

Chapter 258

1971 REPLACEMENT PART

Vote Recording Systems

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DEFINITIONS AND GENERAL PROVISIONS

258.005 Definitions for ORS 258.005 to 258.375. As used in ORS 258.005 to 258.375:

(1) "Ballot" means any material used on which votes are cast for offices and candidates and measures which do not appear on ballot labels or a ballot which is used to record votes which are cast for offices and candidates and measures in a voting system which does not use ballot cards.

(2) "Ballot card" means the tabulating card or cards of any size upon which the voter records his vote.

(3) "Ballot label" means the cards, papers, booklet or other material containing the names of offices and candidates and measures to be voted on.

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

(5) "Election" means all state, county, city, town, district and other municipality elections.

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

(7) "Measure" means a proposed law, Act or part of an Act of the Legislative Assembly or amendment to the Oregon Constitution to be submitted to the people for their approval or rejection at an election. "Measure" also means other propositions which can be submitted to the voters at any election by counties, cities, towns, districts or other municipalities.

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

(9) "Precinct" includes all election districts.

(10) "Voting machine" means:

(a) Any mechanical device which will record every vote cast by any voter on candidates and measures and which will either internally or externally total all votes cast on that device.

(b) Any device into which a ballot card may be inserted and which is so designed and constructed that the vote for any candidate or measure may be indicated by punching or marking the ballot card.

(11) "Vote tally system" means one or more pieces of machinery or equipment necessary to examine and tally automatically paper ballots having marks placed thereon

by a written mark or by a marking stamp. The examination shall be accomplished by either mark sensing or optical scanning.

[1965 c.586 §2]

258.010 [1953 c.397 §1; repealed by 1965 c.586 §34]

258.015 Use authorized for all elections.

At all elections ballots or votes may be cast, registered, recorded and counted by means of voting machines or vote tally systems as provided in ORS 258.005 to 258.375 and 258.995.

[1965 c.586 §3]

258.020 [1953 c.397 §2; repealed by 1965 c.586 §34]

258.025 Applicable laws; conflicting laws and ordinances inapplicable. All the provisions of the election laws and of any city charter or ordinance not inconsistent with ORS 258.005 to 258.375 and 258.995 apply to all elections in election precincts where voting machines or vote tally systems are used. Any provision of law or of any city charter or ordinance which conflicts with the use of voting machines or vote tally systems as provided in ORS 258.005 to 258.375 and 258.995 does not apply to election precincts in which voting machines or vote tally systems are used.

[1965 c.586 §4]

258.030 [1953 c.397 §30; repealed by 1965 c.586 §34]

258.035 Illegal acts. (1) No person shall:

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

(b) Tamper with any voting machine or vote tally system that has been used in an election except as authorized by ORS 258.005 to 258.375 and 258.995.

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

(2) An unauthorized person shall not make or have in his possession a key to a voting machine to be used or being used in an election.

(3) Neither the Secretary of State nor any officer or employe of any county, city, town, district or other municipality using voting machines or vote tally systems, 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 or vote tally systems.

[1965 c.586 §5]

258.040 [1953 c.397 §37; repealed by 1965 c.586 §34]

ADOPTION AND PURCHASE OF EQUIPMENT

258.045 Adoption, purchase or procurement of equipment; use thereafter. The governing body 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 or vote tally system approved by the Secretary of State in all or a portion of the election precincts thereof. Thereafter the voting machine or vote tally system may be used for voting at all elections for public and party offices and on all measures and for receiving, registering and counting the votes thereof in such election precincts as the governing body directs.

[1965 c.586 §6]

258.105 Joint purchase, maintenance and use. (1) In purchasing the necessary voting machines or vote tally systems to be used as provided in ORS 258.005 to 258.375 and 258.995, a governing body 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 incorporated cities, towns, districts or municipalities, provide for the joint purchase and subsequent ownership of voting machines or vote tally systems and for the care, maintenance and use of the machines or vote tally systems.

(2) The governing body of two or more counties may by agreement provide for the joint use of voting machines or vote tally systems.

