

# Chapter 254

1993 EDITION

## 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" includes any of the following submitted to the people for their approval or rejection at an election:

(a) A proposed law.

(b) An Act or part of an Act of the Legislative Assembly.

(c) A revision of or amendment to the Oregon Constitution.

(d) Local, special or municipal legislation.

(e) A proposition or question.

(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, any elected office of a metropolitan service district under ORS chapter 268, justice of the peace, sheriff 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) "Regular district election" means the election held each year for the purpose of

electing members of a district board as defined in ORS 255.005 (2).

(12) "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.

(13) "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; 1983 c.392 §5; 1983 c.567 §15; 1985 c.324 §2; 1987 c.707 §16; 1993 c.493 §95]

**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, unless specifically provided otherwise in the statute laws of this state. [1979 c.190 §225; 1983 c.350 §69a]

**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; 1987 c.267 §37]

**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; 1987 c.267 §38]

**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; 1987 c.267 §1]

**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]

**254.068 Simulated election for individuals under 18 years of age.** On the date of any election, the county clerk may conduct a simulated election. As used in this section, "simulated election" means a demonstration election held for individuals under 18 years of age for the purpose of encouraging future voter participation. [1991 c.436 §2]

**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; 1987 c.267 §39]

**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.** (1) The Secretary of State, not later than the 61st day before the date of a primary or general election, shall file with each county clerk a 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.

(2) The information concerning candidates for the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court and district court shall include a designation of incumbent for each candidate who is the regularly elected or appointed judge of the court to which the candidate seeks election. If a candidate was regularly elected or appointed to a specific position or department on the court, the candidate shall be desig-

nated as the incumbent only if the person is a candidate for that position or department.

(3) Included with each state measure shall be the measure number, the ballot title prepared by the Attorney General under ORS 250.065 (3) or, if the Supreme Court has reviewed the title under ORS 250.085, the title certified by the court and the financial estimates under ORS 250.125. The Secretary of State shall keep a copy of the statement. [Formerly 250.020; 1985 c.742 §1; 1991 c.971 §8; 1993 c.493 §28]

**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 shall file with the county clerk of the county in which the city hall of the city is located, a 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 not later than the 61st day before the date of the election.

(2) Except as provided in subsection (3) of this section, the chief elections officer of any city shall file with the county clerk of the county in which the city hall is located, a statement of the city measures to be voted on, including the ballot title for each measure, not later than the 61st day before the date of the election.

(3) If a measure to be submitted to the electors of a city at an election held on the third Tuesday in May or the first Tuesday after the first Monday in November was submitted on the election date in ORS 221.230 (1) immediately preceding the third Tuesday in May or the first Tuesday after the first Monday in November, the chief elections officer of the city shall file the statement required for that measure in subsection (2) of this section on the 47th day before an election held on the third Tuesday in May or the first Tuesday after the first Monday in November.

(4) The chief elections officer of the city shall keep a copy of each statement filed under this section.

(5) If a city is located in more than one county, the county clerk under subsection (1) of this section shall immediately file the statement and information required under subsection (1) of this section with the county clerk of any other county in which the city is located. [Formerly 250.030; 1981 c.639 §2; 1987 c.707 §17; 1987 c.724 §5; 1989 c.503 §13; 1989 c.503 §14; 1989 c.923 §11; 1991 c.71 §8; 1993 c.493 §29; 1993 c.713 §57]

**254.098 Expenses for change in information filed under ORS 254.085 or 254.095.** If, after the deadline for filing a statement under ORS 254.085 or 254.095, an electoral

district requires a change in the information contained in the statement, the electoral district for which the change is made shall bear the expenses incurred as a result of the change. As used in this section, "electoral district" means the state in the case of a statement filed under ORS 254.085 and a city in the case of a statement filed under ORS 254.095. [1991 c.74 §2; 1993 c.493 §30]

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

**254.103 Filing of measures referred by county governing body.** (1) The governing body of a county shall file with the county clerk each measure referred by the county governing body not later than the 61st day before the date of the election.

