Chapter 258

1959 REPLACEMENT PART

Voting Machines

DEFINITIONS AND GENERAL PROVISIONS

258.010 Definitions
258.020 Voting machines may be used at all elections
258.030 Applicable laws; conflicting laws and ordinances inapplicable
258.040 Illegal acts

ADOPTION AND PURCHASE OF VOTING MACHINES

258.110 Adoption of voting machines
258.120 Joint purchase and use
258.130 Methods of payment
258.160 Examination and approval of voting machines
258.170 Description of voting machine meeting requirements for approval
258.180 Public officers soliciting or accepting compensation in connection with voting machines prohibited
258.192 Counties authorized to issue bonds to acquire voting machines
258.194 Approval by Secretary of State of machines to be purchased and their price
258.196 Sale of bonds; use of bond proceeds; procedure in case of default
258.198 Establishing and operating joint facilities

PRECINCTS; ELECTION BOARD; VOTING MACHINE CUSTODIANS

258.210 Division or consolidation of precincts
258.220 Precinct election board
258.230 Instruction of boards before election
258.240 Voting machine custodians; chief custodian

BALLOTS AND ELECTION SUPPLIES

258.310 Printed matter and supplies required for each voting machine
258.320 Ballot labels
258.330 List of candidates and diagram for voting machine considered an official ballot and sample ballot

PRELIMINARIES TO OPENING POLLS

258.410 Exhibiting specimen machines; familiarizing voters with machine and its operation
258.420 Preparation of machine for use
258.430 Examination of machines by party representatives
258.440 Delivery of machines to polling places; lights on machines
258.450 Delivery of keys, diagrams, labels and other election supplies
258.460 Meeting of board at polls before opening time; duties before unlocking machine

VOTING

258.510 Record of voters having voted; informing voter on operation of machine; adjustment of machine when voter does not vote on all offices or questions
258.520 Voting secret; time allowed each voter to vote; vote only once
258.530 Physically disabled voters; furnishing voter with information on operation of machine
258.540 Inspection of machine and ballot labels by election officers
258.550 Procedure when machine becomes inoperative
258.560 Voting machine operation to cease at time for closing polls; exception
258.570 Improper acts of election officers prohibited

PROCEEDINGS AT CLOSE OF POLLS

258.610 Proceedings at close of polls
258.620 Canvass of vote; preparation of statements of canvass; results announced
258.630 Delivery of statements of canvass
258.640 Machine's counter compartment open for inspection during canvassing
258.650 Machine's registering mechanism to remain locked; recanvass at vote authorized
258.660 Notification of political party representatives before recanvassing
258.670 Conducting recanvass; testing machine
258.680 Relocking machine upon completion of recanvass

PENALTIES

258.990 Penalties

CROSS REFERENCES

Administration of election laws, Ch. 246

Criminal penalty for violations of election laws, 260 510

Election offenses, Ch. 260

Registrar of elections in Multnomah County to perform election duties of county clerk, 246.300

258.320

Candidate's statement not included on ballot where voting machines are used, 249.354

DEFINITIONS AND GENERAL PROVISIONS

258.010 Definitions. As used in this chapter:

(1) "Ballot labels" means the cards, papers or other material containing the names of offices and candidates and statements of questions to be voted on.

(2) "Candidate counters" means the counters on which are registered the votes cast for candidates.

(3) "County court" includes a board of county commissioners.

(4) "Custodian" means the person charged with the duty of testing and preparing the voting machine for the election

(5) "Diagram" means an illustration of the official ballot when placed upon the machine, showing the names of the parties, offices and candidates and statements of the questions in their proper places, together with the voting devices therefor.

(6) "Elections" means the elections referred to in ORS 258.020.

(7) "Governing body" means the county court or board of county commissioners of any county or the governing body of any city, town, district or other municipality, as the case may be.

(8) "Irregular ballot" means the paper or other material on which a vote is cast for persons whose names do not appear on the ballot labels.

(9) "Model" means a mechanically operated model of a portion of the face of the machine illustrating the manner of voting

(10) "Precinct" includes an election district.

(11) "Protective counter" or "protective device" means a counter or device that will register each time the machine is operated and is so constructed and so connected that it cannot be reset, altered or operated except by operating the machine.

(12) "Public counter" means a counter or other device which at all times publicly indicates how many times the machine has been voted on at an election.

(13) "Question" means a statement of a constitutional amendment or other proposition which is submitted to a popular vote at any election.

(14) "Question counters" means the counters on which are registered the votes cast on questions.

(15) "Statement of canvass" means a statement and return in book form of the votes cast at any election, together with suitable certificates of its correctness.

(16) "Vote indicators" means those devices with which votes are indicated for parties, candidates or for or against questions.

