

Chapter 253

1955 REPLACEMENT PART

Absent Voters

253.010	"Absent voter" defined	253.540	Application for absentee ballot
253.020	Absent elector's right to vote	253.550	Applications made under federal statutes
253.030	Application for ballot	253.560	Absentee ballots
253.040	Sending and return of ballot	253.570	Voting instructions and return envelope; form of voter's oath
253.050	Initialing ballots before delivery to elector; elector's affidavit	253.580	Preparation and furnishing of letters of instruction and envelopes
253.060	Instructions sent with ballot	253.590	Voter's oath
253.070	Marking and returning ballot	253.600	Oath constitutes voter's registration; return of ballot by voter
253.080	Duties of clerk on receipt of ballot	253.610	Ballot not invalidated by variations in signatures
253.090	Procedure for verifying vote	253.620	Procedure governing receipt and subsequent handling of ballot
253.100	Opening envelope and depositing ballot in box	253.630	Marking election materials for postage-free transmission
253.110	Rejection of a ballot	253.640	State officers to coordinate voting by service voters with federal authorities
253.120	Right of elector receiving absent voter's ballot to vote in person; double voting	253.650	Secretary of State to administer
253.140	Courts having jurisdiction of offenses	253.660	Counties having registrar of elections
253.150	Failure of officials to perform duties	253.670	Construction of service voter's law
253.210	Registered elector permitted to vote in person in precinct other than his own, when	253.990	Penalties
253.510	Definitions		
253.520	Service voter may vote by mail		
253.530	Spouse and dependents of service voter may vote by mail		

CROSS REFERENCES

Election documents, time allowed for receipt, 246.510	Certificate of registration permitting elector who has moved after close of registration books to vote where residing and not where registered, 247.060
Suffrage and elections, Const. Art. II	
253.130	Penalty, 260.610
Registration of elector in Armed Forces not to be canceled, 247.150	253.990
253.210	Election offenses, Ch. 260
Applicability of this section to primary elections, 249.520	Perjury, penalty, 162.120

253.010 "Absent voter" defined. (1) The term "absent voter" means any elector who is absent from the county of his legal residence upon the day of any general, special or primary election, or whose place of residence is more than 15 miles from the polling place in the precinct of his registration, measured by the nearest traveled road, or who is physically unable to attend such elections in person, and who is a qualified elector of this state.

(2) Before any ballot is forwarded to a person on account of physical disability, the application for it shall be accompanied by a statement that the applicant is or will be on the day of election, unable to attend the election personally. When an application, accompanied with this statement, is made to the county clerk of any county in this state, a ballot shall be sent to the address of the absent voter as provided in this chapter.

253.020 Absent elector's right to vote. Any absent voter, as defined in ORS 253.010, who will be entitled to vote on the date of holding any general, special or primary election for the purpose of nominating or electing national, state, legislative, county, township, city or other municipal officers, or for the adoption or rejection of constitutional amendments or initiative or referred measures or other propositions submitted, may, in addition to other ways provided by law, vote at these elections as provided in this chapter.

253.030 Application for ballot. Within 60 days preceding an election any voter expecting to be absent, for any reason mentioned in ORS 253.010, on the day of the election, from the county, city or town in which his voting precinct is situated, may make application to the proper officer for the official ballot or ballots to be voted at the election. The application shall be in writing and signed by the applicant.

253.040 Sending and return of ballot. (1) On receiving an application the proper municipal officer shall file it and thereafter proceed in like manner as provided in this chapter.

(2) On receiving an application the county clerk shall file it in his office and enter the name of the voter, together with the address to which the ballot or ballots are to be sent, upon a list to be kept by the clerk. He shall also enter the date of re-

ceiving the application, the date of mailing the ballot or ballots, the date of receiving the ballot from the voter, and other information necessary or advisable. The clerk shall keep a separate list for each voting precinct in his district in the county. As soon as the official ballots are printed the clerk shall mail one each of the ballots to be voted to the absent voter, provided he is properly registered or will be a qualified elector at the coming election. These shall be mailed to the address named and the voter shall return them to the clerk not later than five days before the election so that he can place them in the elector's precinct ballot box before delivering it to the sheriff.