(2) If a measure to be submitted to the electors of a county at an election held on the third Tuesday in May or the first Tuesday after the first Monday in November was submitted on the election date in ORS 203.085 (1) immediately preceding the third Tuesday in May or the first Tuesday after the first Monday in November, the county governing body shall file the measure with the county clerk not later than the 47th day before an election held on the third Tuesday in May or the first Tuesday after the first Monday in November. [1983 c.15 §2; 1985 c.808 §35; 1987 c.707 §18; 1989 c.923 §12; 1991 c.71 §9; 1993 c.713 §58]

**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** [Formerly 250.070; 1981 c.639 §3; repealed by 1983 c.567 §22]

**254.108 Numbering county, city and district measures.** (1) The county clerk shall number county, city and district measures consecutively, beginning with number 1, and not repeating any number in any subsequent election until the number of measures reaches 99. When the number of measures reaches 99, the numbering sequence shall recommence with the number 1 at the next election at which a county, city or district measure is voted on. The measures shall be assigned numbers in the order in which the measures are filed with the clerk and in a manner that will not confuse county, city or district measures with state measures. The number assigned to each county, city and district measure shall be preceded by a unique county prefix number. The Secretary of State by rule shall assign a prefix number to each county for the purpose of carrying out the provisions of this subsection.

(2) If a district or city is located in more than one county, the district election officer under ORS 255.005 or the county clerk under ORS 254.095 shall immediately certify a dis-

trict or city measure to the county clerk of any other county in which the district or city is located. [1987 c.724 §4; 1993 c.493 §17]

**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.

(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 estimates under ORS 250.125 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. [Formerly 249.354; 1983 c.7 §3; 1983 c.567 §16; 1987 c.267 §42; 1991 c.971 §§9,10; 1993 c.493 §§31,32]

**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; listing of candidates for judge at primary and general elections; use of term "incumbent."**

(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.

(2) At the primary and general elections:

(a) The names of candidates who are opposed for nomination or 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; and

(b) The word "incumbent" shall follow the name of each candidate for the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court or district court who is designated the incumbent by the Secretary of State under ORS 254.085. [1979 c.190 §236; 1979 c.451 §6; 1979 c.587 §4; 1983 c.7 §4; 1985 c.742 §2; 1993 c.493 §§35,36]

**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.** (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 estimates under ORS 250.125 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. The names of the electors shall not be printed on the general election ballot. A vote for the candidates for President and Vice President shall be a vote for the group of presidential electors supporting those candidates and selected as provided by law. The general election ballot shall state that electors of President and Vice President are being elected and that a vote for the candidates for President and Vice President shall be a vote for the 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. The word "incumbent" shall follow the name of each candidate for the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court or district court who is designated the incumbent by the Secretary of State under ORS 254.085. If 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; 1983 c.7 §5; 1985 c.742 §3; 1991 c.971 §12; 1993 c.493 §38]

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) The names of candidates for nomination for or election to each office shall be arranged on the ballot or ballot label in the order determined under ORS 254.155. The names of candidates for the offices of President and Vice President of the United States, however, shall be arranged in groups. Except as provided in ORS 254.125, 254.135 and this section, no information about the candidate, including any title or designation, other than the candidate's name, shall appear on the ballot. In a precinct in which voting machines are used, spaces shall be provided, either on the ballot or on separate material delivered to the elector with the ballot, in which the elector 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 estimates under ORS 250.125 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; 1983 c.253 §2; 1991 c.719 §27; 1991 c.971 §13; 1993 c.493 §39; 1993 c.713 §48]

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

**254.155 Order of candidate names on ballot.** (1) This section governs the procedure for determining the order on the ballot of names of candidates for nomination for or election to all offices at any election.

(2) Not later than the 69th day before the date of any election the Secretary of State shall complete a random ordering of the letters of the alphabet.