(17) "Voting machine booth" means the enclosure occupied by the voter when voting [1953 c 397 §1]

258.020 Voting machines may be used at all elections. At all state, county, city, town and district and other municipal elections of any character, primary, general, special or otherwise, held in the State of Oregon, ballots or votes may be cast, registered, recorded and counted by means of voting machines as provided in this chapter. [1953 c.397 §2]

258.030 Applicable laws; conflicting laws and ordinances inapplicable. All the provisions of the election laws and of any city charter or ordinance not inconsistent with this chapter apply to all elections in election precincts where voting machines are used. Any provision of law or of any city charter or ordinance which conflicts with the use of voting machines as provided in this chapter does not apply to election precincts in which voting machines are used. [1953 c.397 §30]

258.040 Illegal acts. (1) No person shall:

(a) Tamper with or injure or attempt to injure any voting machine to be used or being used in an election.

(b) Tamper with any voting machine that has been used in an election except as authorized by this chapter.

(c) Prevent or attempt to prevent the correct operation of any voting machine.

(2) No unauthorized person shall make or have in his possession a key to a voting machine to be used or being used in an election. [1953 c.397 §37]

258.050 to 258.100 [Reserved for expansion]

ADOPTION AND PURCHASE OF VOTING MACHINES

258.110 Adoption of voting machines. The governing body of any county, city or town, district or other municipality, at any regular meeting or a special meeting called for the purpose, may adopt, purchase or

otherwise procure, and provide for the use of, any voting machine approved by the Secretary of State in all or a portion of the election precincts thereof. Thereafter the voting machine may be used for voting at all primaries and elections for public offices and on all questions and for receiving, registering and counting the votes thereof in such election precincts as the governing body directs. [1953 c.397 §31; 1957 c.608 §207]

258.120 Joint purchase and use. In purchasing the necessary voting machines to be used as provided in this chapter, the county court of any county and the governing bodies of any incorporated cities, towns, districts or other municipalities in the county, may by agreement entered into by the county court and the governing bodies of the incorporated cities, towns, districts or municipalities, provide for the joint purchase and subsequent ownership of voting machines and for the care, maintenance and use of the machines. [1953 c.397 §33]

258.130 Methods of payment. (1) The governing body of any county, city, town, district or other municipality may, on the adoption and purchase of voting machines, provide for their payment in the method it determines to be for the best interest of the county, city, town, district or other municipality. The governing body may make contracts for the purchase of the machines with such provisions with regard to price, manner of purchase and time of payment that the governing body determines are proper.

(2) For the purpose of paying for voting machines, the governing body may:

(a) Issue bonds, warrants, certificates of indebtedness, notes or other negotiable obligations. The bonds, warrants, certificates, notes or other obligations shall be a charge upon the county, city, town, district or other municipality. They may be issued to bear interest not to exceed five percent a year. They may be made payable at such time or times as the governing body determines, but they shall not be issued or sold at less than par.

(b) Pay for the voting machines in cash out of the general fund.

(c) Provide for the payment for the voting machines by other means.

(3) In estimating the amount of taxes for the general fund, if any, the amount required for payment for voting machines shall be added, extending over the time required to pay for the machines. [1953 c.397 §32]

258.140 and 258.150 [Reserved for expansion]

258.160 Examination and approval of voting machines. (1) The Secretary of State shall publicly examine all makes of voting machines submitted to him and determine whether the machines comply with the requirements of ORS 258 170, and can safely be used by voters at elections under the provisions of this chapter and the election laws of the State of Oregon.

(2) Any person owning or interested in a voting machine may submit it to the Secretary of State for examination. For the purpose of assistance in examining the machine the Secretary of State may employ not more than three expert machinists at the prevailing wage for such machinists The compensation of the machinists shall be paid by the person submitting the machine.

(3) Within 30 days after completing the examination of any voting machine the Secretary of State shall make and file in his office his report on the machine, together with a written or printed description and drawings and photographs clearly identifying the machine and the mechanical operation thereof As soon as practicable after such filing, the Secretary of State upon request shall send a copy of the report to the governing body of any county, city, town, district or other municipality within the state.

(4) Any voting machine that receives the approval of the Secretary of State may be used for conducting elections as provided in this chapter. Any machine that does not receive such approval shall not be adopted for or used at any election After a voting machine has been approved by the Secretary of State, any change or improvement in the machine that does not impair its accuracy, efficiency or capacity shall not render necessary a re-examination or reapproval of the machine. [1953 c.397 §34; 1957 c.608 §208]

258.170 Description of voting machine meeting requirements for approval. (1) No voting machine shall be approved by the Secretary of State unless it is constructed so that it:

(a) Secures to the voter secrecy in the act of voting.

(b) Provides facilities for voting for the candidates of as many political parties or organizations as may make nominations and for or against as many questions as may be submitted. The voting devices for the candidates shall be arranged in separate parallel party lines, one or more lines for each party and in parallel office rows transverse thereto.

(c) Permits the voter to vote for any person for any office that he has the right to vote for but none other.

(d) Permits the voter, except at primary elections, to vote for all the candidates of one party or in part for the candidates of one party and in part for the candidates of one or more other parties.

(e) Provides that straight party pointers can be disconnected from all candidate pointers.

(f) Permits the voter to vote for as many persons for an office as he is lawfully entitled to vote for but no more.

(g) Prevents the voter from voting for the same person more than once for the same office.

(h) Permits the voter to vote for or against any question he may have the right to vote on but none other.