253.050 Initialing ballots before delivery to elector; elector's affidavit. Upon receipt of the official ballot the county clerk shall initial a sufficient number of them in the same manner provided by law for the initialing of ballots by the judges of election. He shall forward one of them or if there be more than one ballot to be voted, then one of each, to each applicant, as shown by the list provided for in ORS 253.040. He shall use due care that they are mailed, postage prepaid, at least 10 days before the opening of the polls on election day. He shall inclose with the ballot an envelope which shall bear upon the front of it the name, official title and postoffice address of the county clerk, together with a request for return, if not called for within three days, and upon the other side a printed affidavit in substantially the following form:

State of _____ }
County of _____ } ss.

I, _____, do solemnly swear that I am a resident of _____, precinct No. _____ of the [County] of _____ of the State of Oregon, [City]

and entitled to vote in such precinct; that the inclosed ballot was marked by me personally and inclosed in this envelope and sealed by me without being exhibited to any other person.

[Signature of absent voter]

Subscribed and sworn to before me this _____ day of _____, 19____.

[Signature of official]

[Official title]

Commission expires _____.

253.060 Instructions sent with ballot. The city or county clerk, or other officer as the case may be, shall inclose with each ballot separate printed instructions containing the following:

Upon receipt of this ballot you will proceed to mark it in accordance with instructions inclosed. Then fold it so that the corner bearing the initials of the clerk may be seen without unfolding the ballot. Place the ballot in the envelope inclosed and securely seal it, make out the affidavit printed upon the back and swear to it before a notary public or other officer authorized to administer oaths. Place the necessary postage upon the envelope and deposit it in the postoffice or in some government receptacle provided for the deposit of mail matter. The ballot to be valid must be mailed so that it will reach the county or city clerk in which your precinct is located five days before the election so that it may be deposited in the proper ballot box before delivering the ballot box to the sheriff.

253.070 Marking and returning ballot. Upon receipt of a ballot the voter to whom it is addressed shall mark it and otherwise comply with the printed instructions provided by ORS 253.060. The ballot, in order to be valid, must be received by the county clerk or city clerk five days before the election so that it may be deposited in the proper ballot box before delivering the ballot box to the sheriff.

253.080 Duties of clerk on receipt of ballot. Upon receipt of the envelope containing the marked ballots of any absent voter, the clerk shall keep it safely in his office until the ballot boxes are filled ready for delivery to the sheriff. Then the absent voters' ballots shall be placed in their respective boxes and delivered to the sheriff.

253.090 Procedure for verifying vote. The election board shall verify the legality of the vote by a comparison of the signature of the affidavit with that upon the application of the elector, by an examination of the poll book to see that the elector has not voted in person, and is a registered elector, and by an examination of the affidavit of the elector to see that it is properly filled out and attested.

253.100 Opening envelope and depositing ballot in box. When the election board has verified the legality of the vote as re-

quired by ORS 253.090, they shall open the absent voter's envelope and take out the ballot or ballots. Without unfolding them or permitting them to be opened or examined, they or one of them, shall detach the perforated numbered corner and, having satisfied themselves that the initials on it are the initials of the county clerk, they shall deposit them in the regular box or boxes provided for that purpose and shall deposit the ballot or ballots in the regular ballot box to be counted with the other ballots cast at the election. They shall also enter upon the proper poll book the fact of the voter having voted at the election by means of an absent voter's ballot.

253.110 Rejection of a ballot. If upon the examination of the envelope containing an absent voter's ballot or ballots the affidavit thereon is found to be insufficient or the signatures do not correspond, or if upon examination of the poll book it is discovered that such absent voter has voted in person in the precinct wherein he resides, or if in any way it is determined by the board that such ballot is illegal, then the vote shall not be allowed. Without opening the absent voter's envelope, the board or some member thereof shall mark across the face of the envelope "Rejected as defective" or "Illegal," as the case may be. The envelope and the ballot or ballots contained therein shall be retained and preserved in the manner now provided by law for the retention and preservation of defective official ballots voted at the election.

253.120 Right of elector receiving absent voter's ballot to vote in person; double voting. (1) The provisions of this chapter shall not be construed to prohibit any absent voter, returning to his place of residence, from voting in person within the precinct at any general, special or primary election. He may vote in person, even though he has made application for an absent voter's ballot and it has been mailed to him, if he has not availed himself of the privileges of an absent voter as provided by this chapter and voted the ballot mailed to him and if he returns such ballot, if received, to the election board. The election board shall mark it "Canceled" and place it in the regular ballot box with other ballots cast at the election.

(2) No voter shall vote in person and by means of an absent voter's ballot, or attempt so to vote.

253.130 [Repealed by 1955 c.332 §20]

253.140 Courts having jurisdiction of offenses. District courts and justices of the peace shall have jurisdiction of the offenses named in ORS 253.010 to 253.150.