(3) Not later than the 68th day before the date of any election the Secretary of State shall mail to each county clerk a copy of the random ordering of the letters of the alphabet.

(4) The county clerk shall arrange by surname the names of the candidates on the ballot or ballot label in the random order of the letters of the alphabet completed by the Secretary of State under subsection (2) of this section. [Formerly 249.362; 1983 c.253 §1; 1987 c.267 §47; 1993 c.713 §49]

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

**254.165 Adjusting ballot when vacancy occurs; notice to Secretary of State.** (1) If the filing officer determines that a candidate has died, withdrawn, become disqualified, or that the candidate will not qualify in time for the office if elected, 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. A filing officer, other than the Secretary of State, shall notify the Secretary of State of any action taken under this section.

(2) As used in this section:

(a) "District" means a district defined in ORS 255.012.

(b) "Filing 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.

(B) County clerk, regarding a candidate for a county office.

(C) County clerk of the county in which the administrative office of the district is located, regarding a candidate for a district office to be voted on in a district located in more than one county.

(D) County clerk, regarding a candidate for a district office to be voted on in a district situated wholly within the county.

(E) City clerk, auditor or recorder, regarding a candidate for a city office. [Formerly 250.161; 1983 c.514 §12; 1991 c.719 §28]

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

**254.175 Posting of ballot title and financial estimates in lieu of printing on ballot or ballot label.** (1) In lieu of printing the complete ballot title and financial estimates, 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 estimates are 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 elector.

(2) The complete text of each ballot title and financial estimates shall be included with any absent elector'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 estimates. [Formerly 258.380; 1981 c.173 §31; 1981 c.391 §10; 1985 c.808 §36; 1991 c.971 §14]

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 material. 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 elector. 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 electors within the city, county or district to assist the electors' preparation for voting. [Formerly 250.090; 1981 c.157 §1; 1985 c.471 §9; 1987 c.287 §48]

254.200 [Repealed by 1957 c.608 §231]

**254.205 Publication of facsimile of ballot.** (1) Except as provided in subsection (2) of this section:

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

(b) 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.

(c) If the county governing body determines that publication of the facsimile in the newspaper or newspapers selected under paragraph (b) of this subsection 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 paragraph (b) of this subsection. The county governing body shall notify the county clerk of the additional selection.

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

(e) 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 paragraph (b) or (c) of this subsection 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.

(2) In lieu of the procedure described in subsection (1) of this section, the county clerk of a county that produces a county voters' pamphlet may publish the facsimile of the sample ballot by distributing the facsimile to each post office mailing address within the electoral district for which the election is being held. As used in this subsection, "electoral district" means a county, city or district. [Formerly 250.121; 1989 c.171 §34; 1989 c.773 §1; 1991 c.107 §11]

**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) The county clerk, at the request of any person, candidate, political party or political committee, shall furnish to them sample ballots. The county clerk may collect from the requesting person the cost of the sample ballots furnished. [Formerly 250.150; 1989 c.503 §15]

**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. The poll book shall indicate clearly each electoral district in which the elector is eligible to vote.

(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.

(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; 1983 c.514 §13; 1985 c.448 §4; 1985 c.471 §10]

**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 each affiliate of a major or minor political party within the county that 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 electors 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; 1993 c.797 §23]

**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 120 electors to vote at that polling place. A polling place shall have at least three compartments, shelves or tables. [Formerly 250.610; 1987 c.707 §19]

## 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; exceptions.** (1) Except as provided in subsection (2) of this section, no person other than an elector attempting to vote shall approach or stand within 100 feet measured radially from any entrance to the building in which the polling place is located. Only a reasonable number of electors shall be permitted to be within 100 feet of the polls at the same time.

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

(b) The board, if requested, shall permit authorized electors of the county to be at the polling place to challenge persons offering to vote and to watch the receiving and counting of votes. The authorization shall be in writing, shall be signed by an officer or its county affiliate of a major political party, a

candidate or the county clerk and shall be filed with the board. The board shall permit only so many persons as challengers or watchers under this paragraph as will not interfere with an orderly procedure at the polling place.