(i) Correctly registers or records all votes cast for any and all persons and for or against any and all questions.

(j) Is provided with a lock or locks by which all operation of the registering mechanism can be prevented as soon as the election polls are closed.

(k) Is provided with a "protective counter" or "protective device" whereby any operating or tampering with the machine before or after the election will be detected.

(L) Is provided with a "public counter" which shall show at all times during an election how many persons have voted.

(m) Is provided with one device for each party for voting for the presidential and vice presidential candidates of each party in years in which those officers are elected.

(2) No voting machine shall be approved by the Secretary of State unless it is provided with a mechanical model illustrating the manner of voting on the machine suitable for the instruction of voters. [1953 c 397 §35; 1957 c.608 §209]

258.180 Public officers soliciting or accepting compensation in connection with voting machines prohibited. Neither the Secretary of State nor any officer or employe of any county, city, town, district or other municipality using voting machines, shall solicit or accept any compensation, other than amounts paid by the governmental unit, in connection with the sale, lease or use of voting machines. [1953 c.397 §38; 1957 c 608 §210]

258.190 [Reserved for expansion]

258.192 Counties authorized to issue bonds to acquire voting machines. The governing body of any county may by its order after a hearing authorize the issuance of bonds by the county to provide funds to acquire voting and counting machines complying with the provisions of ORS 258.170. These bonds shall be of such denomination running for such term of years as shall be determined by the Secretary of State to be sufficient to permit the payment thereof, including interest, out of expenditures normally made by the county for election purposes and no longer necessary therefor on account of such acquisition of said machines, and including such other provisions and conditions as the governing body may determine. These bonds shall be executed on behalf of the county by members of the governing body and be conditioned that the county shall thereby undertake, in consideration of the premises, to pay at a place therein named to the bearer, or registered holder thereof, the sum named therein in legal tender of the United States, together with interest thereon in like legal tender, at the rate per annum named therein, payable semiannually. Nothing herein contained shall authorize the governing body of a county to authorize the issuance of bonds without complying with ORS 287.052 to 287.074, unless the Secretary of State shall find that the denomination and form of such bonds are such that the bonds, including interest, can be repaid out of funds normally to be expended by the county for election purposes and which no longer will be necessary therefor on account of the acquisition of the voting and counting machines for which such bonds are to be issued. [1959 c.582 §2]

258.194 Approval by Secretary of State of machines to be purchased and their price. The governing body of any county shall,

prior to authorizing the issuance of bonds as provided in ORS 258.192, obtain the approval in writing of the Secretary of State as to the type and number of machines to be purchased and the price to be paid therefor. [1959 c.582 §3]

258.196 Sale of bonds; use of bond proceeds; procedure in case of default. (1) Except as provided in subsection (2) of this section, the bonds shall be advertised for sale at least once each week for not less than two successive weeks in a newspaper of general circulation printed and published within the boundaries of the county, or if there is no such newspaper, then in a newspaper of general circulation in the county. Bids shall be in writing and sealed and, unless the bidder is the State of Oregon or an agency thereof, shall be accompanied by a certified check in an amount not less than two percent of the par value of the bonds for which the bid is submitted. All bids shall be opened publicly at the time and place specified in the advertisement, and the bonds shall be sold for cash. If bids for purchase of bonds are not satisfactory in the sole discretion of the governing body, the latter may reject them and readvertise for bids in the manner provided in this subsection.

(2) The governing body of the county may sell any bonds issued under the provisions of ORS 258.192 to 258.198 to the Federal Government, or any agency thereof, or to the State of Oregon, or any agency thereof, at private sale without advertisement or bids, but at a price which is not less than 98 percent of the principal of the bonds, plus accrued interest thereon at the time of sale. Notwithstanding any other provision of law, the State Treasurer may invest any of the funds referred to in ORS 291.604, and the Public Employes' Retirement Board may invest funds from the Public Employes' Retirement Fund, in bonds issued and sold under provisions of ORS 258.192 to 258.198. The provisions of ORS 258.192 to 258.198 are complete authority for the issuance and sale of and investment by the State Treasurer and the Public Employes' Retirement Board in bonds issued pursuant to ORS 258.192 to 258.198.

