Chapter 254

1981 REPLACEMENT PART

Conduct of Elections

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GENERAL PROVISIONS

254.005 Definitions. As used in this chapter:

(1) "Ballot" means any material on which votes may be cast for candidates or measures.

(2) "Ballot label" means the material containing the names of candidates or the measures to be voted on.

(3) "Chief elections officer" means the:

(a) Secretary of State, regarding a candidate for a state office or an office to be voted on in the state at large or in a congressional district, or a measure to be voted on in the state at large.

(b) County clerk, regarding a candidate for a county office, or a measure to be voted on in a county only.

(c) City clerk, auditor or recorder, regarding a candidate for a city office, or a measure to be voted on in a city only.

(4) "County clerk" means the county clerk or the county official in charge of elections.

(5) "Elector" means an individual qualified to vote under section 2, Article II, Oregon Constitution.

(6) "Major political party" means a political party that has qualified as a major political party under ORS 248.006.

(7) "Measure" means any proposed law, an Act or part of an Act of the Legislative Assembly, revision of or amendment to the Oregon Constitution, local, special or municipal legislation, proposition or question submitted to the people for their approval or rejection at an election.

(8) "Minor political party" means a political party that has qualified as a minor political party under ORS 248.008.

(9) "Nonpartisan office" means the office of judge of the Supreme Court, Court of Appeals, circuit or district court or the Oregon Tax Court, Superintendent of Public Instruction, justice of the peace or district attorney.

(10) "Prospective petition" means the information, except signatures and other identification of petition signers, required to be contained in a completed petition.

(11) "Voting machine" means:

(a) Any device which will record every vote cast 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 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.

(12) "Vote tally system" means one or more pieces of equipment necessary to examine and tally automatically the marked or punched ballots. [1979 c.190 §224]

254.010 [Repealed by 1957 c.608 §231]

254.015 [1973 c 283 §4; 1977 c 487 §1; repealed by 1979 c.190 §431]

254.016 Elections conducted under this chapter. Any primary, general or special election held in this state shall be conducted under the provisions of this chapter. [1979 c.190 §225]

254.020 [Repealed by 1957 c 608 §231]

254.025 Construction of statutes. (1) Statutes applicable to primary elections shall be construed as though the primary elections are separate elections for each major political party nominating candidates.

(2) The primary elections shall be conducted as nearly as possible according to the theory expressed in the preamble to chapter 1, Oregon Laws 1905. [1979 c.190 §226]

254.030 [Amended by 1957 c 608 §167; 1961 c.80 §1; 1969 c 42 §1; repealed by 1979 c.190 §431]

254.035 Cities to hold elections for officers at same time and place as state and county elections. It is the intention of the legislature to carry out the provisions of section 14-a, Article II, Oregon Constitution. All elections for city officers shall be held at the same time and place as elections for state and county officers. The election boards for state and county elections shall be the election boards for the city elections. Unless a city charter or ordinance provides otherwise, the ballots and ballot labels used for state and county elections, if the county clerk considers it practicable, shall be arranged to include city offices and measures. [Formerly 250.230]

254.040 [Amended by 1957 c.608 §168; 1959 c 177 §2; 1967 c 141 §1; 1969 c.42 §2; repealed by 1973 c 392 §1 (254 042 enacted in lieu of 254 040)]

254.042 [1973 c 392 §2 (enacted in lieu of 254.040); 1975 c 627 §1; 1977 c 487 §2, repealed by 1979 c.190 §431]

254.045 [1967 c 141 §§3, 4; repealed by 1973 c.392 §4]

254.046 Expense of city election. If a city holds a special election on a date other than the primary or general election, it shall bear the expense of the election. [1979 c.190 §228]

254.050 [Repealed by 1957 c 608 §231]

254.055 [1973 c 481 §2, 1979 c.190 §145, 1979 c.345 §3, renumbered 250 065]

254.056 Date and purpose of general and primary elections. (1) The general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year. At the general election officers of the state and subdivisions of the state, members of Congress and electors of President and Vice President of the United States as are to be elected in that year shall be elected.

(2) The primary election shall be held on the third Tuesday in May of each even-numbered year. At the primary election precinct committeepersons shall be elected and major political party candidates shall be nominated for offices to be filled at the general election held in that year. [1979 c 190 §229, 1979 c 316 §20a]

254.060 [Amended by 1953 c 359 §4, 1957 c 608 §169, 1967 c.364 §1, 1967 s s c.3 §1; 1973 c.481 §1; repealed by 1979 c 190 §431]

254.065 Person receiving most votes nominated or elected; measure adopted by majority of votes; when measure conflicts. (1) When one person is to be nominated for or elected to an office, the person receiving the highest number of votes shall be nominated or elected. When more than one person is to be nominated for or elected to a single office, the persons receiving the higher number of votes shall be nominated or elected.

(2) No measure shall be adopted unless it receives an affirmative majority of the total votes cast on the measure. If two or more conflicting laws, or amendments to the Constitution or charter, are approved at the same election, the law, or amendment, receiving the greatest number of affirmative votes shall be paramount regarding each conflict, even though the law, or amendment, may not have received the greatest majority of affirmative votes. [1979 c 190 §230]

254.070 [Amended by 1953 c 359 §4, 1957 c 608 §170, 1967 c 634 §7; 1973 c 481 §3, 1977 c 468 §1; repealed by 1979 c.190 §431]

254.073 [1967 c 364 §3, 1967 s.s c.3 §2, 1977 c 468 §2; 1979 c 190 §146, 1979 c 345 §14, renumbered 250.075]

254.075 [1967 c 364 §4; repealed by 1967 s s c 3 §4]

PREPARATORY PROCEDURES

254.076 Register of candidates for nomination. The chief elections officer shall keep a register of candidates for nomination at the primary election. The register, if applicable, shall contain for each major political party:

(1) The title of each office for which the major political party will nominate candidates at the primary election.

