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Chapter 246

1967 REPLACEMENT PART
(1969 reprint)

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DEFINITIONS AND GENERAL PROVISIONS

246.010 [Repealed by 1957 c.608 §231]

246.011 Definitions. As used in ORS 246.011 to 246.150 and 246.210 to 246.910, unless the context requires otherwise:

(1) "County court" means the county court sitting for the transaction of county business or the board of county commissioners.

(2) "Election laws" does not include city charter or ordinance provisions relating to elections.

(3) "Local election official" means any person who is:

(a) An official of any election precinct or school or other district or public corporation, other than a city, organized for public purposes and located in whole or in part in a county; and

(b) Authorized or required by law to perform functions in connection with elections held in such election precinct or school or other district or public corporation, other than a city, organized for public purposes. [1957 c.608 §1]

246.020 [Repealed by 1957 c.608 §231]

246.021 Time within which election documents must be received by election officer. (1) All declarations of candidacy for nomination for a public office, completed nominating petitions, statements and portrait cuts for official Voters' Pamphlets, reports of election campaign contributions and expenditures, initiative and referendum petitions and other papers and documents of like nature, required by law to be filed with the Secretary of State, county clerk, county registrar of elections, city clerk, recorder, auditor or other elections officer, not later than a specified number of days prior or subsequent to an election, must be delivered to and actually received at the office of the designated official not later than 5 p. m. of the last day permitted by law for such filing.

(2) The exception to the provisions contained in subsection (1) of this section is, when at 5 p.m. an individual is physically present in the office of the designated officer and in line awaiting his turn to deliver a document, he shall be considered as having begun the act of delivering the document and shall be permitted to file same.
[Formerly 246.510; amended by 1967 c.228 §1]

246.030 [Repealed by 1957 c.608 §231]

246.035 Local official to file election results with Secretary of State. Each local election official shall file a copy of the results of all elections conducted within his district with the Secretary of State.
[1965 c.527 §4]

246.040 [Repealed by 1957 c.608 §231]

246.045 Premature release of vote tally prohibited. (1) "Time" as used in subsection (2) of this section means the time established in the Pacific time zone as determined by the Uniform Time Act of 1966 (Public Law 89-387).

(2) No person shall make public the results of the tally of votes from any precinct at any election until after the time for the close of the polls.
[1967 c.338 §§2, 3]

246.050 [Repealed by 1957 c.608 §231]

246.060 [Repealed by 1957 c.608 §231]

246.070 [Repealed by 1957 c.608 §231]

246.080 [Repealed by 1957 c.608 §231]

246.090 [Repealed by 1957 c.608 §231]

246.100 [Repealed by 1957 c.608 §231]

SECRETARY OF STATE

246.110 Secretary of State as chief election officer. The Secretary of State is the chief election officer of this state, and it is his responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws.
[1957 c.608 §2]

246.120 Directives and instructions to county clerks. In carrying out his responsibility under ORS 246.110, the Secretary of State shall cause to be prepared and distributed to each county clerk detailed and comprehensive written directives and instructions relating to and based upon the election laws as they apply to elections, registration of electors and voting procedures which by law are under the direction and control of the county clerk. Such directives and instructions shall include sample forms of ballots, papers, documents, records and other materials and supplies required by such election laws. The Secretary of State shall prescribe a form for voter registration cards based on the voter registration laws and, from time to time, shall cause to be prepared and distributed to each county clerk such written corrections of such directives and instructions and of the form for registration cards as are necessary to maintain uniformity in the application, operation and interpretation of and to reflect changes in the election laws. Each county clerk affected thereby shall comply with such directives and instructions, and corrections thereof, and shall provide voter registration cards prepared in accordance with the prescribed form.
[1957 c.608 §3; 1965 c.464 §1]

246.130 Advice and assistance to county clerks. In carrying out his responsibility under ORS 246.110, the Secretary of State shall assist and advise each county clerk with regard to the application, operation and interpretation of the election laws as they apply to elections, registration of electors and voting procedures which by law are under the direction and control of the county clerk.
[1957 c.608 §4]

