Chapter 253

1971 REPLACEMENT PART

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ABSENT VOTERS GENERALLY

253.010 Definitions for ORS 253.010 to 253.150; statement of reason for absence required. (1) As used in ORS 253.010 to 253.150, unless the context requires otherwise:

(a) "Absent voter" means any registered elector of this state who has reason to believe that he will be absent from the county in which his voting precinct is situated 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 his voting precinct, measured by the nearest traveled road, or who is or will be physically unable for any reason to attend such election.

(b) "Clerk" means any county clerk or other officer who furnishes ballots for any general, special or primary election.

(2) Before any absentee ballot is delivered to a person, the application for it shall be accompanied by a statement relating why the applicant will be physically unable to attend the election personally. When an application, accompanied by this statement, is made to the clerk, a ballot shall be delivered to the absent voter as provided in ORS 253.040.

[Amended by 1957 c.641 §1; 1959 c.458 §1; 1969 c.676 §1]

253.020 Absent elector's right to vote. Any absent voter 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, 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 lieu of other ways provided by law, vote at these elections as provided in this chapter.

[Amended by 1957 c.641 §2]

253.030 Application for ballot. Not more than 60 days preceding an election any absent voter may make application to the clerk for the absent voter official ballot to be voted at the election. The application shall be in writing and signed by the applicant. An application, in order to be valid, must be received by the clerk not later than 8 p.m. the day of the election. An application is valid if the absent voter making such application is physically unable to attend the election.

[Amended by 1957 c.641 §3; 1959 c.458 §2; 1969 c.676 §2]

253.035 Signature on application to be verified. Upon receiving an application for an absentee ballot made under ORS 253.030, the clerk shall compare the signature on the application with the signature on the applicant's registration card to determine if in fact the applicant is a registered elector of the county.

[1969 c.676 §5]

Note: ORS 253.035 was not added to and made a part of ORS 253.010 to 253.150 by legislative action.

253.040 List of absent voters; official ballots and other materials; delivery of materials to voter. (1) On receiving an application made under ORS 253.030 the clerk shall file it in his office and enter the name and residence address of the absent voter and the address, if any, to which the ballot is to be delivered upon a list kept by the clerk. He shall also enter the date of receiving the application, the date of delivering the ballot, the date of receiving the ballot from the absent voter and other information necessary or advisable. The clerk shall keep a separate list for each precinct.

(2) As soon as possible after he receives the official information concerning candidates and measures to be voted on at the election the clerk shall cause to be printed as many absent voter official ballots as may be necessary. Absent voter official ballots may be the regular official ballots used at the election or special ballots in substantially the same form as the regular official ballots used at the election. No special absent voter sample ballots shall be printed. The official ballot delivered to each absent voter shall contain the names and other information concerning all candidates and the information concerning all measures for whom or which the absent voter is entitled to vote. In lieu of the names and other information concerning candidates for precinct offices within a county or city, blank spaces shall be provided on the ballot, in which the absent voter may write the names of candidates for election as precinct committeeman or committeewoman for whom he is entitled and desires to vote. A facsimile of the initials of the clerk shall be printed on the stub or stubs on the ballot in order to identify it as an absent voter official ballot. The stub or stubs on the ballots of each set of ballot forms containing the same information shall be numbered consecutively. The clerk shall carefully superintend the safe keeping and disposition of the ballots and shall destroy all unused ballots as soon as practicable

after the closing of the polls at the election.

(3) As soon as the absent voter official ballots are printed the clerk shall cause to be delivered one each of the ballots to be voted to the absent voter. The ballot may be delivered to the absent voter in the office of the clerk, by mail, postage prepaid, or by any other appropriate means. Such delivery shall, in so far as possible, be made in sufficient time to permit the absent voter to mark and return the ballot to the clerk as provided in ORS 253.070.

(4) The clerk shall cause to be delivered with the ballot a separate sheet containing instructions for marking and returning the ballot and an envelope to use for such return. The name, official title and office address of the clerk shall appear on the front of the envelope, and on the rear thereof shall appear a statement to be signed by the absent voter, stating that he is qualified to vote, has personally marked the ballot and has not exhibited the marked ballot to any other person. Such statement shall be witnessed by two competent persons other than the absent voter, whose signatures and residence addresses shall appear thereon, or shall be sworn to or affirmed by the absent voter before some person authorized by law to administer oaths and affirmations.