(c) Subsection (1) of this section does not apply to:

(A) A person who is employed in the building or has business unrelated to the election in the building in which the polling place is located or in any building within 100 feet measured radially from any entrance to the building in which a polling place is located;

(B) Any person who incidentally, in the ordinary and usual course of the person's activities, approaches or stands within 100 feet measured radially from any entrance to the building in which the polling place is located; or

(C) An individual who is participating in a simulated election described in ORS 254.068.

(3) Persons permitted to be present to watch the counting of votes shall not leave until the polls are closed. [Formerly 250.430; 1983 c.83 §29; 1985 c.808 §37; 1989 c.503 §40; 1991 c.436 §3; 1993 c.493 §40; 1993 c.797 §24a]

**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 electors 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 an elector 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]

**254.321 Posting map of proposed boundaries for election on establishing or changing county or city boundaries.** At any election in which the question of establishing or changing the exterior boundaries of a county or city is submitted to a vote, the county clerk shall post in each voting compartment or by each shelf or table, within

view of the elector, a map indicating the proposed boundaries. [1983 c.350 §69]

**254.325 Poll hours; election supplies to be in view of officials.** (1) The polls shall be open from 7 a.m. to 8 p.m. of the same day except that if federal law or regulations require a particular hour for poll closure, the polls, for any election, shall close at that hour.

(2) The first election board shall meet not later than 6:30 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 7 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 an elector attempts to vote at the wrong polling place, the board shall assist the elector in locating the proper polling place.

(7) When the polls close, electors who are at the polling place waiting to vote shall be considered to have begun the act of voting. [Formerly 250.340; 1987 c.72 §1; 1987 c.727 §14]

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

**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]

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

**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 electors 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 Voting at a primary election by major party members and nonaffiliated electors.** (1) 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:

(a) 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; or

(b) The elector is registered as not being affiliated with any political party and wishes to vote in the primary election of a major political party that has provided under subsection (3) of this section for a primary election that admits electors not affiliated with any political party.

(2) 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. An elector not affiliated with any political party and offering to vote at the primary election shall be given the ballot of the major political party in whose primary election the elector wishes to vote if that party has provided under subsection (3) of this section for a primary election that admits electors not affiliated with any political party. An elector not affiliated with any political party who is given a ballot of the major political party associates with the party for the purpose of voting in that primary election.

(3) Not later than the 90th day before the date of the primary election, a major political party may file with the Secretary of State a certified copy of the current party rule allowing an elector not affiliated with any political party to vote in the party's primary election. The party shall not repeal the rule as filed during the 90 days before the primary election. The rule shall continue to

be effective after the date of the primary election until the party gives written notice to the Secretary of State that the rule has been repealed. A party rule under this subsection may limit the candidates for whom an elector who is not affiliated with any political party may vote. The party rule shall, however, allow any elector who is permitted to vote for the most numerous branch of the Legislative Assembly to also vote in federal legislative elections, consistent with Article I, section 2, and the Seventeenth Amendment to the United States Constitution.

(4) If the primary election ballot includes city, county or nonpartisan offices or measures, and it is given to an elector who is not eligible to vote for party candidates, the ballot shall be marked "limited." [Formerly 249.366; 1987 c.719 §1.20]

**254.370 Record of nonaffiliated electors; record of voting in primary election of major political party and in general election.** The county clerk shall maintain:

(1) A monthly registration record of all electors registered as not being affiliated with any political party;

(2) At each primary election, a record of the number of electors who voted from each major political party;

(3) A record of all electors registered as not being affiliated with any political party who vote in a primary election of a major political party that has provided under ORS 254.365 for a primary election that admits electors not affiliated with any political party; and

(4) A record of all electors registered as not being affiliated with any political party who vote in the general election. [1987 c.719 §3; 1991 c.719 §2; 1993 c.713 §31]

**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 Elector to mark and deliver ballot; time permitted for voting; use of stickers prohibited; disposition of voted ballot.** (1) On receiving a ballot, the elector 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 elector shall occupy the compartment, shelf or table longer than five minutes. If the elector refuses to leave at the end of that time, the board clerks may remove the elector. However, the clerks may grant the elector a longer time.