[1965 c.586 §7]

258.110 [1953 c.397 §31; 1957 c.608 §207; repealed by 1965 c.586 §34]

258.115 Methods of payment. (1) The governing body may, on the adoption and purchase of voting machines or vote tally systems, 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 or vote tally systems 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 or vote tally systems, 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 or vote tally systems in cash out of the general fund.

(c) Provide for the payment for the voting machines or vote tally systems by other means.

(3) In estimating the amount of taxes for the general fund, if any, the amount required for payment for voting machines or vote tally systems shall be added, extending over the time required to pay for the machines or vote tally systems.

[1965 c. 586 §8]

258.120 [1953 c.397 §33; repealed by 1965 c.586 §34]

258.125 Issuance of bonds authorized.

(1) 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 or vote tally systems complying with the provisions of ORS 258.165. 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 or vote tally systems, 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.

(2) 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 or vote tally systems for which such bonds are to be issued.

[1965 c.586 §9]

258.130 [1953 c.397 §32; repealed by 1965 c.586 §34]

258.135 Approval of Secretary of State before bonds issued. The governing body of any county shall, prior to authorizing the issuance of bonds as provided in ORS 258.125, obtain the approval in writing of the Secretary of State as to the type and number of machines or vote tally systems to be purchased and the price to be paid therefor.

[1965 c.586 §10]

258.145 Advertisement and sale of bonds; procedure on 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 258.125 to 258.145 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. The provisions of ORS 258.125 to 258.145 are

complete authority for the issuance and sale of bonds issued pursuant to ORS 258.125 to 258.145. The State Treasurer, in his capacity as investment officer for the Oregon Investment Council, may invest moneys in the investment funds as provided in ORS 293.701 to 293.776 in bonds issued and sold under the provisions of ORS 258.125 to 258.145.

(3) When any such bonds are to be issued and sold under ORS 258.125 to 258.145 to the State of Oregon or any 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 or vote tally systems to be purchased, such state agency shall purchase, for cash or upon credit, machines or vote tally systems 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 or vote tally systems from the point of manufacture to the county issuing said bonds and the cost of repairing, maintaining, servicing, and insuring said machines or vote tally systems 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 or vote tally systems, such state agency shall retain title to such machines or vote tally systems, 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 or vote tally systems 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 or vote tally systems, 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 or vote tally systems. 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.
[1965 c.586 §11; 1967 c.335 §25]

258.155 Examination and approval of equipment by Secretary of State. (1) The Secretary of State shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of ORS 258.165, and can safely be used by voters at elections under the provisions of ORS 258.005 to 258.375 and 258.995 and the election laws of the State of Oregon.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the Secretary of State for examination. For the purpose of assistance in examining the machine or vote tally system the Secretary of State may employ not more than three individuals who are expert in one or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

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

(4) Any voting machine or vote tally system that receives the approval of the Secretary of State may be used for conducting elections as provided in ORS 258.005 to 258.375 and 258.995. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote

tally system has been approved by the Secretary of State, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

[1965 c.586 §12]

258.160 [1953 c.397 §34; 1957 c.608 §208; repealed by 1965 c.586 §34]

258.165 Requirements for approval of equipment. (1) No voting machine or vote tally system 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 measures as may be submitted.

(c) Permits the voter to vote for any person for any office and upon any measure that he has the right to vote for.

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

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

(g) Correctly records on a separate paper or card ballot the votes cast by each voter for any person and for or against any measure.

(h) Can be adjusted so that the counting mechanism rejects any vote cast on the tabulating card in excess of the number which the voter is entitled to vote.

(i) Provides that a vote for more than one candidate cannot be cast by one single operation of the machine or vote tally system except as permitted by subsection (2) of ORS 250.110.

(j) Provides that straight party pointers shall be disconnected from all candidate pointers.

(2) A vote tally system shall be:

(a) Capable of correctly counting votes on ballots or ballot cards on which the proper number of votes have been marked for any office or question or issue that has been voted.