246.140 Conferences for county clerks; compliance with instructions. In carrying out his responsibility under ORS 246.110, the Secretary of State, not less than 120 days and not more than 200 days before the general primary election, shall cause to be organized and conducted at convenient places and times in this state at least three conferences on the administration of the election laws. The Secretary of State shall cause written notice of the place and time of each conference to be given to each county clerk. Each county clerk or his designated deputy shall attend at least one of the conferences and shall comply with the instructions given under the authority of the Secretary of State at each conference such county clerk attends.
[1957 c.608 §5; 1959 c.263 §1]

246.150 Rules and regulations. Subject to and in accordance with any applicable election law, other than ORS 246.110 to 246.140, 246.810 and 246.820, the Secretary of State may promulgate such rules and regulations as he considers necessary to facilitate and assist in achieving and maintaining a maximum degree of correctness, impartiality and efficiency in his administration of the election laws, other than ORS 246.110 to 246.140, 246.810 and 246.820.
[1957 c.608 §8]

246.160 Compilations and digests of election laws; distribution of supplies and materials to county clerks. The Secretary of State shall:

(1) Prepare and cause to be printed, in appropriate and convenient form, periodic compilations and digests of the election laws.

(2) Distribute in appropriate quantities to the county clerks for use by such county clerks and by election boards, copies of such

compilations and digests and such supplies and materials necessary to the conduct of elections as the Secretary of State considers appropriate, including poll books, tally sheets, return sheets and abstract of votes sheets.

(3) Make such compilations and digests available for distribution, free or at cost, to interested persons.

[1957 c.608 §125; 1963 c.455 §1; part renumbered 246.170]

246.170 Election Supply Service Revolving Account. There hereby is established in the General Fund of the State Treasury an account to be known as the Election Supply Service Revolving Account. All moneys received by the Secretary of State under ORS 246.160 shall be deposited therein; and all moneys in the account hereby are appropriated continuously to the Secretary of State for the payment of expenses incurred in performing the functions described in ORS 246.160.

[Formerly part of 246.160]

COUNTY CLERK; REGISTRAR OF ELECTIONS

246.210 County clerk to supervise local election officials. Subject to and in accordance with the directives and instructions prepared and distributed or given under the authority of the Secretary of State under ORS 246.120 or 246.140, each county clerk may exercise general supervision of the administration of the election laws by each local election official in his county for the purpose of achieving and maintaining a maximum degree of correctness, impartiality, efficiency and uniformity in such administration by local election officials. If two or more county clerks exercise general supervision under this section of the administration of the election laws by the same local election official, such county clerks shall cooperate and coordinate to insure uniformity of such general supervision.

[1957 c.608 §9]

246.220 Directives and instructions of county clerk. Each county clerk may prepare and issue such directives and instructions as he considers necessary to facilitate and assist in carrying out his exercise of general supervision under ORS 246.210. Such directives and instructions shall be directed to and shall be complied with by each local election official affected thereby. Each county clerk shall distribute to each local election official affected thereby a copy of each directive or instruction prepared and issued under this section. Each county clerk may make available for distribution, free or at cost, to other interested persons such directives and instructions.

[1957 c.608 §10]

246.230 Duties in connection with administration of election laws. In carrying out his exercise of general supervision under ORS 246.210, each county clerk shall:

(1) Subject to and in accordance with any applicable election law, devise and prescribe for use by each local election official in his county in the administration of the election laws the contents, forms, character and kinds of ballots, papers, documents, records and other materials and supplies required or permitted by the election laws or otherwise necessary in such administration by such local election officials. Each local election official shall use such ballots, papers, documents, records and other materials and supplies so prescribed.

(2) Require each local election official in his county to submit reports pertaining to the administration of the election laws by such local election official. Each local election official shall comply with any such requirement.

(3) Inspect and observe the administration of the election laws by any local election official in his county at any time he deems necessary.

(4) Carry on a program of inservice training for local election officials in his county by periodically distributing to them such bulletins, manuals and other informational and instructional materials and by establishing and conducting such classes of instruction pertaining to the administration of the election laws by local election officials as the county clerk considers desirable.

[1957 c.608 §11; 1965 c.527 §1]

246.235 Effect of failure to comply with 246.230. An election conducted by any local election official who has not complied with the lawful directives of the county clerk as provided in ORS 246.230 may be the subject of a petition of contest as provided in subsection (1) of ORS 251.025.