(2) An elector 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 elector, 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]

254.407 [1989 c.666 §2; repealed by 1993 c.713 §43]

**Note:** The repeal of 254.407 becomes operative July 1, 1994. See sections 43 and 44, chapter 713, Oregon Laws 1993. 254.407 (1991 Edition) is set forth for the user's convenience.

**254.407 Procedure for voting by elector for whom no evidence of registration is found.** (1) A person offering to vote and who claims to be an elector, but for whom no evidence of current registration can be found, shall be granted the right to vote in the manner provided in this section and ORS 254.409.

(2) A person offering to vote under subsection (1) of this section shall complete and sign a written statement containing the name, residence address and mail-

ing address of the person and the oath required by this section. The statement shall be numbered and shall be printed on an envelope in which the smaller ballot envelope shall be placed after the person has voted. The person shall sign an oath or affirmation before a member of the election board, that the person is registered and qualified to vote and that the person has not already voted at the same election. If the person so swears or affirms, the person shall be permitted to vote, subject to ORS 254.409. If the person does not sign such a statement, the person shall not be permitted to vote. Any member of the election board may administer the oath or affirmation required under this subsection.

**254.409** [1989 c.666 §3; repealed by 1993 c.713 §43]

**Note:** The repeal of 254.409 becomes operative July 1, 1994. See sections 43 and 44, chapter 713, Oregon Laws 1993. 254.409 (1991 Edition) is set forth for the user's convenience.

**254.409 Procedure for verifying registration and counting ballot of elector for whom no evidence of registration is found.** (1) Whenever any person votes under oath or affirmation under ORS 254.407, the board chairperson shall write on the back of the ballot offered by the person the number of the written statement completed by the person so that it may be identified in any future contest of the election.

(2) The person voting shall insert the ballot into a small envelope provided by the election board and then insert the small envelope into a larger envelope on which the statement the person previously signed is located. The larger envelope shall be deposited in the ballot box. When the ballot box is opened, the larger envelopes shall be segregated and not counted until the registration of the person is verified under this section.

(3) The county clerk shall examine the statement on the ballot envelope and determine if the person is validly registered to vote and if the vote was properly cast. The ballot shall be counted only if the county clerk determines the person is validly registered and that the person properly executed the written statement required under ORS 254.407.

(4) If the county clerk cannot otherwise verify the registration of a person voting under this section and ORS 254.407, the county clerk shall mail a written notice to the person that the records of the county clerk indicate was previously registered in the county. The notice shall be sent first class mail and be clearly marked "Address Correction Requested." The notice shall be in a form prescribed by the Secretary of State.

(5) If the county clerk finds that the person was previously registered in the county and does not receive evidence that the registration of the person is invalid for any reason, the county clerk shall count the ballot of the person voting under this section and ORS 254.407 and shall restore the person to the register of electors.

(6) The county clerk shall insure that the information on the numbered written form is treated as confidential so that in the event of a recount of votes it cannot be determined how any challenged person voted.

(7) The registration of any person voting under this section and ORS 254.407 shall be verified not later than the last business day prior to the last day for the official certification of election results required by ORS 254.545 (3) and 255.295 (1) in order for the vote of the person to be counted.

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

**254.411 Voting after name change.** (1) Any elector whose name has been changed may vote once in the precinct in which the elector is registered under the elector's former name.

(2) The election board clerk shall enter into the poll book the fact that the elector's name has changed. Following the election, the registration of the elector shall be considered inactive.