253.150 Failure of officials to perform duties. Failure, neglect or refusal on the part of any official to perform the duties required of him by ORS 253.010 to 253.150 shall constitute malfeasance in office and for such he shall be subject to the penalties provided by law.

253.160 to 253.200 [Reserved for expansion]

253.210 Registered elector permitted to vote in person in precinct other than his own, when. Any registered elector who may be absent from the county on the day of election may procure from the county clerk of his county a certificate of his registration. On a request stating in which precinct the elector registered, the county clerk shall make the certificate under the seal of the county court and it may be accepted by the election officials of any precinct in any county as evidence of the right of the person named therein to vote for state and district officers and measures, as the case may be. The certificate shall be subject to challenge as is the voters list under ORS 250.350. It shall be invalid for all purposes after the next general election for state officers following the date of issuance. It shall be returned to the county clerk in a separate package and by him returned to the county clerk who issued it.

253.220 to 253.500 [Reserved for expansion]

253.510 Definitions. "Service voter" means a citizen of the State of Oregon absent from the place of his residence and serving:

- (1) In the Armed Forces of the United States, or
- (2) In the Merchant Marine of the United States, or
- (3) As a civilian employe of the United States, in whatever category, outside the territorial limits of the several states of the United States and the District of Columbia, whether or not the employe is subject to Civil Service or federal administrative acts, and whether or not paid from funds appropriated by the Congress of the United States, or

(4) As a member of a religious group or welfare agency assisting members of the Armed Forces and officially attached to and serving with the Armed Forces. [1955 c.332 §1]

253.520 Service voter may vote by mail. Service voters may vote in the manner provided by ORS 253.510 to 253.670 at any primary, general or special election that is held throughout the State of Oregon. [1955 c.332 §3]

253.530 Spouse and dependents of service voter may vote by mail. The spouse and dependents of any service voter, residing with him, may vote in the same manner as provided in ORS 253.510 to 253.670 for a service voter. [1955 c.332 §16]

253.540 Application for absentee ballot. (1) Any service voter may secure an absent voter's ballot by mailing a signed application therefor as specified in subsection (2) of this section to the county clerk of the service voter's residence, or to the Secretary of State. If the application is addressed to the Secretary of State, he shall forward it to the appropriate county clerk. The application shall be signed by the applicant and shall state his last home address, the address to which he wishes the absent voter's ballot mailed, and the facts qualifying him as a service voter.

(2) Whenever an application for an absent voter's ballot is made by a service voter, whether said application be made in the form of a post card or other written request containing the following information, the application shall be deemed valid for such subsequent election or elections as will be held within the calendar year in which application is received:

- (a) The name and address of the applicant;
- (b) That applicant is a citizen of the United States;
- (c) That he will be over 21 years of age at the date of the election;
- (d) That for more than six months preceding the election his home residence has been in the State of Oregon, and giving the address of his home residence;
- (e) That he qualifies as a service voter as described in ORS 253.510 to 253.670, or as the spouse or a dependent living with a service voter;
- (f) That he is not requesting a ballot from any other state and is not voting in any

other manner in the election except by the requested absentee ballot; and

(g) If applicant desires to vote in a primary election, his political party affiliation or preference. [1955 c.332 §§7,8]

253.550 Applications made under federal statutes. Whenever by any statute of the United States provision is made for absentee voting, an application for an absent voter's ballot made under the provisions of that law may be given the same effect as an application for an absent voter's ballot made under ORS 253.510 to 253.670. [1955 c.332 §2]

253.560 Absentee ballots. All ballots for service voters shall be printed and mailed by regular or air mail, whichever is faster, to applicants therefor as soon as possible after the same can be made up, and in any event not later than 20 days prior to the election, and shall be returned so that they will be received by the county clerk on or before the last day provided by general law for receipt of absentee ballots. [1955 c.332 §9]

253.570 Voting instructions and return envelope; form of voter's oath. In mailing absent voter's ballots to service voters, the county clerk shall send the ballot, printed instructions for marking the same and a return envelope addressed to the county clerk upon which there shall be plainly printed a form in substantially the following language:

"OATH OF ELECTOR FOR VOTING IN THE ELECTION TO BE HELD IN THE YEAR

"I hereby do solemnly swear that I am a citizen of the United States, over 21 years of age; that for more than six months immediately preceding this election my home residence has been in the State of Oregon, at

.....
(Street address or route)
in the City of, County of,
election precinct (name or number, if known); that I have applied for and received an official election ballot and am legally entitled to vote;

"That I am serving in the Armed Forces of the United States (); in the Merchant Marine of the United States (); as a civilian employe of the United States outside the territorial limits of the several states of the United States and the District of Columbia (); as a member of a religious group or welfare agency officially attached to and serving with the Armed Forces (); spouse or dependent of a service voter ();

"That I have not voted and do not intend to vote in this election at any address other than the above; and that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered, or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; that the inclosed ballot was marked by me personally, inclosed in this envelope and sealed by me without being exhibited to any other person.