(2) The name and residence mailing address of each candidate for nomination at the primary election.

(3) The name of the major political party with which the candidate is registered as affiliated.

(4) The date of filing of the prospective petition for nomination of the candidate.

(5) The date of filing of the completed petition for nomination of the candidate, the number of valid signatures contained and the number of signatures required.

(6) The date of filing of the declaration of candidacy of the candidate.

(7) Such other information as may aid the chief elections officer in arranging the official ballot or ballot label for the primary election. [Formerly 249 070]

254.077 [1967 c 364 §6; 1967 s.s c 3 §3; 1973 c 481 §4, 1977 c.468 §3; 1979 c.190 §147, 1979 c.345 §5; renumbered 250 085]

254.080 [Amended by 1953 c 359 §4; 1957 c 608 §171; repealed by 1967 c.364 §8]

254.083 [1967 c.364 §6; repealed by 1967 s s c.3 §4]

254.085 Secretary of State's statement of candidates for offices to be filled and measures to be voted on. The Secretary of State, not later than the 61st day before the date of a primary or general election, shall prepare and furnish to each county clerk a certified statement of the state and congressional district offices to be filled or for which candidates are to be nominated in the county at the election, information concerning all candidates for the offices, and the state measures to be voted on. Included with each measure shall be the measure number, the ballot title prepared by the Attorney General under ORS 254.065 (3) or, if the Supreme Court has reviewed the title under ORS 250.085, the title certified by the court and, if applicable, the financial estimate under ORS 250.125. The Secretary of State shall keep a copy of the

statement. [Formerly 250 020]

254.090 [Amended by 1953 c 632 §6, repealed by 1979 c 190 §431]

254.095 City elections officers' statements of offices, candidates and measures. (1) The chief elections officer of any city not later than the 61st day before the date of a primary or general election and not later than the 34th day before any other election, shall prepare and furnish to the county clerk of each county in which the city is located, a certified statement of the city offices to be filled or for which candidates are to be nominated at the election and information concerning all candidates for the offices.

(2) Except as provided in subsection (3) of this section, the chief elections officer of any city shall prepare and furnish to the county clerk of each county in which the city is located, a certified statement of the city measures to be voted on, including the measure number and the ballot title for each measure, not later than:

(a) The 61st day before the date of a primary or general election; or

(b) The 34th day before any other election.

(3) If a measure to be submitted to the electors of a city at a primary or general election was submitted on the election date in ORS 221.230 (1) immediately preceding the date of the primary or general election, the chief elections officer of the city shall prepare and furnish the certified statement required for that measure in subsection (2) of this section on the 40th day before the primary or general election.

(4) The chief elections officer of the city shall keep a copy of each statement filed under this section. [Formerly 250 030, 1981 c 639 §2]

254.100 [Amended by 1953 c 632 §6, 1957 c 608 §172, repealed by 1979 c 190 §431]

254.104 [1953 c 632 §7, repealed by 1979 c 190 §431]

254.105 [1969 c.299 §§1, 2; repealed by 1979 c 190 §431]

254.106 [1953 c 632 §5; 1957 c 608 §173; repealed by 1979 c 190 §431]

254.107 County clerk to arrange information on ballot. (1) Except as provided in subsection (2) of this section, not later than the 47th day before the election, the county clerk shall arrange on the ballot or ballot label the name and other information concerning each candidate, and the number, ballot title and financial estimate under ORS 250.125, if any, of each measure, to be voted for in the county at the election. The county clerk shall certify the ballot or ballot label.

(2) Not later than the 40th day before a primary or general election, the county clerk shall arrange on the ballot or ballot label any measure furnished under ORS 254.095 (3). [Formerly 250 070; 1981 c 639 §3]

254.110 [Repealed by 1979 c 190 §431]

254.115 Official primary election ballot. (1) The official primary election ballot or ballot label shall be styled "Official Primary Nominating Ballot for the ——— Party." and shall state:

(a) The number or name of the precinct and county for which it is intended.

(b) The date of the primary election.

(c) The names of all candidates for nomination at the primary election whose nominating petitions or declarations of candidacy have been made and filed, and who have not died, withdrawn or become disqualified.

(d) The names of candidates for election as precinct committeeperson, and national committeeman and national committeewoman.

(e) The names of candidates for the party nomination for President of the United States who qualified for the ballot under ORS 249.078.

(2) The primary election ballot may include any city, county or nonpartisan office or the number, ballot title and financial estimate under ORS 250.125, if any, of any measure.

(3) The ballot shall not contain the name of any person other than those referred to in subsections (1) and (2) of this section. The name of each candidate for whom a nominating petition or declaration of candidacy has been filed shall be printed on the ballot in but one place. In the event that two or more candidates for the same nomination or office have the same or similar surnames, the location of their places of residence shall be printed opposite their names to distinguish one from another.

(4) There shall be added opposite the name of each candidate on the ballot the statement of 12 words or less of any measure or principles the candidate especially advocates or of the candidate's qualifications for office contained in the nominating petition or declaration of candidacy.

(5) If the national rules of the major political party require a candidate for election as

precinct committeeperson to include in the declaration of candidacy or petition for nomination the name of the individual the candidate supports for President of the United States or the word "uncommitted" or "no preference," the statement included in the declaration or petition shall be placed on the ballot opposite the name of the candidate. [Formerly 249 354]

254.120 [Amended by 1957 c 608 §174, 1979 c.317 §12, repealed by 1979 c 190 §431]

254.125 Nominating ballot for candidates to nonpartisan office. (1) The names of candidates for a nonpartisan office at a nominating election held on the date of the primary election shall be listed without political party designation on a nominating ballot or ballot label under the title, and department or position number if any, of the office. The names of candidates who are opposed for election to the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court and district court shall be printed on the ballot before the names of candidates for those offices who are unopposed.