(3) When any such bonds are to be issued and sold under ORS 258.192 to 258.198 to the State of Oregon, the State Treasurer, the Public Employes' Retirement Board, or any other state agency (hereinafter called "state agency"), such state agency first shall approve the terms, provisions, and price of such bonds. Such bonds shall be issued to such state agency, to bear interest from a date certain not more than three months thereafter. At the request of the governing body of the county issuing such bonds and upon the written approval of the Secretary of State as to the type and number of machines to be purchased, such state agency shall purchase, for cash or upon credit, machines having a cost exclusive of interest and carrying charges, equal to the face amount of said bonds and shall order delivery thereof to the governing body of the county. The cost of transportation of such machines from the point of manufacture to the county issuing said bonds and the cost of repairing, maintaining, servicing, and insuring said machines shall be borne by the county. Subject to the terms of any conditional contract of sale under which the state agency may be purchasing such machines, such state agency shall retain title to such machines, for security purposes only, with the right to immediate possession thereof, free of any claim of the county, upon default in the payment of said bonds, either in principal or interest, or upon the failure of the county prior to the full payment of said bonds, to repair, maintain, service, or insure said machines in accordance with the rules and regulations pertaining thereto promulgated from time to time by the Secretary of State. If the county shall default in the payment of all, or any part of, such bonds, either in principal or interest and if, while such default continues, the state agency other than the State of Oregon shall repossess such machines, then, upon the request of the state agency that it do so, the State of Oregon, out of the General Fund, shall purchase such bonds so in default from the state agency for the principal thereof and interest then accrued thereon and thereby become entitled to title and possession of such machines. Neither such repossession nor such purchase of the bonds shall relieve the county from the payment thereof in accordance with their terms. Upon the payment of the bonds in full in accordance with their tenor, the county shall be vested with the title thereto, free of any claim of the state agency. [1959 c.582 §4, 5, 6]

258.198 Establishing and operating joint facilities. The several counties are authorized to contract with each other for,

invest jointly in, and jointly own, operate and maintain facilities for the storage, repair and maintenance of machines purchased under ORS 258 192 to 258 198, or otherwise, and upon the request of said counties the Secretary of State shall provide advice and technical assistance in establishing and operating such joint facilities. [1959 c 582 §7]

258.200 [Reserved for expansion]

PRECINCTS; ELECTION BOARD; VOTING MACHINE CUSTODIANS

258.210 Division or consolidation of precincts. The county clerk of a county or the governing body, clerk or other official designated by law of a city, town, district or other municipality may, not later than 40 days before any election, create, unite, combine or divide one or more election precincts for the purpose of using one or more voting machines therein at the election. The uniting, combining or dividing shall be done in the manner prescribed by law for the change of election precincts. More than one voting machine may be used in the same election precinct. The number of registered electors to be included in each of the election precincts shall be determined by such county clerk or governing body, clerk or other official, but the number shall not exceed 400 for each machine. [1953 c 397 §3; 1957 c.608 §211]

258.220 Precinct election board. The election board of each election precinct in which a voting machine is used shall consist of three or more clerks, one of whom shall act as inspector of election. If more than one voting machine is to be used in an election precinct, one additional inspector of election shall be appointed for each additional machine. The election officials shall not all be members of the same political party. [1953 c.397 §8; 1957 c.608 §212]

258.230 Instruction of boards before election. (1) Before each election at which voting machines are to be used, the custodian shall instruct all the inspectors of election and election board clerks in the use of the machine and their duties in connection therewith. The custodian shall give to each inspector and clerk who receives such instruction and is fully qualified to conduct the election with the machine a certificate to that effect.

(2) For the purpose of giving such instruction, the custodian shall call the meeting or meetings of the inspectors and clerks that are necessary. Each inspector and clerk shall attend the meetings and receive the instruction necessary for the proper conduct of the election with the machine. As compensation for the time spent in receiving such instruction each inspector and clerk that qualified for and serves in the election shall receive not less than $1 per hour, to be paid to him at the same time and in the same manner as compensation is paid to him for his services on election day.

(3) No inspector or clerk shall serve in any election at which a voting machine is used unless he has received the required instruction and is fully qualified to perform his duties in connection with the machine and has received a certificate to that effect from the custodian of the machines; but this requirement shall not prevent the appointment of an inspector or clerk to fill a vacancy in an emergency. [1953 c 397 §9; 1957 c 608 §213]

258.240 Voting machine custodians; chief custodian. (1) The county clerk of a county, or the clerk of a city, town, district or other municipality, in which voting machines are to be used shall cause them to be properly prepared for use. For that purpose he shall employ for such time as is necessary one or more competent persons who shall be known as the voting machine custodians. The voting machine custodians shall be sworn to perform their duties honestly and faithfully and, for such purpose, shall be considered as officers of election. They shall be paid for the time actually spent in the discharge of their duties in the same manner as other election officers are paid.

(2) If more than one custodian is employed, the custodians shall be selected from the political parties entitled to representation on a board of election officers.

(3) If a county, city, town, district or other municipality has at least 200 voting machines, the county clerk, or the clerk of the city, town, district or other municipality, may appoint a competent person who shall be known as the chief custodian of voting machines and who shall:

(a) Take an oath to perform his duties honestly and faithfully.

(b) Furnish a corporate surety bond in the sum of $5,000 for the honest and faithful performance of his duties

(c) Be compensated on a basis to be determined by the appointing official, to be paid out of the general fund of the county, city, town, district or other municipality in the same manner as provided by law for the payment of other salaries.

(d) Supervise the work of all other voting machine custodians provided for by law.

(e) School and instruct all other voting machine custodians provided for by law.

(f) Have general charge and supervision of the work of the custodians in the preparation of voting machines for elections.

(g) Check and approve the work of all custodians after the preparation of the voting machine for elections by the custodians

(h) Have charge of the instruction schools for election officials provided for by ORS 258.230.