(3) In order to vote at subsequent elections the elector whose name has changed must update the elector's registration. [1987 c.733 §12; 1993 c.713 §32]

**Note:** The amendments to 254.411 by section 32, chapter 713, Oregon Laws 1993, become operative July 1, 1994. See section 44, chapter 713, Oregon Laws 1993. The text that is operative until July 1, 1994, is set forth for the user's convenience.

**254.411** (1) Any elector whose name has been changed by marriage or court order may vote once in the precinct in which the elector is registered under the elector's former name.

(2) The election board clerk shall enter into the poll book the fact that the elector's name has changed. In noting such entry the county clerk shall immediately cancel the elector's current registration.

(3) In order to vote at subsequent elections the elector whose name has changed must reregister as required by ORS 247.290.

**254.415 Challenging a person's right to vote; procedure for voting.** (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 person's right to vote may be challenged at any time before the ballot is actually deposited in the ballot box.

(2) A person offering to vote under subsection (1) of this section shall complete and sign a written statement containing the name, residence address and mailing address of the person and the oath required by this subsection. The statement shall be numbered and shall be printed on an envelope in which a smaller envelope shall be placed after the person has voted. The person shall sign an oath or affirmation before a member of the election board, that the person is registered and qualified to vote and that the person has not already voted at the same election. If the person so swears and affirms, the person shall be permitted to vote, subject to ORS 254.426. If the person does not sign such a statement, the person shall not be permitted to vote. Any member of the election board may administer the oath or affirmation required under this subsection. [Formerly 250.350; 1981 c.142 §4; 1985 c.808 §38; 1991 c.14 §1]

**254.420** [Amended by 1975 c.627 §2; 1977 c.487 §4; 1979 c.190 §138; renumbered 249.875]

**254.425** [Formerly 250.400; 1983 c.83 §30; repealed by 1991 c.14 §4]

**254.426 Procedure on challenged ballot.** (1) Whenever any person votes under oath or affirmation under ORS 254.415, the county clerk shall insure that the ballot offered by the person includes the number of the written statement completed by the per-

son so that the ballot may be identified in any future contest of the election.

(2) The person voting shall insert the ballot into a small envelope provided by the election board and then insert the small envelope into a larger envelope on which the statement the person previously signed is located. The larger envelope shall be deposited in the ballot box. When the ballot box is opened, the larger envelopes shall be segregated and not counted until the registration of the person is verified under this section.

(3) The county clerk shall examine the statement on the ballot envelope and determine if the person is validly registered to vote and if the vote was properly cast. The ballot shall be counted only if the county clerk determines the person is validly registered and that the person properly executed the written statement required under ORS 254.415.

(4) The county clerk shall insure that the information on the numbered written form is treated as confidential so that in the event of a recount of votes it cannot be determined how any challenged person voted.

(5) The registration of any person voting under this section and ORS 254.415 shall be verified not later than the last business day prior to the last day for the official certification of election results required by ORS 254.545 (3) and 255.295 (1) in order for the vote of the person to be counted. [1991 c.14 §3; 1993 c.713 §33]

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 or an inability to read or write, 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 assist the elector in voting 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) A person may not assist an elector under subsection (1) of this section if the person:

(a) Is an employer of the elector or an agent of the employer; or

(b) Is an officer or agent of the union of which the elector is a member.

(3) When any elector, because of a physical disability or an inability to read or write, 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.

(4) 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; 1985 c.471 §11]

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]

## VOTING BY MAIL

**254.465 County clerk may conduct election by mail; notice to governing bodies; election dates when voting by mail allowed.** (1) A county clerk may conduct an election by mail in the county, in a

city or in a district defined in ORS 255.012, under the supervision of the Secretary of State. In deciding to conduct an election by mail, the county clerk may consider requests from the governing body of the county, city or district, and shall consider whether conducting the election by mail will be economically and administratively feasible.

(2) A statewide election held on any date other than the date of a primary or general election may be conducted by mail. Notwithstanding subsection (1) of this section, the Secretary of State by rule shall direct that a statewide election authorized to be conducted by mail under this subsection be conducted uniformly by mail or at polling places.