[1965 c.527 §3]

246.240 [1957 c.608 §12; repealed by 1965 c.527 §5]

246.250 Personnel; equipment, materials and facilities; payment of expenses; administering oaths. (1) The county clerk may employ such personnel and procure such equipment, supplies, materials, books, papers, records and facilities of every kind as he considers necessary to facilitate and assist in carrying out his functions in connection with administering the election laws.

(2) The necessary expenses incurred by the county clerk in administering the election laws, including reasonable rental for polling places, shall be allowed by the county court and paid out of the county treasury.

(3) The county clerk and his deputies may administer oaths and affirmations in connection with the performance of their functions in administering the election laws. [1957 c.608 §14]

246.260 Preparation and use of materials and supplies by county clerk. Subject to any applicable election law, the county clerk may devise, prepare and use in his administration of the election laws the ballots, papers, documents, records and other materials and supplies required or permitted by the election laws or otherwise necessary in such administration by such county clerk. [1957 c.608 §15]

246.270 Office hours of county clerk on election days. On the day of any general, special or primary election held throughout the county, the county clerk shall keep his office open for the transaction of business pertaining to the election from the time the polls are opened in the morning continuously until the polls are closed. [1957 c.608 §18]

246.300 Registrar of elections in Multnomah County. (1) In each county with a population of more than 300,000, the county court shall appoint a county officer to be known as the registrar of elections and whose compensation shall be paid from county funds.

(2) The registrar of elections shall perform all the functions which are now or hereafter may be prescribed to be performed by the county clerk in connection with administering the election laws. The registrar of elections and his deputies may administer oaths and affirmations in connection with the performance of their functions.

(3) Upon the appointment and qualification of the registrar of elections the county clerk shall:

(a) Be relieved from the performance of all functions in connection with administering the election laws.

(b) Deliver to the registrar of elections all equipment, supplies, materials, books, papers, records and facilities of every kind in his custody pertaining to such functions. [1957 c.608 §17]

PRECINCT ELECTION BOARDS

246.310 Precinct election boards. (1) Not less than 30 days preceding the primary election:

(a) The county clerk shall appoint an election board for each precinct. If the poll book of the precinct is divided into two or more separate parts as provided in subsection (1) of ORS 250.310, the county clerk shall appoint an election board for each such separate part.

(b) The county clerk may appoint an additional election board or boards for any precinct in which 100 or more ballots were cast at the last general election or in which there are more than 200 registered electors.

(2) Each election board shall consist of three or more clerks, who shall serve for a period not to exceed two years from the date of their appointment, or during the pleasure of the county clerk. The county clerk shall designate one clerk of each board as the chairman thereof.

(3) Each election board clerk shall be a registered elector within the precinct or contiguous precincts for which he is appointed, shall be able to read, write and speak English and may not be a candidate for any office, except precinct committeeman, to be voted for at the election next succeeding his appointment. The clerks of an election board shall not all be members of the same political party. The county clerk shall appoint election board clerks who have the necessary capacity and ability to carry out their functions with sufficient skill and dispatch.

(4) For the purposes of this subsection, the word "board" refers to the counting board. The board shall consist of not less than four clerks. The Secretary of State shall issue an administrative order outlining the duties of each of these clerks.

(5) In the event of a vacancy in the office of election board clerk by reason of death, removal from the precinct or contiguous precincts, disqualification or excusal by the board for sufficient cause, the county

clerk shall appoint a qualified person to fill the vacancy for the unexpired term.
[1957 c.608 §22; 1959 c.317 §1; 1963 c.37 §1; 1963 c.159 §1]

246.320 Notifying appointees and posting their names; hearing and determining objections; filling vacancies. (1) Immediately after the appointment of election board clerks as provided in subsection (1) of ORS 246.310, the county clerk shall:

(a) Make and certify a list of the names of the persons appointed for each precinct, post the list in a conspicuous place in his office and keep it posted for five days and promptly send a copy of the list by mail to the chairman of the county central committee of each major political party, as defined in ORS 248.010.

(b) By mail, notify each person appointed of his appointment and request his acceptance in writing, and shall keep a record of all notifications and acceptances.