(i) Have continuous charge of the maintenance, upkeep and care of the voting machines of his county, city, town, district or other municipality. [1953 c.397 §10]

258.250 to 258.300 [Reserved for expansion]

BALLOTS AND ELECTION SUPPLIES

258.310 Printed matter and supplies required for each voting machine. (1) The board or officials charged with the duty of providing ballots shall provide for each voting machine for each election the following printed matter and supplies:

(a) Suitable printed or written directions to the custodian for testing and preparing the voting machines for the election.

(b) One certificate on which the custodian can certify that he has properly tested and prepared the voting machine for the election.

(c) One certificate on which some person other than the custodian can certify that the voting machine has been examined and found to have been properly prepared for the election.

(d) One certificate on which the political party representatives can certify that they have witnessed the testing and preparation of the machines.

(e) One certificate on which the deliverer of the machine can certify that he has delivered the machines to the polling places in good order.

(f) One card stating the penalty for tampering with or injuring a voting machine.

(g) Two seals for sealing a voting machine.

(h) One envelope in which the keys to the voting machine can be sealed and delivered to the election officers. On the envelope shall be printed or written the designation and location of the election precinct in which the machine is to be used, the number of the machine, the number shown on the protective counter of the machine as reported by the custodian after the machine has been prepared for the election and the number or other distinctive mark on the seal with which the machine is sealed. The envelope shall have attached to it a detachable receipt for the delivery of the keys to the voting machine to the inspector of election or one of the election board clerks.

(i) One envelope in which the keys to the voting machine can be returned by the inspector of election.

(j) One card stating the name, address and telephone number of the custodian on the day of election.

(k) Two statements of canvass on which the election officers can report the canvass of the votes as shown on the voting machine together with other necessary information relating to the election. The statements of canvass shall take the place of all tally sheets, return sheets, statements and returns otherwise provided by law.

(L) Three complete sets of ballot labels.

(m) Two diagrams.

(n) Five suitable printed instructions to the inspector of election.

(o) Three notices to inspectors and election board clerks to attend the instruction meetings.

(p) Three certificates that the inspector and election board clerks have attended the instruction meetings, have received the necessary instruction and are qualified to conduct the election with the machine.

(2) The board or officials charged with the duty of providing ballots shall supply a sufficient number of extra ballots for use in case it is impossible to make use of the voting machine in any election precinct.

(3) Within a proper and reasonable time before the first election at which voting machines are to be used, the Secretary of State shall prepare samples of the printed matter and supplies named in this section. He shall furnish one of each of the samples to the board or officials in charge of the

election of each county, city, town, district or other municipality in which the machines are to be used. [1953 c.397 §4; 1957 c.608 §214]

258.320 Ballot labels. The ballot labels required to be furnished by paragraph (L) of subsection (1) of ORS 258.310 shall be printed in black ink on clear white material of such size and arrangements as to suit the construction of the machine. The ballot labels for questions may contain a condensed statement of each question to be voted on, accompanied by the words "Yes" and "No." The condensed statement shall be prepared by the same officer or body charged with preparing the statement of the question when paper ballots are used. The titles of the offices on the ballot labels shall be printed in type as large as the space for the office will reasonably permit. Where more than one candidate can be voted for an office, there shall be printed below the office title words indicating the number the voter is lawfully entitled to vote for out of the whole number of candidates, such as "Vote for two " Any provision of law requiring the names of candidates to be rearranged or rotated shall not apply to the arrangement of ballot labels upon voting machines, except that names of candidates shall be rotated by precinct and among machines within a precinct. [1953 c 397 §5; 1957 c.608 §215]

258.330 List of candidates and diagram for voting machine considered an official ballot and sample ballot. The list of offices and candidates, and the statements of questions, used on the voting machines shall be deemed an official ballot. The diagram shall be considered a sample ballot. [1953 c.397 §6]

258.340 to 258.400 [Reserved for expansion]

PRELIMINARIES TO OPENING POLLS

258.410 Exhibiting specimen machines; familiarizing voters with machine and its operation. (1) Before each election at which voting machines are to be used the custodian shall place on public exhibition a suitable number of machines for the proper instruction of voters. The machines shall be arranged and equipped with ballot labels so as to best illustrate the method of voting at that election and, so far as practicable, shall contain:

(a) The names of the offices to be filled.

(b) The names of the candidates to be voted for, together with their proper party designations in case of party elections.

(c) Statements of the questions to be voted on.

(2) In addition to supplying sample ballots, the board or officials charged with the duty of providing ballots shall, before the election, take reasonable additional steps to familiarize the voters with a diagram showing the face of the voting machine after the official ballot labels are arranged thereon, with illustrated instructions how to vote, and with the locations of the voting machines that are on public exhibition. [1953 c.397 §7]

258.420 Preparation of machine for use. (1) In preparing a voting machine for an election, the custodian shall, according to the printed directions furnished by the county clerk or the clerk of the city, town, district or other municipality, as the case may be:

(a) Arrange the machine and ballot labels so that it will in every particular meet the requirements for voting and counting at such elections.

(b) Thoroughly test machine.

(c) Certify to such clerk that the machine and ballot labels are properly arranged and that the machine is in proper working order.