(2) On the ballot following the name of the candidate for a nonpartisan office other than Superintendent of Public Instruction or judge of the Oregon Tax Court shall be the statement of the candidate's qualifications and experience included in the nominating petition or declaration of candidacy. On the ballot following the name of a candidate for nonpartisan county office shall be the statement of 12 words or less of any measure or principles the candidate especially advocated or of the candidate's qualifications for office, if the statement is contained in the candidate's nominating petition or declaration of candidacy.

(3) If the word "incumbent" was contained in the candidate's nominating petition or declaration of candidacy, the word shall follow the name of the candidate on the nominating ballot or ballot label who is the regularly elected or appointed judge of the Oregon Tax Court. [1979 c.190 §236, 1979 c.451 §6, 1979 c 587 §4]

254.130 [Amended by 1957 c.608 §175; 1959 c.457 §7, 1975 c.766 §5a, 1979 c 317 §13; repealed by 1979 c.190 §431]

254.135 Official general or special election ballots; manner of indicating vote. (1) The official general or special election ballot or ballot label shall be styled "Official Ballot" and shall state:

(a) The number or name of the precinct and county for which it is intended.

(b) The date of the election.

(c) The names of all candidates for offices to be filled at the election whose nominations have been made and accepted and who have not died, withdrawn or become disqualified. The ballot or ballot label shall not contain the name of any other person.

(d) The number, ballot title and financial estimate under ORS 250.125, if any, of any measure to be voted on at the election.

(2) The names of candidates for President and Vice President of the United States shall be printed in groups together, under their political party designations. A vote for the candidates for President and Vice President shall be a vote for the group of presidential electors supporting those candidates.

(3) The name of each candidate nominated shall be printed upon the ballot or ballot label in but one place, without regard to how many times the candidate may have been nominated. There shall be added opposite the name of a candidate for other than nonpartisan office the name of the candidate's political party or political designation. Opposite the name of each candidate for a nonpartisan county office shall be added the statement of 12 words or less of any measure or principles the candidate especially advocates or of the candidate's qualifications for office, if the statement is contained in the candidate's nominating petition or declaration of candidacy. Opposite the name of each candidate for nonpartisan office other than Superintendent of Public Instruction or district attorney shall be added the statement of not more than 10 words of the candidate's qualifications and experience, if the statement is contained in the candidate's nominating petition or declaration of candidacy. In the event that two or more candidates for the same office have the same or similar surnames, the location of their places of residence shall be printed opposite their names to distinguish one from another. [Formerly 250.110]

254.140 [Amended by 1957 c 608 §176, 1973 c 392 §3; repealed by 1979 c.190 §431]

254.145 Design and contents of official ballots. (1) Subject to rotation of candidate names, the names of candidates for nomination for or election to each office shall be arranged on the ballot or ballot label in alphabetical order by surname under the designation of the office. The names of candidates for

the offices of President and Vice President of the United States, however, shall be arranged in groups. In a precinct in which voting machines are used, spaces shall be provided, either on the ballot or on separate material delivered to the voter with the ballot; in which the voter may write the names of persons for any offices appearing on the ballot label. In other precincts, at the end of the list of candidates for each office shall be a blank space in which the elector may write the name of any person not printed on the ballot. On the left margin of the ballot or ballot label the name of each group or candidate may be numbered. The blank spaces shall not be numbered. A particular number shall not be used to designate more than one candidate at any election.

(2) The names of all candidates for the same office shall be listed in the same column on the ballot or ballot label. If more than one column is needed to list names of all candidates for that office, the names may be arranged in one or more columns in block form. The block shall be set apart by rulings under the title of the office. If a blank space follows the list of candidates, the space shall be in the same column as the names of candidates for that office. If blocks of columns are used, blank spaces shall be included within the ruled block.

(3) In precincts using voting machines, the ballot label shall be clearly marked to indicate when names of candidates for the office are continued on the following page.

(4) When a measure is submitted to the people, the number, ballot title and financial estimate under ORS 250.125, if any, of each measure shall be printed consecutively by number after the list of candidates. A measure referred by the Legislative Assembly shall be designated "Referred to the People by the Legislative Assembly." A state measure referred by petition shall be designated "Referendum Order by Petition of the People." A state measure proposed by initiative petition shall be designated "Proposed by Initiative Petition."

(5) Each official ballot shall have a removable stub. The stub on the ballots for a precinct shall be numbered consecutively.

(6) The ballot shall be printed to give the elector a clear opportunity to designate the elector's choice for candidates and approval or rejection of measures submitted. In precincts not using voting machines the elector shall indicate a preference by making a cross or check mark inside a voting square corresponding to the candidate or answer for which the elector wishes to vote. A voting square may be printed on the blank, write-in vote spaces. However, the elector is not required to place a mark in the voting square corresponding to a name written in a blank space. On the ballot or ballot label shall be printed words to aid the elector, such as "Vote for one," "Vote for three," and regarding measures, "Yes" and "No." [1979 c 190 §238]

254.150 [Amended by 1979 c.316 §14; repealed by 1979 c 190 §431]

254.155 Rotation of names on ballot. In any election when two or more persons are candidates for nomination for or election to the same office, the county clerk shall divide the ballot or ballot label forms for the county into sets so as to provide a substantial rotation of the names and numbers of the candidates. The county clerk shall divide the number of ballot or ballot label forms for the county into sets equal in number to the candidates for nomination for or election to the office having the most candidates. The county clerk shall arrange the sets of forms so the names and numbers of the candidates shall be rotated by removing one name with its number from the top of the list for each nomination or office and placing that name and number at the bottom of the list for each successive set. However, no more than one set shall be used in printing the ballots or ballot labels for use in any one precinct. The names of candidates for President or Vice President of the United States and electors for those offices always shall be printed in groups, and only the groups shall be rotated but not the names within the groups. [Formerly 249.362]