[Amended by 1957 c.641 §4; 1959 c.458 §3]

253.050 [Repealed by 1957 c.641 §23]

253.060 [Repealed by 1957 c.641 §23]

253.070 Marking and returning ballot. Upon receipt of a ballot the absent voter shall mark it and otherwise comply with the instructions provided by subsection (4) of ORS 253.040. If the ballot is delivered to him in the office of the clerk, the absent voter may immediately mark and return it to the clerk at such time and place. The absent voter may return the marked ballot by personal delivery in the office of the clerk, by mail or by any other appropriate means. The ballot, in order to be valid, must be received by the clerk not later than 8 p.m. of the day of the election.

[Amended by 1957 c.641 §5; 1969 c.676 §3]

253.080 Duties of clerk on receipt of ballot. (1) Upon receipt of the envelope containing the marked ballot of any absent voter, the clerk shall keep it safely in his office and deliver it to the proper election board before the closing of the polls at the election or to a special counting board appointed under subsection (1) of ORS 253.085.

(2) Before delivering the absent voter's ballot to the proper election board or to a special counting board, the county clerk shall compare the signature of the absent voter on the statement referred to in subsection (4) of ORS 253.040 with that upon his application for a ballot. If the signatures appear to be the same, the county clerk shall affix his initials or a facsimile of his initials on the upper right-hand corner of the statement referred to in subsection (4) of ORS 253.040. This set of initials will be the election board's or special counting board's indication that they may count the ballot. If an absentee ballot is delivered to the election board or to the special counting board without proper certification it shall not be counted by such election board or special counting board. Any such ballot shall be returned, unopened, to the county clerk who will determine whether the ballot is to be counted. If the county clerk determines that the ballot is to be counted, he shall return it to the election board or special counting board with instructions to count the ballot.

[Amended by 1957 c.641 §6; 1961 c.92 §1]

253.085 Special counting boards; counting ballots not delivered to regular election boards. (1) The clerk shall appoint as many special counting boards as may be necessary to conduct the count of absent voters' ballots he does not deliver to the proper election boards. Each member of a special counting board shall be a registered elector entitled to vote in the election, but no member shall be a candidate for any office voted upon at the election. The members of any special counting board shall not all be members of the same political party. Each member of a special counting board shall be compensated at the same rate, payable in the same manner, as a member of a regular election board at the election.

(2) The special counting boards appointed under subsection (1) of this section may commence to count the absent voters' ballots on the day of the election, but shall not commence later than the day following the date of the election as soon as the poll books used at the election are delivered to the clerk, and shall complete the count within three days after the date of the election. Except as otherwise provided in ORS 253.010 to 253.150, the absent voters' ballots shall be counted and returns shall be made in as nearly as possible the same manner as in

the case of other ballots cast at the election.
[Amended by 1957 c.641 §8; 1961 c.163 §1]

253.090 Procedure for verifying ballot. The election board or special counting board shall verify the legality of each absent voter's ballot by ascertaining if the county clerk's initials are affixed to the absent voter's statement as required in subsection (2) of ORS 253.080. The election board or special counting board shall examine the poll book to see that the absent voter has not voted in person.
[Amended by 1957 c.641 §9; 1961 c.92 §2]

253.100 Opening envelope; disposition of ballot; entry in poll book. When the election board or special counting board has verified the legality of the vote as required by ORS 253.090, a member of the board shall open the absent voter's envelope and take out the ballot. Without unfolding or permitting it to be opened or examined, a member of the board shall detach the stub or stubs and proceed in the disposition of the stub or stubs and ballot in the same manner as other ballots cast at the election. A member of the board shall also enter upon the proper poll book the fact of the absent voter having voted at the election by means of an absent voter's ballot.
[Amended by 1957 c.641 §10]

253.110 Rejection of a ballot. If upon the examination of the envelope containing an absent voter's ballot the statement 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 election board or special counting board that such ballot is illegal, then the vote shall not be allowed. Without opening the absent voter's envelope, a member of the board shall mark across the face of the envelope "Rejected as defective" or "Illegal," as the case may be. The envelope and the ballot 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.
[Amended by 1957 c.641 §11]

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 delivered to him, if he has not availed himself of the privileges of an absent voter as provided by this chapter and voted the ballot delivered 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 elector shall vote or attempt to vote in person and by means of an absent voter's ballot.
[Amended by 1957 c.641 §12]

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 Printing absentee ballots. Absentee ballots shall be printed and prepared for distribution not later than the 30th day prior to the primary, special and general elections provided for in ORS chapters 249 and 250.
[1969 c.261 §3]

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 in which he is registered on the day of election may procure from the county clerk of such 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 board 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 is subject to challenge as is an elector's right to vote. The certificate is invalid for all purposes after the election following the date it is issued, and shall be returned to

the county clerk who issued it. This section does not apply to persons registered as provided in ORS 247.410 to 247.470.
[Amended by 1957 c.641 §13; 1961 c.114 §14]