.....
(Signature of voter)
"Subscribed and sworn to before me this
..... day of, 19.....

.....
(Signature of member of the Armed Forces authorized to administer oaths or other authorized person administering and attesting this oath.)

.....
(Title, rank, or rating of officer, or other person administering and attesting this oath.)"

[1955 c.332 §11]

253.580 Preparation and furnishing of letters of instruction and envelopes. The Secretary of State shall prepare all letters of instruction and envelopes herein provided for, and shall furnish the same to the county clerks at the expense of the state. The county clerk shall inclose one copy of said instructions with the ballots sent to each service voter. The instructions shall be substantially the same as are now used under the general absentee voters' law. [1955 c.332 §14]

253.590 Voter's oath. Oaths of voters under ORS 253.510 to 253.670 may be subscribed and sworn to before any member of the Armed Forces of the United States authorized under the rules and regulations of his service to administer such oaths, before any authorized member of the Merchant Marine of the United States, or before any civilian official empowered by state or federal law to administer oaths. [1955 c.332 §12]

253.600 Oath constitutes voter's registration; return of ballot by voter. A properly executed oath on the return envelope

hereby is declared to be a full and complete voter's registration for any election for which it is submitted. After marking the ballot, the service voter shall fold it and inclose it in the return envelope and seal the envelope, and then execute the oath on the back of said envelope. After execution of the oath, the ballot shall be mailed to the county clerk whose name and address are printed on the envelope. [1955 c.332 §13]

253.610 Ballot not invalidated by variations in signatures. Any variation in the signature on an envelope containing a service voter's ballot, and the signature on the service voter's request or on the voter's permanent registration card, caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the ballot if the surname and the handwriting are the same. [1955 c.332 §6]

253.620 Procedure governing receipt and subsequent handling of ballot. All procedure governing the receipt and subsequent handling of service voters' ballots shall as nearly as possible be governed by the general absentee voters' law. [1955 c.332 §15]

253.630 Marking election materials for postage-free transmission. As authorized by federal law, all ballots, applications therefor and all other official election balloting material referred to in ORS 253.510 to 253.670 shall be marked for postage-free, air mail transmission. [1955 c.332 §10]

253.640 State officers to coordinate voting by service voters with federal authorities. It shall be the duty of all public officers having duties to perform under ORS 253.510 to 253.670 to coordinate their efforts with the action of any federal authority now or hereafter established for the purpose of facilitating voting by service voters, to the end that such voters may cast their ballots with

the least possible interference with the performance of their duties. [1955 c.332 §4]

253.650 Secretary of State to administer. The Secretary of State shall have the power and it shall be his duty to administer ORS 253.510 to 253.670, to direct all election officials in respect to their duties hereunder, to publicize these provisions and to make such rules and regulations as will facilitate the operation and accomplishment of the purposes of ORS 253.510 to 253.670. [1955 c.332 §17]

253.660 Counties having registrar of elections. In counties having a registrar of elections, he shall perform the duties imposed by ORS 253.510 to 253.670 on the county clerk. [1955 c.332 §5]

253.670 Construction of service voter's law. ORS 253.510 to 253.670 and subsection (2) of 253.990 shall be liberally construed to accomplish their purpose so that all service voters may be afforded an opportunity to fully exercise the voting rights herein granted to them. [1955 c.332 §19]

253.680 to 253.980 [Reserved for expansion.]

253.990 Penalties. (1) Violation of any of the provisions of ORS 253.010 to 253.150 is punishable upon conviction by a fine of not less than \$10 nor more than \$300 or by imprisonment in the county jail not to exceed six months or both.

(2) Any person who makes a false statement in his oath upon the envelope containing his ballot, or in his application for a ballot, under ORS 253.510 to 253.670, shall be guilty of perjury and punished accordingly. Any person violating any other provision of ORS 253.510 to 253.670 shall be guilty of a misdemeanor and punished accordingly. [Subsection (2) enacted as 1955 c.332 §18]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