254.160 [Amended by 1957 c 608 §177, 1979 c.190 §142, renumbered 250.025]

254.165 Adjusting ballot when vacancy occurs. If a candidate has died, withdrawn or become disqualified, the name of the candidate shall not be printed on the ballots or ballot labels or, if they have already been printed, shall be erased or canceled before the ballots are given to the electors. The name of a candidate nominated to fill a vacancy in nomination or office shall be printed on the ballots or ballot labels or, if they have already been printed, the county clerk shall cause the name to appear on the ballots or ballot labels before the ballots are given to the electors. [Formerly 250.161]

254.170 [Amended by 1957 c 608 §178, repealed by 1979 c 190 §431]

254.175 Posting of ballot title and financial estimate in lieu of printing on ballot or ballot label. (1) At any election in which a voting machine is used, in lieu of printing the complete ballot title and financial estimate, the county clerk may print the caption and the question of the ballot title and the measure number on the ballot or ballot label. If the ballot title and financial estimate is omitted from the ballots or ballot labels, they shall be printed in 14-point type or larger and posted in each voting compartment within view of the voter.

(2) The complete text of each ballot title and financial estimate shall be included with any absent voter's official ballot.

(3) Sample ballots and the publication of any facsimile sample ballots shall include the full text of the ballot title and financial estimate. [Formerly 258 380, 1981 c 173 §31; 1981 c 391 §10]

254.180 [Amended by 1953 c 150 §2; 1957 c.608 §179, 1979 c 190 §151; renumbered 250 125]

254.185 Printing and furnishing of ballots by county clerk. The county clerk shall print all the required ballots and ballot labels and shall furnish them for use by electors in the county. Only these ballots and ballot labels shall be used in an election. [Formerly 250 080]

254.190 [Repealed by 1979 c 190 §431]

254.195 Ballot specifications and sample ballots; mailing of sample ballots. (1) Official ballots and ballot labels shall be printed in black ink upon good quality white material. However, the primary election ballots or ballot labels shall be of different colors for the major political parties.

(2) Sample ballots shall be prepared for the information of the voter. The sample ballot shall contain the offices, candidates, measures and other information on the ballots or ballot labels of the precincts for which the sample ballot is issued. The sample ballot need not contain the office of, or candidates for, precinct committeeperson. The sample ballots shall be identified as such, and printed on cheaper, colored paper to distinguish them from official ballots. A sample ballot shall not be voted or counted.

(3) The governing body of a city, county or district may mail sample ballots to all voters within the city, county or district to assist the voters' preparation for voting. [Formerly 250 090; 1981 c 157 §1]

254.200 [Repealed by 1957 c 608 §231]

254.205 Publication of facsimile of ballot. (1) Not later than the fourth day nor before the 15th day before an election, the county clerk shall publish a facsimile, except as to size, of the sample ballot for the election. For the primary election, a facsimile of the sample ballot of each major political party shall be published.

(2) The facsimile shall be published in at least one issue of one newspaper in each county with a population of less than 10,000, or in each county in which no more than one newspaper is published. The facsimile shall be published in at least one issue of two newspapers in each county with a population of 10,000 or more in which more than one newspaper is published. The county governing body, at the first regular meeting each year, shall select the newspaper or newspapers of general circulation in the county in which the facsimile shall be published and shall notify the county clerk of the selection.

(3) If the county governing body determines that publication of the facsimile in the newspaper or newspapers selected under subsection (2) of this section does not give sufficient notice of the election, it may select additional newspapers in which the facsimile shall be published at least once. The selection shall be made at the same time, but need not be made in the same manner as provided in subsection (2) of this section. The county governing body shall notify the county clerk of the additional selection.

(4) The facsimile shall be published at the current published local display advertising rate.

(5) The facsimile shall not be published in any newspaper unless it agrees that no paid political advertisement shall be placed on the same page as the facsimile or on the page facing the facsimile. If a newspaper selected under subsection (2) or (3) of this section does not so agree, the county governing body shall select another newspaper in the county with as nearly as possible the same qualifications for the publication of the facsimile. [Formerly 250 121]

254.210 [Amended by 1957 c 608 §180; 1965 c 290 §1; 1973 c 712 §1, 1975 c 766 §19; 1979 c.190 §190; renumbered 251.205]

254.215 Furnishing of official and sample ballots. (1) The county clerk shall provide each precinct with at least as many official ballots as there are electors listed in the poll books of the precinct, and as many additional ballots as may be expected to be required. The county clerk shall provide as many sample ballots as the county clerk considers necessary to supply persons requesting them at polling places and to distribute to the public.

(2) In addition to the sample ballots required, the county clerk, at the request of any candidate, political party or political committee, shall furnish to them sample ballots. The county clerk shall collect from the requesting person the cost of the sample ballots furnished. [Formerly 250 150]

254.220 [Amended by 1957 c 608 §181, 1965 c.290 §2; repealed by 1973 c.712 §2 (254 222 enacted in lieu of 254 220)]

254.222 [1973 c 712 §3 (enacted in lieu of 254 220), 1975 c 766 §20, 1979 c 190 §191; renumbered 251 215]

254.225 [1975 c 766 §28; 1979 c.190 §192, renumbered 251 225]

254.226 Form of poll book. (1) The county clerk shall prepare the poll book of each precinct. The poll book shall list alphabetically the electors in the precinct, and the residence address and political affiliation of each. For a precinct containing less than 500 electors the county clerk may divide the poll book into two or more separate parts; for a precinct containing 500 or more electors the county clerk shall divide the poll book into two or more separate parts.