(2) The party voting device on all voting machines shall be locked against movement. The political designations, if any, of candidates shall be printed upon the ballot labels in connection with their names.

(3) The clerk referred to in subsection (1) of ORS 258.240 shall direct the arrangement of all ballot labels on the machine. The arrangement of names of candidates upon the ballot labels shall conform as nearly as practicable to the provisions of law for the arrangement of names on paper ballots.

(4) After being prepared for the election, each voting machine shall be examined by the clerk referred to in subsection (1) of ORS 258.240, and if the machine be prepared in accordance with law for use at the election, the clerk shall file a certificate of that fact in his office. [1953 c.397 §11]

258.430 Examination of machines by party representatives. Before preparing the voting machines for any election, the clerk

referred to in subsection (1) of ORS 258.240 shall mail to the chairman of the county central committee of each political party who has notified such clerk that notice is desired, a written notice stating the times and place or places where voting machines will be prepared for the election. At such times and places, one representative of each political party is entitled to be present and see that the machines are properly prepared and placed in proper condition and order for use at the election. In nonpartisan elections each candidate may designate one representative who has the same powers as the political party representatives. The political party and candidate representatives shall certify that they have witnessed the testing and preparation of the machines. The certificate shall be filed in the office of the clerk referred to in subsection (1) of ORS 258.240. [1953 c.397 §12]

258.440 Delivery of machines to polling places; lights on machines. The custodian shall cause all voting machines to be delivered to the polling places in charge of an authorized official who shall certify to their delivery in good order on the certificate furnished therefor. After such delivery the clerk referred to in subsection (1) of ORS 258.240 shall provide proper protection therefor. The custodian shall provide a proper light for every machine. The light shall be in good order and give sufficient light to enable voters while in the voting machine booth to read the ballot labels and shall be suitable for use by the election officers in examining the counters [1953 c.397 §13]

258.450 Delivery of keys, diagrams, labels and other election supplies. Not later than 45 minutes before the time for opening the polls, the clerk referred to in subsection (1) of ORS 258 240 shall cause to be delivered to the inspector of election or one of the election board clerks:

(1) The keys for the voting machine. The keys shall be delivered in a sealed envelope on which shall be printed or written the designation and location of the election precinct in which the machine is to be used, the number of the machine, the number or other designative mark on the seal and the number registered on the protective counter as reported by the custodian. A receipt for the delivery of the keys shall be taken on the blank attached to the envelope.

(2) Two diagrams.

(3) One extra set of ballot labels.

(4) One envelope containing seal for sealing the machine after the polls are closed.

(5) One envelope for the return of the keys.

(6) Two statements of canvass.

(7) One card stating the name, address and telephone number of the custodian on the day of election.

(8) One card stating the penalty for tampering with or injuring a voting machine.

(9) All other supplies necessary for conducting the election. [1953 c 397 §14; 1957 c 608 §216]

258.460 Meeting of board at polls before opening time; duties before unlocking machine. (1) The election officers of each election precinct in which a voting machine is to be used shall meet at the polling place for the election precinct at least 45 minutes before the time set for opening the polls. Before unlocking the machine for voting the election officers shall proceed as prescribed in subsection (2) of this section.

(2) The election officers shall:

(a) Cause the voting machine to be placed where it can be conveniently attended by the election officers and conveniently operated by the voters and where the ballot labels on the machine can be plainly seen by the election officers and the public when not being voted on.

(b) Cause the model to be placed where each voter can conveniently operate it and receive instructions on the model as to the manner of voting before entering the voting machine booth.

(c) Post one diagram inside the polling room and one outside in places where the voters can conveniently examine them.

(d) Determine that the light is in such condition that the voting machine is sufficiently lighted to enable voters to read readily the names on the ballot labels.

(e) Determine that the ballot labels are in the proper places on the machine.

(f) Determine that the number or other designating mark on the seal sealing the machine, and the number registered on the protective counter, agree with the numbers written on the envelope containing the keys. If the numbers or other designating mark do not agree the election officers shall at once notify the custodian and delay unlocking the machine and opening the polls until the custodian has re-examined the machine. If the

numbers or marks do agree the election officers shall proceed to see if the public counter and all the candidate and question counters register "000." If any of the counters are found to register some number other than "000," an election board clerk shall at once notify the custodian who shall set the counter at "000."

(3) After performing their duties as provided in this section, the election officers shall certify to that fact in the appropriate places on the statements of canvass. When the polls are declared open, the inspector of election or an election board clerk shall break the seal and unlock the machine for voting. [1953 c 397 §15; 1957 c.608 §217]

258.470 to 258.500 [Reserved for expansion]

VOTING

258.510 Record of voters having voted; informing voter on operation of machine; adjustment of machine when voter does not vote on all offices or questions. (1) Before each voter enters the voting machine booth he shall sign the poll book and an election board clerk shall insert in the poll book opposite the voter's name the letter V and the number of his vote. The election officers shall, so far as possible, inform the voter how to operate the machine and illustrate its operation upon the model, and call his attention to the diagram.

