [(6)] (7) If the financial estimate committee determines that the measure will have no financial
 26 effect on state, local or tribal government expenditures, revenues or indebtedness or that the fi-
 27 nancial effect on state, local or tribal government expenditures, revenues or indebtedness will not
 28 exceed \$100,000, the committee shall prepare and file with the Secretary of State a statement de-
 29 claring that the measure will have no financial effect or that the financial effect will not exceed
 30 \$100,000. The statement shall be printed in the voters' pamphlet and on the ballot.

31 [(7)] (8) In addition to the estimates described in subsections (1) to (3) of this section, if the fi-
 32 nancial estimate committee considers it necessary, the committee may prepare and file with the
 33 Secretary of State an impartial, simple and understandable statement explaining the financial effects
 34 of the measure. The statement may not exceed 500 words. The statement shall be printed in the
 35 voters' pamphlet with the measure to which it relates.

36 [(8)] (9) The Legislative Policy and Research Committee shall provide any administrative staff
 37 assistance required by the financial estimate committee to facilitate the work of the financial esti-
 38 mate committee under this section or ORS 250.127.

39 [(9)] (10) The financial estimate committee is created, consisting of the Secretary of State, the
 40 State Treasurer, the Director of the Oregon Department of Administrative Services, the Director
 41 of the Department of Revenue and a representative of a city, county or district with expertise in
 42 local government finance. The representative of a city, county or district shall be selected by the
 43 four other members of the financial estimate committee and shall serve for a term of two years that
 44 begins on March 1 of the odd-numbered year.

45 **SECTION 6.** ORS 250.127 is amended to read:

1 250.127. (1) Not later than the 99th day before a special election held on the date of a primary
2 election or any general election at which any state measure is to be submitted to the people, the
3 financial estimate committee created under ORS 250.125 shall prepare and electronically file with
4 the Secretary of State the estimates described in ORS 250.125 and, if the committee considers it
5 necessary, a statement explaining the financial effects of the measure as described in ORS 250.125
6 [(7)] (8). The financial estimate committee may begin preparation of the estimates and statement on
7 the date that a petition is accepted for verification of signatures under ORS 250.105 or the date that
8 a measure referred by the Legislative Assembly is filed with the Secretary of State, whichever is
9 applicable.

10 (2) Not later than the 95th day before the election, the Secretary of State shall hold a hearing
11 in Salem upon reasonable statewide notice to receive suggested changes to the estimates or state-
12 ment or to receive other information. At the hearing any person may submit suggested changes or
13 other information orally or in writing. Written suggestions or other information also may be sub-
14 mitted at any time before the hearing.

15 (3) The financial estimate committee shall consider suggestions and any other information sub-
16 mitted under subsection (2) of this section, and may file revised estimates or a revised statement
17 with the Secretary of State not later than the 90th day before the election.

18 (4) Except as provided in subsection (5) of this section, the original estimates and statement and
19 any revised estimates or statement shall be approved by a majority of the members of the financial
20 estimate committee. If a member does not concur, the estimates or statement shall show only that
21 the member dissents. The Secretary of State shall certify final estimates and a final statement not
22 later than the 90th day before the election at which the measure is to be voted upon. All estimates
23 and statements prepared under ORS 250.125 and this section shall be made available to the public.

24 (5) If a majority of the members of the financial estimate committee do not approve the esti-
25 mates or statement, the Secretary of State alone shall prepare, file and certify the estimates or
26 statement not later than the 88th day before the election at which the measure is to be voted upon
27 with the data upon which the estimates or statement is based.

28 (6) The support or opposition of any member of the financial estimate committee to the original
29 or revised estimates or statement shall be indicated in the minutes of any meeting of the committee.
30 Meetings of the financial estimate committee shall be open to the public. Designees of the members
31 of the financial estimate committee may attend any meetings of the committee in the place of the
32 members, but the designees may not vote to approve or oppose any estimates or statement.

33 (7) A failure to prepare, file or certify estimates or a statement under ORS 250.125, this section
34 or ORS 250.131 does not prevent the inclusion of the measure in the voters' pamphlet or placement
35 of the measure on the ballot.

36 (8) If the estimates are not delivered to the county clerk by the 61st day before the election, the
37 county clerk may proceed with the printing of ballots. The county clerk is not required to reprint
38 ballots to include the estimates or to provide supplemental information that includes the estimates.

39 **SECTION 7. Sections 2 and 3 of this 2019 Act and the amendments to ORS 250.035, 250.125**
40 **and 250.127 by sections 4 to 6 of this 2019 Act apply to prospective petitions for a state**
41 **measure to be initiated that, if filed with the required number of signatures of electors, will**
42 **be submitted to the people at an election held on or after the first Tuesday after the first**
43 **Monday in November 2022.**

44 **SECTION 8. This 2019 Act does not take effect unless the amendment to the Oregon**
45 **Constitution proposed by House Joint Resolution 18 (2019) is approved by the people at the**

1 **next regular general election held throughout this state. This 2019 Act takes effect on the**
2 **effective date of that constitutional amendment.**

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