(2) The poll book shall be ruled so that in a column for ballot numbers sufficient space appears for inserting the number of the ballot given to the elector. At any election where more than one ballot is used, a separate column shall be provided for each separate form of ballot.

(3) The county clerk shall have attached to, or printed in, the poll book blank oaths of office for the election board clerks. [1979 c 190 §246]

254.230 [1973 c.712 §4, 1979 c 190 §193, renumbered 251 235]

254.235 Preparation of voting machines and vote tally systems. Before an election in which voting machines or vote tally systems are used, the county clerk shall:

(1) Prepare and test the machine and system thoroughly.

(2) Mail to the chairman of the county central committee of each major or minor political party who has notified the clerk that notice is desired, a notice of the time and place where the machines or systems will be prepared and tested. One representative of each party is entitled to be present to insure that the preparation and testing are done properly. In nonpartisan elections each candidate may designate one representative who has the same powers as the political party representatives. The party and candidate representatives shall certify that they have witnessed the preparation and testing. The certificates shall be filed with the county clerk.

(3) Make every reasonable effort to acquaint the voters with the ballot format and marking or punching system.

(4) Prepare a certificate that the ballot labels have been properly placed in the machine. [1979 c 190 §247]

254.245 Securing polling places; required facilities. In sufficient time before the election, the county clerk shall secure and take possession of the places designated as polling places. The county clerk shall provide suitable compartments, shelves or tables at which electors are to mark their ballots. The arrangement shall insure that the ballot boxes, compartments, shelves or tables, and the electors while marking their ballots, shall not be hidden from view of the election board clerks, yet they shall be so arranged that the elector may conveniently mark the ballot with absolute secrecy. There shall be provided in each polling place not less than one compartment, shelf or table for every 90 electors to vote at that polling place. A polling place shall have at least three compartments, shelves or tables. [Formerly 250 610]

POLLING PLACES AND VOTING

254.265 Delivery of equipment to polling place. (1) In sufficient time before opening of the polls, the county clerk shall deliver to each election board the poll book, tally and return sheets, ballots, ballot boxes and other equipment necessary for conduct of the election. The county clerk also shall deliver to the election board a notice specifying where the board is to return the equipment.

(2) The county clerk may provide a flag of the United States for each polling place. In

this event, the election board shall display the flag at the polling place during voting hours.

(3) The county clerk shall keep a record of, and prepare a receipt for, the equipment delivered. The election board clerk who receives the equipment shall sign the receipt. The receipt immediately shall be returned to the county clerk. [1979 c 190 §249; 1979 c 519 §19a]

254.275 Oath of election board clerks. Before beginning their duties, the election board clerks shall take the oath of office included in the poll book. The oath shall be administered by any officer authorized to administer oaths or by the board chairman. If these persons are not present, any clerk may administer the oaths. [1979 c 190 §250]

254.290 [Repealed by 1957 c 608 §231]

254.295 Selecting substitute for absent clerk; compensation. If an election board clerk is not present when required, the other clerks shall elect a qualified person to act as clerk until the absent clerk arrives, and if the absent clerk does not arrive within one-half hour, to serve in that clerk's place. The substitute clerk need not be of the same political affiliation as the absent clerk, unless all clerks of the board would have the same political affiliation. The substitute clerk shall take the official oath before acting. Compensation which would have been paid to the absent clerk for the period served by the substitute clerk shall be paid to the substitute clerk and deducted from the pay of the absent clerk. [Formerly 250 330]

254.305 Regulation of persons at or near polls; challengers and watchers permitted. (1) Except as provided in subsection (2) of this section, no person other than an elector attempting to vote shall approach or stand within 50 feet of the polls when open. Only a reasonable number of electors shall be permitted to be within 50 feet of the polls at the same time.

(2) (a) The election board chairman may appoint a peace officer to preserve order at the polls.

(b) The board, if requested, shall permit one elector of the county in which the polling place is located authorized by each political party to be at the polling place to challenge voters. The board, if requested, shall permit any candidate, or one elector of the county in which the polling place is located authorized by a candidate or several candidates to be present to watch the receiving and counting of votes. The authorization shall be signed by the county chairman of the political party or by the candidate or candidates and filed with the board.

(c) The board also shall permit additional electors of the county in which the polling place is located authorized in writing by the county clerk to be at the polling place to challenge voters and watch the receiving and counting of votes. The county clerk shall authorize as challenger and watcher under this paragraph only so many persons as will not interfere with an orderly procedure at the polling place.

(3) Persons permitted to be present to watch the counting of votes shall not leave until the polls are closed. [Formerly 250 430]

254.310 [Amended by 1957 c 608 §182, 1959 c 457 §8; 1977 c.516 §1; repealed by 1979 c 190 §431]

254.315 Location of voting machines, models and labels. The election board clerks, when preparing a voting machine before the polls open, shall:

(1) Place the voting machine where it can be conveniently attended by the clerks and conveniently operated by the voters and where the ballot labels on the machine can be plainly seen by the clerks and the public when the machine is not in use.

(2) Place a model of a portion of the face of a voting machine where a voter can conveniently operate it and receive instructions on the manner of voting before proceeding to the voting compartment, shelf or table.

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

(4) Certify the performance of these duties in the poll book. [Formerly 258 245]

254.320 [Amended by 1957 c.608 §183, 1975 c 675 §31b, repealed by 1979 c.190 §431]

254.325 Poll hours; election supplies to be in view of officials; when voting begun. (1) The polls shall be open from 8 a.m. to 8 p.m. of the same day.

(2) The first election board shall meet not later than 7:30 a.m. at the polling place on election day. It shall act until the count and tally of ballots is completed, until the polls are closed and the ballots removed for counting, or until relieved by an additional board. While the polls are open, no more than one board clerk shall be out of the presence of the others.