(b) Capable of ignoring the votes marked for any office or question or issue where more than the allowable number of votes have been marked, but shall correctly count the properly voted portions of the ballot or ballot card.

(c) Capable of accumulating a count of the specific number of ballots or ballot cards tallied for a precinct, accumulating total votes by candidate for each office, and accumulating total votes for and against each question and issue of the ballots or ballot cards tallied for a precinct.

(d) Capable of tallying votes from ballots or ballot cards of different political parties, from the same precinct, in the case of a primary election.

(e) Capable of accommodating rotation of candidates' names on the ballot or ballot card, provided that all ballots or ballot cards from one precinct shall be of the same rotation sequence.

(f) Capable of automatically producing precinct totals in either printed, marked, or punched form, or combinations thereof.
[1965 c.586 §13; 1969 c.537 §1]

258.170 [1953 c.397 §35; 1957 c.608 §209; repealed by 1965 c.586 §34]

258.180 [1953 c.397 §38; 1957 c.608 §210; repealed by 1965 c.586 §34]

258.192 [1959 c.582 §2; repealed by 1965 c.586 §34]

258.194 [1959 c.582 §3; repealed by 1965 c.586 §34]

258.196 [1959 c.582 §§4, 5, 6; repealed by 1965 c.586 §34]

258.198 [1959 c.582 §7; repealed by 1965 c.586 §34]

USE OF EQUIPMENT AT ELECTIONS

258.205 Secretary of State to prescribe rules for use of equipment. (1) The Secretary of State shall issue an administrative order outlining the duties of each of the clerks on the election board. He shall devise and prescribe for use by each local election officer the contents, form, character and kind of ballots, ballot labels, ballot cards, formats, records, papers and documents and other materials and supplies and procedures necessary in the use of voting machines or vote tally systems as provided in ORS 258.005 to 258.375 and 258.995 and in the process of counting and tabulating the ballots by mechanical or electrical counting devices or equipment or computers.

(2) The Secretary of State shall prescribe rules and regulations to achieve and maintain the maximum degree of correctness, impartiality and efficiency on the procedures of voting, and of counting, tabulating and recording votes, by the devices, machines or vote tally systems and methods provided by ORS 258.005 to 258.375 and 258.995.

[1965 c.586 §14]

258.210 [1953 c.397 §3; 1957 c.608 §211; repealed by 1965 c.586 §34]

258.215 Precinct election board; alteration of election precincts. (1) The election board of each election precinct in which a voting machine or vote tally system is used shall consist of four or more clerks, one of whom shall act as chairman of the board. The clerks of an election board shall not all be members of the same political party.

(2) The qualifications and duties of election board clerks as set forth in ORS 246.310 shall apply to the appointment of election board clerks in counties or precincts where voting machines or vote tally systems are used, except as otherwise specifically provided for in ORS 258.005 to 258.375 and 258.995.

(3) The county clerk or the clerk of a city, town, district or other municipality, not later than 40 days before an election, may create, unite, combine or divide one or more election precincts for the purpose of using one or more voting machines or vote tally systems therein at the election. The uniting, combining or dividing shall be done in the manner prescribed by law for the change of election precincts. The number of registered voters to be included in each of the election precincts shall be determined by such county clerk or clerk of a city, town, district or other municipality.

[1965 c.586 §15]

258.220 [1953 c.397 §8; 1957 c.608 §212; repealed by 1965 c.586 §34]

258.225 Instruction of boards in use of equipment. (1) Before each election at which voting machines or vote tally systems are to be used, the county clerk of a county, or the clerk of a city, town, district or other municipality, in which voting machines or vote tally systems are to be used, shall cause them to be properly prepared and shall cause election board clerks to be properly instructed in their use.

(2) For the purpose of giving such instruction, the county clerk shall call the

meeting or meetings of the election board clerks that are necessary. Each election board clerk shall attend the meetings and receive the instruction necessary for the proper conduct of the election with the machine or vote tally system.