(2) Within five days after the posting of the list as provided in subsection (1) of this section, any elector may file with the county clerk, without charge, any objection or suggestion respecting the appointments, with a view to having them revised by the county clerk. The county clerk shall hear and consider all objections and suggestions so filed with him.

(3) The county clerk, after he has heard and considered all objections and suggestions filed with him as provided in subsection (2) of this section, if any, shall:

(a) Make and certify a revised list of the names of the persons appointed for each precinct, keep the list available for public inspection in his office for two years and promptly send a copy of the list by mail to the chairman of the county central committee of each major political party, as defined in ORS 248.010.

(b) By mail, notify each person, if any, whose name appears on the revised list but not on the original list of his appointment and request his acceptance in writing, and shall, by mail, notify each person, if any, whose name appears on the original list but not on the revised list of the cancellation of his appointment. The county clerk shall keep a record of all notifications and acceptances under this paragraph.

(4) If any person whose appointment as election board clerk is not canceled fails to accept the appointment within two weeks after being notified, the county clerk shall appoint another qualified person in the same manner as the filling of a vacancy in the office of election board clerk.
[1957 c.608 §23]

246.330 Compensation of election board clerks. Each election board clerk shall be compensated at a rate of not less than $1 per hour and not less than $6 per day. The specific compensation shall be fixed and allowed by the county court and paid out of the county treasury.
[1957 c.608 §24]

246.340 Meetings with county clerk. Not less than three days before each primary and regular biennial general election, each county clerk shall meet at a convenient place and time with all election board clerks appointed under ORS 246.310 for the purpose of advising and instructing such election board clerks with regard to the proper election and voting procedures to be followed by such election board clerks in performing their functions. The county clerk shall cause written notice of the place and time of such meeting to be given to each election board clerk. The advice and instruction given under the authority of the county clerk under this section shall conform to any applicable directives and instructions prepared and distributed or given under the authority of the Secretary of State under ORS 246.120 or 246.140.
[1957 c.608 §25; 1959 c.89 §1]

PRECINCTS; POLLING PLACES

246.410 Establishment and division of precincts. (1) Not later than January preceding the primary election the county clerk shall divide all precincts having more than 500 registered electors residing therein, except a precinct located in a single multiple dwelling may have more than 500 registered electors. The county clerk shall fix the boundaries of the precincts and designate the precincts by numbers or names. No precinct in any city with a population of 2,000 or more, according to the latest federal decennial or state census, shall include territory outside the corporate limits of the city.

(2) At any special election which is called for the purpose of voting on a single public office or for the purpose of voting on measures only, the county clerk of a county may, not later than 40 days before such election, combine two or more election precincts for the purpose of such special election. The

combining shall be done in the manner prescribed by law for the change of election precincts. In combining election precincts, the county clerk shall consider the convenience of the voter. No combination of precincts shall number more than 2,000 electors.

(3) Subject to the limitations set forth in subsection (1) of this section, at any time after the primary election and before the next succeeding regular biennial general election:

(a) The county clerk shall make such changes in the boundaries of election precincts as are necessary to reflect changes occurring during such period in the corporate limits of any city with a population of 2,000 or more after any such change in corporate limits.

(b) The county clerk shall make such other changes in the boundaries of election precincts as are necessary or convenient for voting purposes.

[1957 c.608 §20; 1959 c.317 §2; 1965 c.109 §1]

246.420 Designation of polling places. Not later than the tenth day preceding any election the county clerk shall designate one polling place for each election precinct. Wherever practicable the county clerk may designate as a polling place any public building, including any schoolhouse, owned or leased by the state or any political subdivision thereof, and such public building may be used as a polling place without expense to the county. More than one polling place may be designated in the same building.

[1957 c.608 §21; 1961 c.49 §1; 1961 c.174 §1]

Note: As indicated in the source note to ORS 246.420, that section was amended by two 1961 Acts, i.e., chapters 49 and 174, Oregon Laws 1961. Chapter 49, which was signed by the Governor on March 6, 1961, deleted "Not less than 10 days" and inserted "Not later than the tenth day" in ORS 246.420. Chapter 174, which was signed by the Governor on April 5, 1961, did not include this amendment. Both Acts took effect on August 9, 1961.