(3) The election board, immediately before the opening of the polls, shall insure that the

ballot boxes are empty. The boxes shall not be reopened except to count the ballots.

(4) At 8 a.m. the board chairman shall publicly announce the opening of the polls. Thirty minutes before closing the polls the chairman shall publicly announce that the polls will be closed in half an hour.

(5) The ballot boxes, poll book, ballot stubs, return sheets and tally sheets shall be constantly kept together in view of the board clerks and other persons permitted to be present from the opening of the polls until the clerks complete their duties.

(6) If a voter attempts to vote at the wrong polling place, the board shall assist the voter in locating the proper polling place.

(7) When the polls close, voters who are at the polling place waiting to vote shall be considered to have begun the act of voting. [Formerly 250 340]

254.330 [Amended by 1957 c.608 §184; repealed by 1979 c 190 §431 and by 1979 c 519 §38]

254.340 [Amended by 1957 c 608 §185; 1959 c.457 §9; 1979 c 519 §37; repealed by 1979 c 190 §431]

254.335 Examination of equipment during voting. If voting machines are used, the board clerks occasionally shall examine the face of the machine and the ballot labels to determine that the machine or labels have not been tampered with or damaged. [Formerly 258.295]

254.345 Procedure when equipment becomes inoperative. (1) If a voting machine becomes inoperative, a clerk immediately shall notify the county clerk.

(2) If possible, the county clerk shall repair the voting machine at once or substitute another machine.

(3) If no other machine can be procured and the inoperative machine cannot be repaired in time for further use at the election, or when in the discretion of a majority of the election board it is impracticable to use the machine, the board clerks shall permit the voters to use paper ballots. The paper ballots shall be furnished by the county clerk. The ballots shall not be tallied and returned by the board clerks. Instead, these ballots shall be delivered to the county clerk for tally and canvass. [Formerly 258.305]

254.355 Indication in poll book of ballots delivered. The election board shall write, and certify as correct, in the poll book the number of ballots initially delivered and the number of ballots thereafter delivered to the precinct. [1979 c 190 §258]

254.365 Major party membership required for voting at a primary election. No elector shall be qualified or permitted to vote at any primary election, and it shall be unlawful for the elector to offer to do so, unless the elector is registered as being affiliated with one of the major political parties nominating or electing its candidates for public office at the primary election. Any elector offering to vote at the primary election shall be given a ballot of the major political party with which the elector is registered as being affiliated. The elector shall not be given a ballot of any other political party at that primary election. If the primary election ballot includes city, county or nonpartisan offices or measures, and it is given to a voter who is not eligible to vote for party candidates, the ballot shall be marked "limited." [Formerly 249 366]

254.375 Judiciary ballot. In a district where circuit judges are elected at large and not for departments or positions, an elector may vote for as many candidates as there are offices to be filled. [1979 c 190 §260]

254.385 Signing poll book; correcting error in residence address in poll book. (1) An elector before receiving a ballot shall sign the poll book following the elector's name.

(2) If the residence address of a person in the poll book is not correct because of an error in preparation of the poll book, the chairman of the election board shall ascertain the correct address from the person by a statement made under oath or affirmation before the election board. Thereafter a correction shall be made in the poll book. [Formerly 250.645; 1981 c.142 §3]

254.395 Making notations in poll book, on registration certificate and on ballot when elector votes. (1) The stub number of each official ballot given an elector shall be recorded in the poll book opposite the name of the elector or on the registration certificate of the elector.

(2) If an elector is permitted to vote only on certain offices or measures, the chairman of the election board shall determine on which offices or measures the elector is qualified to vote, and shall note the determination on the ballot and in the poll book or on the registration certificate of the elector.

(3) An election board clerk shall enter in the poll book the name and residence address of an elector who is permitted to vote but is not listed in the poll book and is not voting under a registration certificate.

(4) If an elector votes under a registration certificate, the elector shall sign the certificate in view of the board clerk. The signed certificate shall be considered part of the poll book. [Formerly 250 631]

254.405 Voter to mark and deliver ballot; time permitted for voting; use of stickers prohibited; disposition of voted ballot. (1) On receiving a ballot, the voter shall retire to a compartment, shelf or table provided and mark or punch the ballot. Except as provided in ORS 254.445, not more than one person at one time shall be permitted to occupy a compartment, shelf or table. No voter shall occupy the compartment, shelf or table longer than five minutes. If the voter refuses to leave at the end of that time, the board clerks may remove the voter. However, the clerks may grant the voter a longer time.

(2) A voter shall not place on the ballot a sticker bearing the name of a person, or use any other method or device, except writing, to vote for a person whose name is not printed on the ballot.

(3) The voter, without exposing the contents of the ballot, shall deliver the ballot to a board clerk. The clerk shall remove the stub without exposing the contents of the ballot. The ballot then shall be deposited in the ballot box by a clerk in the presence of the elector or by the elector. [Formerly 250 655]

254.410 [Amended by 1957 c 608 §186; 1977 c 487 §3, repealed by 1979 c 190 §431]

254.415 Challenging a person's right to vote. (1) An election board clerk or elector present shall challenge any person offering to vote whom the clerk or elector knows or suspects not to be qualified as an elector. The elector's right to vote may be challenged at any time before the ballot is actually deposited in the ballot box.

(2) A board clerk or elector who challenges a person offering to vote shall make, under oath or affirmation before the election board, a written statement of challenge on a numbered challenge form. The statement shall contain the name and residence address of the challenger, the name of the person challenged and a statement of the facts upon which the challenge is based.