(3) No election board clerk shall serve in any election at which a voting machine or vote tally system is used unless he has received the required instruction and is fully qualified to perform his duties in connection with the machine or vote tally system; but this requirement shall not prevent the appointment of an election board clerk to fill a vacancy in an emergency.

[1965 c.586 §16]

258.230 [1953 c.397 §9; 1957 c.608 §213; repealed by 1965 c.586 §34]

258.235 Samples of and supplies for equipment. (1) The election officer charged with the duty of providing ballots shall provide all necessary instructions, forms and supplies required for the proper use of the voting machines or vote tally systems.

(2) Within a proper and reasonable time before the first election at which voting machines or vote tally systems are to be used, the Secretary of State shall prepare samples of the printed matter and supplies required. He shall furnish one of each of the samples to the election officer in charge of the election of each county, city, town, district or other municipality in which the machines or vote tally systems are to be used.

(3) The county clerk or other election officer listed in ORS 258.225 shall deliver voting machines to each election board as provided for election supplies in ORS 250.200.

[1965 c.586 §17]

258.240 [1953 c.397 §10; repealed by 1965 c.586 §34]

258.245 Location of equipment and model; labels. (1) The election board clerks 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 30 minutes before the time set for opening the polls. Before preparing the machine for voting, the election board clerks shall proceed as prescribed in subsection (2) of this section.

(2) The election board clerks shall:

(a) Cause the voting machine to be placed where it can be conveniently attended by the election board clerks and conveniently operated by the voters and where the ballot

labels on the machine can be plainly seen by the election board clerks 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) Determine that the ballot labels are in the proper places on the machine.

(3) After performing their duties as provided in this section, the election board clerks shall certify to that fact in the appropriate places in the poll book.

[1965 c.586 §18]

258.255 Duties of county or local clerk; inspection by political party representatives and candidates. (1) In preparing a voting machine for an election, the county clerk or the clerk of the city, town, district or other municipality, as the case may be, shall:

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

(b) Thoroughly inspect and test the machine, and file a certificate in his office that the ballot labels have been properly arranged.

(2) The arrangement of offices and 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, and in the event that there are more candidates for any office than can be placed upon one page, the label shall be clearly marked to indicate that the names of candidates for the office are continued on the following page.

(3) Representatives of political parties and candidates shall be permitted to examine the voting machines or vote tally systems as provided in ORS 258.265.

[1965 c.586 §19]

258.265 Notice to political parties; examination by representatives of political parties and candidates; certificate of witnesses. Before preparing the voting machines or vote tally systems for any election, the county clerk 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 or vote tally systems 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 or vote tally systems 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 or vote tally systems. The certificates shall be filed in the office of the county clerk.

[1965 c.586 §20]

258.275 Ballots and ballot labels. (1) The ballots and ballot labels required to be furnished as provided in ORS 258.005 to 258.375 and 258.995 for general or special elections 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 measures may contain a condensed statement of purpose for each measure 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 measure 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."

(2) The ballots and ballot labels required to be furnished as provided in ORS 258.005 to 258.375 and 258.995 for primary elections shall be of different colors for the political parties who are nominating or electing candidates.

(3) The provisions of ORS 252.050 and 252.550 notwithstanding, the "Judiciary Ballot" and the "Justice of the Peace Ballot" may be added to the ballot labels for the political parties. Candidates for the above offices will be shown under the general title of Nonpartisan Judicial Candidates. A voter who is not eligible to vote for party candidates will nonetheless be issued a ballot containing the nonpartisan judicial candidates and will be allowed to vote same; however, the ballot will be marked "limited" and will be counted only for those offices for which the voter is eligible to cast his vote.

(4) When a vote tally system is used, the county clerk shall prepare the ballots as nearly as practicable as required in ORS chapter 250.