246.510 [1955 c.246 §1; renumbered 246.021]

COMPELLING ELECTION OFFICERS TO PERFORM DUTIES

246.810 Duties of district attorney upon notification county clerk has failed to comply with directive or instruction. (1) Any person having knowledge of any failure of a county clerk to comply with a lawful directive or instruction prepared and distributed or given under the authority of the Secretary of State under ORS 246.120 or 246.140 may notify the district attorney of the county. Upon receipt of such notification the district attorney shall proceed immediately to investigate the alleged failure of the county clerk to comply. Upon the conclusion of the investigation the district attorney shall advise and direct the county clerk with regard to how he must proceed in connection with the matter. The county clerk shall proceed immediately to comply with the directive of the district attorney.

(2) If the district attorney, upon the conclusion of an investigation under subsection (1) of this section, determines that the county clerk has failed to comply with a lawful directive or instruction prepared and distributed or given under the authority of the Secretary of State under ORS 246.120 or 246.140, and that such failure to comply involves a violation by the county clerk of any statute, the violation of which is punishable by a criminal penalty or forfeiture of office, the district attorney shall promptly proceed to prosecute such violation by the county clerk.

(3) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against a county clerk who fails to comply with a lawful directive or instruction prepared and distributed or given under the authority of the Secretary of State under ORS 246.120 or 246.140, or who violates any statute.

[1957 c.608 §6]

246.820 Mandamus to compel county clerk to comply with directive or instruction. (1) Whenever it appears to the Secretary of State that a county clerk has failed to comply with a lawful directive or instruction prepared and distributed or given under the authority of the Secretary of State under ORS 246.120 or 246.140, the Secretary of State may apply to the appropriate circuit court or a judge thereof for a writ of mandamus to compel the county clerk to comply with such directive or instruction. In any such mandamus proceeding it is a defense that the directive or instruction in question is unlawful.

(2) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against a county clerk who fails to comply with a lawful directive or instruction prepared and distributed or given under the authority of the

Secretary of State under ORS 246.120 or 246.140.
[1957 c.608 §7]

246.830 Procedure where local election official fails to comply with law, directive or instruction. (1) Whenever it appears to a county clerk that any local election official in his county has failed to comply with any election law or any directive or instruction prepared and issued by the county clerk under ORS 246.220, the county clerk may issue an order to such local election official. The order shall specify in what particular the local election official has failed to comply, indicate the proper manner of compliance and direct the local election official to so comply with such law or directive or instruction within a designated reasonable time.

(2) If the local election official fails to comply as directed by the order of the county clerk, the county clerk may apply to a judge of the circuit court for the county in which the county clerk holds office for an order, returnable within five days from the date thereof, to compel the local election official to comply with the order of the county clerk or to show cause why he should not be so compelled. Upon receipt of the application of the county clerk the judge shall issue the appropriate order, which shall be final. The judge shall dispose of the matter as soon as possible and not more than 10 days after his order is returned by the local election official.

(3) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against the noncomplying local election official.
[1957 c.608 §13]

APPEALS FROM ELECTION OFFICERS

246.910 Appeal from Secretary of State or county clerk to courts. (1) Any person adversely affected by any act or failure to act by the Secretary of State or a county clerk under any election law, or by any order, rule, regulation, directive or instruction made under the authority of the Secretary of State or of a county clerk under any election law, may appeal therefrom to the circuit court for the county in which the act or failure to act occurred or in which the order, rule, regulation, directive or instruction was made or in which such person resides.

(2) Any party to the appeal proceedings in the circuit court under subsection (1) of this section may appeal from the decision of the circuit court to the Supreme Court.

(3) The circuit courts and Supreme Court, in their discretion, may give such precedence on their dockets to appeals under this section as the circumstances may require.

(4) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against any act or failure to act by the Secretary of State or a county clerk under any election law or against any order, rule, regulation, directive or instruction made under the authority of the Secretary of State or a county clerk under any election law.
[1957 c.608 §19]

246.990 [Repealed by 1957 c.608 §231]

PENALTIES

246.991 Penalties. Violation of subsection (2) of ORS 246.045 is punishable, upon conviction, by a fine of not more than $500 or imprisonment in the county jail for not more than six months.
[1967 c.338 §4]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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 December 1, 1967.

Robert W. Lundy
Legislative Counsel