(3) A person offering to vote who is challenged may state, under oath or affirmation subject to penalty of false swearing, that the person is qualified to vote. If the person so states, the person shall be permitted to vote, subject to ORS 254.425. If the challenged person does not make such a statement, the ballot shall be rejected by the election board. [Formerly 250.350; 1981 c 142 §4]

254.420 [Amended by 1975 c 627 §2, 1977 c.487 §4, 1979 c.190 §138, renumbered 249 875]

254.425 Procedure on challenged ballot. Whenever any person's right to vote has been challenged and the person has made the statement under ORS 254.415 (3) that the person is qualified to vote, the board chairman shall write on the back of the ballot offered by the challenged person the number of the challenge form, so that it may be identified in any future contest of the election. The challenge form shall be sealed in an envelope. The county clerk may examine the challenge form after the election to inquire into the validity of the person's registration to vote. The county clerk shall insure that the information on the challenge form is treated as confidential, so that in the event of a recount of votes it cannot be determined how any challenged voter voted. [Formerly 250 400]

254.430 [Repealed by 1973 c 392 §4]

254.435 Removal of ballot from polling place prohibited; return of unused ballot to clerk for destruction. (1) Subject to ORS 254.485, no person shall take an official ballot from the polling place, except a board clerk may take a ballot to a handicapped elector offering to vote immediately outside the polling place.

(2) An elector who does not vote the ballot before leaving the polling place shall return the ballot to a board clerk. The clerk shall write on the stub "Not voted" and initial the stub. The clerk then shall treat the stub and the ballot as a spoiled ballot. The clerk shall draw a line with pen and ink in the poll book across the signature of the elector and write the words "Not voted." [Formerly 250 700]

254.440 [Amended by 1975 c.683 §4, 1977 c 487 §5, repealed by 1979 c 190 §431]

254.445 Assistance in marking ballot or signing poll book for physically disabled electors; all electors authorized to use sample ballot as aid in voting. (1) Any elector who, because of a physical disability, is unable to mark or punch the ballot, upon

request, shall receive the assistance of two election board clerks of different parties or of some other person chosen by the elector in marking or punching the ballot. The persons assisting the elector shall ascertain the wishes of the elector and mark or punch the ballot accordingly, and thereafter shall give no information regarding the vote. The board chairman may require a declaration of disability to be made by the elector under oath. Whenever an elector receives assistance in this manner, a clerk shall make a notation of it in the poll book following the name of the elector.

(2) When any elector, because of a physical disability, is unable to sign the poll book, a clerk, under supervision of the chairman, shall enter the words "unable to sign" in the place provided for the elector's signature.

(3) In preparing the ballot, an elector may use or copy a sample ballot, which may be marked in advance to assist the elector in marking or punching the official ballot. [Formerly 250.690]

254.450 [Amended by 1979 c 190 §137; renumbered 249 870]

254.455 Spoiled ballot. If an elector by accident or mistake spoils a ballot, the elector, on returning the spoiled ballot, shall receive another. If the elector spoils three ballots, it shall be conclusive evidence that the elector is unable to prepare a ballot without assistance. When the elector spoils a ballot and returns it, a board clerk shall write upon the stub the word "Spoiled," initial the stub, remove the stub from the ballot, immediately pass the stub to the board chairman and then immediately destroy the spoiled ballot without anyone inspecting its contents. The clerk then shall issue another ballot to the elector, and write the number of the spoiled ballot on the stub of the new ballot. A notation of spoiling of a ballot shall be made in the poll book following the name of the elector. [Formerly 250 680]

254.460 [Amended by 1979 c 190 §139; renumbered 249 880]

POST ELECTION PROCEDURES

254.475 Disposition of official ballots immediately after polls close. Immediately after the close of the polls:

(1) The names of electors who voted shall be counted and the number written in the poll book. At the primary election, the number of electors who voted from each major political party also shall be written in the poll book.

(2) The election board, by an examination of the poll book, shall determine the number of ballots voted and the number of ballots spoiled. These totals shall be written in the poll book.

(3) The election board shall count the unused ballots in its custody and shall write this number in the poll book.

(4) The election board shall destroy all unused ballots which are printed or identified for a particular election.

(5) The board chairman and clerks shall certify the accounting as written in the poll book by signing the poll book.

(6) At a polling place in which ballot labels are used, the election board shall seal the ballot labels closed.

(7) The county clerk shall destroy all unused absentee and regular ballots in the county clerk's possession. [Formerly 250 225]

254.485 Tally of ballots. (1) Ballots may be tallied by a vote tally system or by a counting board. A counting board may tally ballots at the precinct or in the office of the county clerk. In any event, the ballots shall be tallied and returned by precinct.

(2) The tally of ballots may begin before the polls close. Ballots tallied at the precinct before the polls close shall be tallied by a special counting board. Otherwise, the tally shall begin after the polls close.

(3) After the tally has begun it shall continue until completed. A counting board shall tally without adjournment and in the presence of the clerks and persons authorized to attend. However, the board may be relieved by another board if the tally is not completed after 12 hours.

(4) A counting board shall audibly announce the tally as it proceeds. The board shall use only pen and ink to tally. [1979 c.190 §270]

254.495 Tally and return sheets; counting and tallying ballots. The election board, to tally ballots, shall use the tally sheets and two copies of the return sheet. The completed sheets shall contain the offices on the ballot, the number and name of each candidate who received a vote, the total number of votes cast for each candidate and each

measure voted upon, and the total number of votes cast for and against the measure. The tally and return sheets, when completed, shall be certified correct by the election board which kept them. [Formerly 250 471]

254.505 Only clearly marked official ballots to be counted; void ballots; counting only part of offices voted for on ballot. (1) Only official ballots shall be counted. Any vote from which it is impossible to determine the elector's choice for the office or measure shall not be counted. Any ballot that has a sticker or other device in violation of ORS 254.405 (2) shall be void and shall not be counted. Election board clerks shall disregard misspelling or abbreviations of the names of candidates if it can be ascertained from the ballot for whom the vote was intended.