[1965 c.586 §21]

258.285 Rotation of names of candidates. In each primary and general election when two or more persons are candidates for nomination or election to the same office, the county clerk or the clerk of a city, town, district or other municipality in which voting machines or vote tally systems are used shall rotate the names of candidates in the following manner: He shall prepare as many different ballot forms as there are candidates for the office having the largest number of candidates. The name of the candidate at the top of the list for each nomination or election shall be placed at the bottom of the list of the next successive form. As nearly as possible, an equal number of precincts shall be provided with ballots or ballot labels for each ballot form. However, all ballots or ballot labels furnished each precinct shall be of one form and identical in every respect.

[1965 c.586 §22]

258.295 Examination of equipment during voting. The election board clerks 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.

[1965 c.586 §26]

258.305 Procedure when equipment 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 election officer charged with the care of the machine.

(2) If possible, the election officer so notified shall repair the machine at once or substitute another machine for the damaged machine.

(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 board clerks 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

board clerks by the clerk referred to in subsection (1) of ORS 258.225. The paper ballots shall be issued, voted and deposited in ballot boxes in as nearly the same manner as provided for in ORS chapter 250, except that the paper ballots shall not be tallied and returned by the election board clerks. Instead, these paper ballots shall be delivered to the county clerk for his tally and canvass.

[1965 c.586 §27]

258.310 [1953 c.397 §4; 1957 c.608 §214; repealed by 1965 c.586 §34]

258.315 Equipment operation to cease at time polls close; exception; delivery of voted ballots before polls close; early disclosure prohibited. (1) At the hour for closing the polls, the election board clerks shall declare the polls of the election closed and shall not permit any further voting. 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.

(2) At any time prior to the closing of the polls provision may be made for the delivery of voted ballots to the county clerk or the clerk of a city, town, district or other municipality for counting. If such procedure is adopted, the result of this early count shall not be released to the public until the close of the polls.

[1965 c.586 §28]

258.320 [1953 c.397 §5; 1957 c.608 §215; repealed by 1965 c.586 §34]

258.325 Absentee voting. (1) The county clerk where voting is conducted pursuant to ORS 258.005 to 258.375 and 258.995 may provide that absent voting shall be either by voting machine or by marking a paper ballot. In either case he shall cause sufficient ballots of the proper kind to be provided.

(2) If paper absentee ballots are used, the tally may be conducted in accordance with the provisions of ORS 258.005 to 258.375 and 258.995 or as provided in ORS chapter 253.

[1965 c.586 §29]

258.330 [1953 c.397 §6; repealed by 1965 c.586 §34]

258.335 Paper ballots authorized; counting paper ballots. In any election where voting machines or vote tally systems are used:

(1) Paper ballots may be used to record the voters' votes for party offices.

(2) Paper ballots may be used to record

the voters' votes for or against municipal candidates or measures.

(3) Paper ballots which are used in conjunction with voting machines may be returned to the office of the county clerk for counting by special counting boards. Ballots so counted shall be tallied and returned by precinct.

(4) Ballots or ballot cards may be returned to the office of the county clerk for counting.

(5) In the event that paper ballots are used in conjunction with voting machines or vote tally systems to record write-in votes, these paper ballots may be returned to the office of the county clerk for counting by special counting boards. Ballots so counted shall be tallied and returned by precinct.

[1965 c.586 §§30, 31]

258.345 Sample ballots; facsimile of sample. (1) At each primary, general and special election there shall be provided as many sample ballots as the county clerk considers necessary. The sample ballots shall be prepared and distributed as provided in ORS 249.358 and 250.150 with the exception that the county clerk may use his discretion as to the preparation and arrangement of the sample ballots.

(2) For each primary, general and special election the county clerk shall cause to be published a facsimile, except as to size, of the sample ballot required in subsection (1) of this section.

[1965 c.586 §32]

258.355 Exhibiting sample equipment; familiarizing voters with equipment. (1) Before each election at which voting machines are to be used the county clerk 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 measures to be voted on.

(2) In addition to supplying sample ballots, the county clerk 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.

(3) Before each election at which a vote tally system is to be used, the county clerk shall make every reasonable effort to acquaint the voters within his county with the ballot format and the marking system.