(2) Whenever a voter who has the right to vote only on certain offices and certain questions enters the voting machine booth, the election officer shall adjust the voting machine so that the voter can vote on such office and questions, but on no others. [1953 c.397 §17; 1957 c.608 §218]

258.520 Voting secret; time allowed each voter to vote; vote only once. (1) Except as provided in ORS 258.530 for cases of physically disabled voters, the operation of voting shall be secret.

(2) No voter shall remain within the voting machine booth longer than five minutes. If the voter refuses to leave at the end of that time, the election officers may remove him. However, the election officers may grant the voter a longer time if no other voters are waiting to vote.

(3) No voter shall be permitted to enter the voting machine booth or to move the operating lever more than once. [1953 c.397 §18]

258.530 Physically disabled voters; furnishing voter with information on operation of machine. (1) If any voter declares in the presence of the election officers that by reason of physical disability he is unable to register or record his vote upon the machine, two election officers of opposite political parties, in case of party primaries or elections, or two election officers in case of nonpartisan primaries or elections, shall enter the voting machine booth with the voter and indicate and register his vote for the candidates and for or against the questions the voter designates.

(2) If any voter, after entering the voting machine booth, asks for information regarding the operation of the voting machine, the election officers shall give him the necessary information. [1953 c 397 §19]

258.540 Inspection of machine and ballot labels by election officers. The election officers shall occasionally examine the face of the voting machine and the ballot labels to determine that the machine and the ballot labels have not been damaged or tampered with. [1953 c.397 §20]

258.550 Procedure when machine becomes inoperative. (1) If any voting machine used in any election precinct, during or before the time the polls are opened, becomes damaged so as to render it inoperative in whole or in part, an election board clerk immediately shall notify the officials charged with the care of the machine.

(2) If possible, the officials so notified shall repair the machine at once or substitute another machine for the damaged machine. At the close of the polls, if a machine is so substituted, the records of both machines shall be taken and the votes shown on their corresponding counters shall be added together in ascertaining the results of the election.

(3) If no other machine can be procured for use at the election and the damaged machine cannot be repaired in time for further use at the election, or where in the discretion of a majority of the members of the election board it is impracticable to use the machine, the election officers shall permit the voters to use paper ballots prepared as in cases where paper ballots are used. The paper ballots shall be furnished the election officers by the clerk referred to in subsection (1) of ORS 258.240. The paper ballots shall be received by the election officers and placed by them in a receptacle to be

provided therefor and shall be voted, tallied and counted as nearly as possible in accordance with the laws relating to the voting, tallying and counting of paper ballots in such election. The paper ballots shall be counted with the votes registered on the voting machine. The result shall be declared as though there had been no accident to the voting machine. The paper ballots thus voted shall be preserved and returned to the clerk referred to in subsection (1) of ORS 258.240 with a certificate or statement setting forth how and why the paper ballots came to be voted The printed diagrams of reduced size referred to in subsection (2) of ORS 258.410 may be used as paper ballots. [1953 c.397 §16; 1957 c.608 §219]

258.560 Voting machine operation to cease at time for closing polls; exception. At the hour for closing the polls, the election board clerk who acts as inspector of election shall declare the polls of the election closed and shall not permit any further operation of the voting machine. However, voters who are, at the hour of closing, within the polling room or awaiting their turn to vote shall be considered as having begun the act of voting and shall be permitted to cast their votes upon the machine. [1953 c.397 §21; 1957 c 608 §220]

258.570 Improper acts of election officers prohibited. No election officer shall:

(1) Deceive any voter in registering or recording his vote under ORS 258.530.

(2) Register or record such vote in any other way than as designated by the voter.

(3) Give information to any person as to what candidates, or for or against what questions, the voter voted.

(4) Seek to suggest or persuade any voter to vote for any party, or for any candidate, or for or against any questions. [1953 c.397 §36]

258.580 to 258.600 [Reserved for expansion]

PROCEEDINGS AT CLOSE OF POLLS

258.610 Proceedings at close of polls. As soon as all voters have voted as provided in ORS 258.560, the election officers shall:

(1) Lock and seal the machine.

(2) Unlock and open the doors of the counter compartment.

(3) Canvass the votes registered on the counters in the counter compartment and the votes recorded on or in the device or devices for voting for persons not nominated.

(4) Make two statements of canvass of the vote in the manner prescribed in ORS 258.620 to 258.640. [1953 c 397 §22]

258.620 Canvass of vote; preparation of statements of canvass; results announced. (1) One election officer shall call the designating number and letter of each candidate's counter in the order given on the statement of canvass. Another election officer shall repeat each number and letter as it is read and announce the vote registered on the counter. Thereupon, the vote registered on the counter shall be entered in ink on each of the statements of canvass. The canvass of each office shall be completed before proceeding to the next office. The vote on each question shall be canvassed in the same manner. The votes cast on the irregular ballots and paper ballots shall then be canvassed.

(2) All votes for persons or questions whose names or propositions do not appear on the ballot labels shall be cast in the proper places on or in the device for irregular ballots. All votes for persons or questions whose names or propositions do appear upon the ballot labels shall be cast on the counters therefor. Any votes not so cast shall not be counted unless paper ballots are used.