(2) The board chairman, using ink, immediately shall initial the back of the wholly or partially void ballot and write on it "Not counted for————" (stating the office or measure). The election board shall seal the wholly void ballots in an envelope. [Formerly 250 510]

254.510 [Repealed by 1979 c.190 §431]

254.515 Counting limited ballots. Ballots marked "Presidential only," "federal offices only" or "limited" shall be counted only for the offices or measures that the voter is entitled to vote. Votes on the ballot for other offices or measures shall not be counted. [Formerly 250.520]

254.520 [Repealed by 1979 c 190 §431]

254.525 Duties immediately after vote tally; retention of records. (1) Immediately after the tally of votes:

(a) The board chairman shall count the regular and absentee ballots either tallied or rejected, and write the number in the poll book. The number shall be certified as correct by board members.

(b) If all votes cast at the polling place are tallied there, the election board shall post one copy of the return sheet in a prominent location outside the polling place.

(c) The election board shall deliver under seal to the county clerk one copy of the return sheet, the tally sheet, ballots, ballot stubs, ballot boxes and written challenge statements. The board also shall deliver the other equipment to the county clerk.

(2) The county clerk shall keep the return sheets in the office for 90 days after the election.

(3) The county clerk shall destroy the ballots, ballot stubs and written challenge statements not sooner than the 90th day after the final day permitted for a contest of the election, unless otherwise ordered by the court. [1979 c 190 §274]

254.530 [Amended by 1957 c 608 §187, repealed by 1979 c.190 §431]

254.535 Preservation of certain materials. Each poll book, tally sheet and return sheet shall be preserved for two years after the election to which it relates. [1979 c 190 §275]

254.540 [Repealed by 1979 c 190 §431]

254.545 Duties of county clerk after election. The county clerk:

(1) As soon as possible after the election, shall prepare abstracts of votes using the tally and return sheets. The abstract for election of Governor shall be on a sheet separate from the abstracts for other offices and measures. One representative of each political party may attend the abstract proceedings.

(2) On completion of the abstracts, shall record a complete summary of votes cast in the county for each office, candidate for office and measure. The county clerk shall sign and seal this record. After the primary election, the county clerk also shall enter in a register of nominations the name and major political party of each candidate nominated, the office for which the candidate is nominated, and the date of entry.

(3) Not later than the 20th day after the election, shall deliver a copy of the abstracts for other than county offices to the appropriate election officials. The abstract for election of Governor shall be delivered separately to the Secretary of State as provided in section 4, Article V, Oregon Constitution.

(4) Not later than the 30th day after the election, shall proclaim which county measure is paramount, if two or more approved county measures contain conflicting provisions.

(5) Shall prepare and deliver a certificate of nomination or election to each candidate having the most votes for nomination for or election to county or precinct offices.

(6) Shall prepare, and file with the county governing body, a certificate stating the compensation to which the board clerks are entitled. The county governing body shall order

the compensation paid by county funds. [1979 c 190 §276]

254.550 [Repealed by 1979 c.190 §431]

254.555 Secretary of State's duties after election; Governor's proclamation. (1) Not later than the 30th day after the election, the Secretary of State, regarding offices for which the secretary receives filings for nomination, shall:

(a) Canvass the votes for the offices, except the office of Governor after the general election.

(b) Enter in a register of nominations after the primary election the name and, if applicable, major political party of each candidate nominated, the office for which the candidate is nominated, and the date of entry.

(c) Prepare and deliver a certificate of nomination or election to each candidate having the most votes for nomination for or election to the office. The Secretary of State shall sign the certificate under the seal of the state.

(d) Issue a proclamation declaring the election of candidates to the offices.

(2) Not later than the 30th day after the election:

(a) The Secretary of State, regarding measures for which the secretary as the filing officer, shall canvass the votes for each measure.

(b) The Governor shall issue a proclamation giving the number of votes cast for or against each such measure, and declaring the approved measures as the law on the effective date of the measure. If two or more approved measures contain conflicting provisions, the Governor shall proclaim which is paramount. [1979 c 190 §277]

254.560 [Repealed by 1979 c 190 §431]

254.565 Register of nominations; canvass of city measures. The chief city elections officer:

(1) After the primary election, shall enter in a register of nominations:

(a) The name of each candidate for city office nominated at the primary election.

(b) The office for which the candidate is nominated.

(c) If applicable, the name of the major political party nominating the candidate.

(d) The date of the entry.

(2) Not later than the 30th day after the election, shall canvass the vote on each city measure, and if two or more of the approved measures contain conflicting provisions, proclaim which is paramount. [Formerly 249.491]

254.570 [Repealed by 1979 c 190 §431]

254.575 Procedure when tie vote. When two or more candidates for the same office, after a recount of votes, have an equal and the highest number of votes:

(1) For election to State Senator or Representative, a party office, or a public office for which the election officer is other than the Secretary of State, the election officer shall have the candidates meet publicly to decide by lot who is elected.

(2) For election to a public office other than Governor or those referred to in subsection (1) of this section, the Secretary of State by proclamation shall order a new election to fill the office.

(3) For election to Governor, the Legislative Assembly at the beginning of the next regular session shall meet jointly and elect one of the candidates.

(4) For nomination by one major political party to an office, the election officer who receives filings for nomination to the office shall have the candidates meet publicly to decide by lot who is nominated. [1979 c 190 §279]

254.580 [Amended by 1957 c 608 §188; 1979 c.190 §378; renumbered 260 575]

254.590 [Amended by 1979 c 190 §377, renumbered 260 565]

254.600 [Amended by 1975 c 683 §5, 1977 c 178 §1, 1979 c 190 §379, 1979 c 519 §28, renumbered 260 585]

254.990 [Repealed by 1979 c.190 §431]