VOTERS CHANGING RESIDENCE

253.300 Voters changing residence eligible to vote in presidential elections. Any registered elector of this state who moves to another state 30 days or less prior to any primary or general election for President or for electors of President or Vice President, and who does not qualify to vote in the state of his present residence, may vote in such primary or general election in this state either in person or by absentee ballot.
[1971 c.27 §2]

253.310 Application for special registration; use of limited ballot. If voting in person, the qualified elector must make application for a special registration certification as provided for in ORS 247.420. The elector may then vote the limited ballot provided for in ORS 250.520 in person at the county clerk's office or in the precinct in which he was formerly registered.
[1971 c.27 §3]

253.320 Applicability of absentee ballot requirements. If the elector makes application for a limited absentee ballot, all the requirements for the application, issuing and counting of absentee ballots contained in ORS 253.010 to 253.210 shall apply except as otherwise provided herein.
[1971 c.27 §4]

253.330 Rules. (1) The Secretary of State shall, by administrative rule, prescribe the form and content of the applications required in ORS 253.310 and 253.320.

(2) The Secretary of State shall also issue any administrative rules he deems necessary for the proper administration of ORS 253.300 to 253.330.
[1971 c.27 §5]

SERVICE VOTERS

253.510 Definitions for ORS 253.510 to 253.670. As used in ORS 253.510 to 253.670, "service voter" means a citizen of the State of Oregon absent from the place of his residence and:

(1) Serving in the Armed Forces of the United States, or

(2) Serving in the Merchant Marine of the United States, or

(3) Temporarily residing outside the territorial limits of the United States and the District of Columbia.
[1955 c.332 §1; 1957 c.641 §14; 1969 c. 261 §1]

253.520 Service voter may vote by mail. Service voters may vote in the manner provided by ORS 253.010 to 253.150 or 253.510 to 253.670 at any primary, general or special election that is held throughout the State of Oregon.
[1955 c.332 §3; 1969 c.261 §4]

253.530 Spouse and dependents of service voter may vote by mail. The spouse and dependents of any service voter, temporarily living outside the county or city in which is situated the last home residence in this state of such spouse or dependents, may vote in the same manner as provided in ORS 253.510 to 253.670 for a service voter.
[1955 c.332 §16; 1957 c.641 §15; 1965 c.153 §1]

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 county 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 residence address, the address to which he wishes the absent voter's ballot mailed, and the facts qualifying him as a service voter.

(2) An application for an absent voter's ballot by a service voter may be made in the form of a post card or other written request. 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. The application shall contain the following information:

(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 last home residence;

(e) That he qualifies as a service voter as described in ORS 253.510, or as the spouse

or a dependent of a service voter under ORS 253.530;

(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 absent voter's ballot; and

(g) If applicant desires to vote in a primary election, his political party affiliation or preference.

[1955 c.332 §§7, 8; 1957 c.641 §16]

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 they can be made up. All ballots for service voters for which applications are received by the county clerk before the twentieth day before the day of the election shall be mailed to applicants therefor not later than 20 days before the day of the election. Marked ballots shall be returned so that they will be received by the county clerk by the time provided in ORS 253.070 for the return of absent voter's ballots.

[1955 c.332 §9; 1957 c.641 §17]

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 an oath to be signed by the service voter, stating that he is qualified to vote, that the information contained in his application is true and accurate and that he has personally marked the ballot and has not exhibited the marked ballot to any other person.

[1955 c.332 §11; 1957 c.641 §18]

253.580 Preparation and furnishing of instructions and envelopes. The Secretary of State shall prepare all instructions and envelopes provided for in ORS 253.570, and shall furnish the same to the county clerks at the expense of the state. The instructions shall be substantially the same as are provided for in subsection (4) of ORS 253.040.

[1955 c.332 §14; 1957 c.641 §19]

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 application or on the service voter's official 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; 1957 c.641 §20]

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 ORS 253.010 to 253.150.

[1955 c.332 §15; 1957 c.641 §21]

253.630 [1955 c.332 §10; repealed by 1957 c.641 §23]

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 direct all election officials in respect to their duties under ORS 253.510 to 253.670, shall make such rules and regulations as will facilitate the operation and accomplishment of the purposes of ORS 253.510 to 253.670 and shall publicize the provisions of ORS 253.510 to 253.670.
[1955 c.332 §17; 1957 c.641 §22]

253.660 [1955 c.332 §5; repealed by 1957 c.641 §23]

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]

PENALTIES

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, 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, 1971.

Robert W. Lundy
Legislative Counsel