(3) After completing and writing down the canvass of the votes cast, the election officers shall verify the canvass by comparing the figures on the statements of canvass with the figures on the counters in the voting machine and the names recorded on or in the device for voting for persons not nominated and shall then certify in the appropriate place on each of the statements of canvass:

(a) The number of voters that voted at the election as shown by the poll book and by the number registered on the public counter.

(b) The number registered on the protective counter.

(c) The number or other designating marks on the seal with which the machine has been sealed.

(4) After completing and certifying the statements of canvass, the inspector of election or an election board clerk shall read from the statements of canvass in a distinct voice·

(a) The name of each candidate.

(b) The designating number and letter of his counter as stated on the statement of canvass.

(c) The vote entered for each candidate.

(d) The vote for or against each question [1953 c.397 §23; 1957 c.608 §221]

258.630 Delivery of statements of canvass. (1) If the election is one at which state or county offices are voted for, one copy of the statement of canvass shall be delivered forthwith in a sealed envelope to the county clerk.

(2) If the election is one at which state or county offices are voted for and particular measures or offices are included and the returns for such measures or offices are not required by law to be made to the county clerk, one copy of such returns shall be delivered in a sealed envelope to the proper officer or body designated by law to receive them. This requirement is in addition to the requirement of subsection (1) of this section

(3) If the election is not one at which state or county offices are voted for, one copy of the statement of canvass shall be delivered forthwith in a sealed envelope to the office of the city clerk, city controller or other governing body authorized to receive the returns. [1953 c.397 §25]

258.640 Machine's counter compartment open for inspection during canvassing. During the canvassing and announcing of the vote, the counter compartment shall remain open, and any person lawfully present shall be given an opportunity to examine the counters to determine the correctness of the vote as announced. The counter compartment shall then be locked and the inspector of election shall deliver all keys of the machine in a sealed envelope to the officers or board in charge of the election. [1953 c.397 §24]

258.650 Machine's registering mechanism to remain locked; recanvass of vote authorized. The registering mechanism of each voting machine used in any election shall remain locked and sealed against operation for a period of 30 days following the election. However, if the election official authorized to make abstracts of the votes finds, in his discretion, that there is an apparent discrepancy or an inconsistency in the election returns, he may order that a recanvass of the voting machines be made in all, or any number, of the precincts of the county. The recanvass may, in the discretion of the election official, be made for all, or any number, of the candidates or measures voted upon. [1953 c.397 §26; 1957 c.608 §222]

258.660 Notification of political party representatives before recanvassing. Before recanvassing the votes cast on a voting machine, the election official ordering the recanvass shall give notice in writing to the custodian and to each political party that nominated candidates for the election of the time and place where the recanvass is to be made, and may invite representatives of organizations or other persons involved or interested in any candidate or measure voted upon to be present at the time the recanvass or recount is made. Each political party may send two representatives to be present at the recanvass. [1953 c.397 §27; 1957 c.608 §223]

258.670 Conducting recanvass; testing machine. (1) In conducting the recanvass the canvassing official may open the counter compartment of any voting machine without unlocking the machine against voting and recheck the vote cast thereon. If in the course of the recanvass the canvassing official determines that there is an error in the return of any precinct, he shall summon the inspector of election and election board clerks of the precinct, who shall correct the error by making notation thereof in the poll book and by initialing the notation. If the election officials do not appear, or fail or refuse to make the correction indicated, the canvassing official shall correct the error in the poll book and initial the correction.

(2) If, upon recanvass, it is found that the original canvass of the returns has been correctly made from the machine and that the discrepancy still remains unaccounted for, the canvassing official with the assistance of the custodian, in the presence of the inspector of election, the election board clerks and the authorized representatives of the several political parties or organizations who are attendant, shall:

(a) Make a record of the number or other designating mark on the seal and the number on the protective counter.

(b) Unlock the voting and counting mechanism of the machine.

(c) Proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the returns from the machine.

(3) Before being tested the counters shall be set at "000." After being so set, each counter shall be operated at least 100 times. Upon completion of the examination and test, the custodian shall prepare a statement in writing giving in detail the result of the examination and test. The statement shall be witnessed by the persons present and shall be filed with the county clerk or other election officer. [1953 c.397 §28; 1957 c.608 §224]

258.680 Relocking machine upon completion of recanvass. After the recanvass has been made the voting machines shall be immediately reclosed and the counter compartments relocked. [1953 c.397 §29]

258.690 to 258.980 [Reserved for expansion]

PENALTIES

258.990 Penalties. (1) Violation of ORS 258.570 is a felony punishable, upon conviction, by a fine of not less than $50 nor more than $500 or by imprisonment in the state penitentiary for not more than one year, or by both.

(2) Violation of ORS 258.040 or 258.180 is a felony punishable, upon conviction, by a fine of not less than $100 nor more than $500 or by imprisonment in the state penitentiary for not more than five years, or by both. [1953 c.397 §39]

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 November 1, 1959

Sam R. Haley
Legislative Counsel

CHAPTER 259
[Reserved for Expansion]