[1965 c.586 §23]

258.365 Instruction, assistance and information for voters. (1) The election board clerks shall instruct voters on how to record their votes on the voting machine or vote tally system, and shall give assistance to any voter who declares that he is unable by reason of physical disability to record his vote on the machine or vote tally system, and on request by the voter after he has entered the voting booth, shall give him the necessary information to enable him to record his vote.

(2) Any voter who, because of blindness or other physical disability, is unable to mark his ballot shall, upon request, receive the assistance of two election board clerks who shall be of opposite political parties or some other person chosen by the voter in the marking thereof. Such clerks or person shall ascertain the wishes of the voter and mark his ballot in accordance therewith, and shall thereafter give no information regarding such marking. The election board chairman may require a declaration of disability to be made by the voter under oath. Whenever a voter receives assistance in this manner, a clerk shall make a notation thereof in the poll book following the name of the voter.

(3) If any voter, after entering the voting booth, asks for information regarding the operation of the voting machine or marking device, the election board clerks shall give him the necessary information.

[1965 c.586 §24]

258.375 Secret voting; time limit on voting. (1) Except as provided in ORS 258.365 for cases of physically disabled voters, the operation of voting shall be secret.

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

[1965 c.586 §25]

RENTAL AGREEMENTS BETWEEN STATE AND COUNTY

258.405 Rental agreements authorized.

(1) The Secretary of State may enter into an agreement, for a term of not more than one year, with any county within the State of Oregon for the rental of approved voting machines or vote tally systems to the county.

(2) The Secretary of State on having entered into an agreement with a county may purchase the necessary voting machines or vote tally systems using money made available under the provisions of ORS 258.425.

[1965 c.139 §§2, 4; 1967 c.384 §1]

258.410 [1953 c.397 §7; repealed by 1965 c.586 §34]

258.415 Content of rental agreement.

The rental agreement shall provide:

(1) Annual rental payments, not exceeding 20 percent of the cost of the voting machine or vote tally system plus five percent of that amount, payable on or before December 15.

(2) That maintenance, storage and transportation costs of the machines are to be paid by the county.

(3) That, if the rental agreement is renewed by the county from year to year, then after the completion of the fifth year of rental the title to the voting machines or vote tally systems shall be transferred by the Secretary of State to the county.

[1965 c.139 §3; 1967 c.384 §2]

258.420 [1953 c.397 §11; repealed by 1965 c.586 §34]

258.425 Voting Machine Acquisition Account; loans for purchase of equipment; repayment.

(1) The State Treasurer, in his capacity as investment officer for the Oregon Investment Council, may loan moneys in the investment funds as provided in ORS 293.701 to 293.776 for the acquisition of the voting machines or vote tally systems which counties have contracted to rent. The money so loaned shall be deposited in the Voting Machine Acquisition Account in the General Fund, which account is hereby created. Money in such account is appropriated for the purchase of voting machines or vote tally systems.

(2) Money so loaned shall be repaid within five years together with interest at a rate agreed upon by the State Treasurer and the Secretary of State. The payments shall be made in amounts that are at least sufficient to reduce the outstanding principal to an

amount equal to one-fifth the amount originally advanced multiplied by number of years remaining in the five-year repayment schedule. Separate repayment schedules shall be prepared for money advanced each year.

[1965 c.139 §5; 1967 c.335 §26; 1971 c.749 §85]

258.430 [1953 c.397 §12; repealed by 1965 c.586 §34]

258.435 Voting Machine Sinking Fund Account; deposit of rentals. All rentals collected from the counties shall be deposited in the Voting Machine Sinking Fund Account, which account is hereby established. All money on hand in the account at December 31 of each year shall be paid to the State Treasurer as the repayment of money advanced under ORS 258.425.

[1965 c.139 §6]

258.440 [1953 c.397 §13; repealed by 1965 c.586 §34]

258.445 Appropriation from General Fund if sinking fund inadequate. In the event that there is not sufficient money in the Voting Machine Sinking Fund Account on December 31 of any year to meet the repayment schedule as provided in ORS 258.425, there is hereby appropriated from the General Fund an amount sufficient which together with the money in the Voting Machine Sinking Fund Account will provide an amount sufficient to make the scheduled payment.

[1965 c.139 §7]

258.450 [1953 c.397 §14; 1957 c.608 §216; repealed by 1965 c.586 §34]

258.460 [1953 c.397 §15; 1957 c.608 §217; repealed by 1965 c.586 §34]

258.510 [1953 c.397 §17; 1957 c.608 §218; repealed by 1965 c.586 §34]

258.520 [1953 c.397 §18; repealed by 1965 c.586 §34]

258.530 [1953 c.397 §19; repealed by 1965 c.586 §34]

258.540 [1953 c.397 §20; repealed by 1965 c.586 §34]

258.550 [1953 c.397 §16; 1957 c.608 §219; repealed by 1965 c.586 §34]

258.560 [1953 c.397 §21; 1957 c.608 §220; repealed by 1965 c.586 §34]

258.570 [1953 c.397 §36; repealed by 1965 c.586 §34]

258.610 [1953 c.397 §22; repealed by 1965 c.586 §34]

258.620 [1953 c.397 §23; 1957 c.608 §221; repealed by 1965 c.586 §34]

258.630 [1953 c.397 §25; repealed by 1965 c.586 §34]

258.640 [1953 c.397 §24; repealed by 1965 c.586 §34]

258.650 [1953 c.397 §26; 1957 c.608 §222; repealed by 1965 c.586 §34]

258.660 [1953 c.397 §27; 1957 c.608 §223; repealed by 1965 c.586 §34]

258.670 [1953 c.397 §28; 1957 c.608 §224; repealed by 1965 c.586 §34]

258.680 [1953 c.397 §29; repealed by 1965 c.586 §34]

258.710 [1963 c.530 §1; repealed by 1965 c.586 §34]

258.720 [1963 c.530 §2; repealed by 1965 c.586 §34]

258.730 [1963 c.530 §3; repealed by 1965 c.586 §34]

258.740 [1963 c.530 §§4, 8, 26; repealed by 1965 c.586 §34]

258.750 [1963 c.530 §28; repealed by 1965 c.586 §34]

258.760 [1963 c.530 §32; repealed by 1965 c.586 §34]

258.770 [1963 c.530 §5; repealed by 1965 c.586 §34]

258.780 [1963 c.530 §6; repealed by 1965 c.586 §34]

258.790 [1963 c.530 §§7, 15; repealed by 1965 c.586 §34]

258.800 [1963 c.530 §9; repealed by 1965 c.586 §34]

258.820 [1963 c.530 §10; repealed by 1965 c.586 §34]

258.830 [1963 c.530 §11; repealed by 1965 c.586 §34]

258.840 [1963 c.530 §§12, 18; repealed by 1965 c.586 §34]

258.850 [1963 c.530 §19; repealed by 1965 c.586 §34]

258.860 [1963 c.530 §17; repealed by 1965 c.586 §34]

258.870 [1963 c.530 §13; repealed by 1965 c.586 §34]

258.880 [1963 c.530 §14; repealed by 1965 c.586 §34]

258.890 [1963 c.530 §16; repealed by 1965 c.586 §34]

258.910 [1963 c.530 §§20, 22; repealed by 1965 c.586 §34]

258.920 [1963 c.530 §21; repealed by 1965 c.586 §34]

258.930 [1963 c.530 §23; repealed by 1965 c.586 §34]

258.940 [1963 c.530 §24; repealed by 1965 c.586 §34]

258.950 [1963 c.530 §25; repealed by 1965 c.586 §34]

258.960 [1963 c.530 §27; repealed by 1965 c.586 §34]

258.970 [1963 c.530 §§29, 30, 31; repealed by 1965 c.586 §34]

PENALTIES

258.990 [1953 c.397 §39; repealed by 1965 c.586 §34]

258.995 Penalties. Violation of ORS 258.035 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.
[1965 c.586 §33]

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