(3) Not later than the third Monday in January of each year, the county clerk shall advise the governing body of the county, each city and each district for which the county clerk is the election officer that the county clerk may conduct one or more elections by mail in that year. This subsection does not apply to an emergency election.

(4) The Secretary of State shall adopt rules to provide for uniformity in the conduct of statewide elections by mail.

(5) Notwithstanding any provision of subsections (1) to (4) of this section, an election held on the date of the primary or general election shall not be conducted by mail. [1981 c.805 §1; 1983 c.199 §1; 1985 c.575 §1; 1987 c.267 §80; 1987 c.357 §2; 1991 c.719 §12; 1993 c.493 §§41,42]

**254.470 Conduct of election by mail; rules.** (1) An election by mail shall be conducted as provided in this section. The Secretary of State may adopt rules governing the procedures for conducting an election by mail. The Secretary of State by rule may modify the provisions of ORS chapters 254 and 255 as necessary for the conduct of an election by mail.

(2) If a county clerk conducts an election by mail, the county clerk may designate the county clerk's office or one central location in the electoral district in which the election is conducted as the single place to obtain a replacement ballot under subsection (8) of this section. The county clerk also shall designate one or more places of deposit for the ballots cast in the election. The places designated under this section shall be open on the date of the election for a period, determined by the county clerk, of 12 or more hours.

(3) The county clerk shall mail an official ballot with a return identification envelope and a secrecy envelope not sooner than the 20th day before the date of an election conducted by mail and not later than the 14th

day before the date of the election, to each person registered as an elector of the electoral district as of the 21st day before the date of the election. Notwithstanding any other provision of this subsection, the Secretary of State by rule shall specify the date on which all ballots shall be mailed for any statewide election conducted by mail under ORS 254.465 (3) or (6).

(4) For each elector who obtains a certificate of registration after the 21st day before the date of an election conducted by mail, the county clerk shall make the official ballot, the return identification envelope and the secrecy envelope available only at the county clerk's office or other place designated by the county clerk. An elector to whom this subsection applies must vote at the election in the county clerk's office or other place designated by the county clerk. The elector shall mark the ballot, sign the return identification envelope, comply with the instructions provided with the ballot and return the ballot in the return identification envelope to the county clerk.

(5) Notwithstanding subsection (3) of this section, replacement ballots may be mailed not later than the fifth day before the date of the election or obtained in person up until and including the date of the election from the county clerk.

(6) The ballot or ballot label shall contain the following warning:

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Any person who, by use of force or other means, unduly influences an elector to vote in any particular manner or to refrain from voting, is subject, upon conviction, to imprisonment or to a fine, or both.

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(7) This subsection applies to an elector to whom subsection (3) of this section applies. Upon receipt of the ballot the elector shall mark it, sign the return identification envelope supplied with the ballot and comply with the instructions provided with the ballot. The elector may return the marked ballot to the county clerk by United States mail or by depositing the ballot at the office of the county clerk or any place of deposit designated by the county clerk. The ballot must be returned in the return identification envelope. If the elector returns the ballot by mail, the elector must provide the postage. A ballot must be received at the office of the county clerk or the designated place of deposit not later than the end of the period determined under subsection (2) of this section on the date of the election.

(8) An elector may obtain a replacement ballot if the ballot is destroyed, spoiled, lost

or not received by the elector. An elector seeking a replacement ballot shall sign a sworn statement that the ballot was destroyed, spoiled, lost or not received and present the statement to the county clerk before the end of the period determined under subsection (2) of this section. The county clerk shall keep a record of each replacement ballot provided under this subsection.

(9) A ballot shall be counted only if:

(a) It is returned in the return identification envelope;

(b) The envelope is signed by the elector to whom the ballot is issued; and

(c) The signature is verified as provided in subsection (10) of this section.

(10) The county clerk shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration card, according to the procedure provided by rules adopted by the Secretary of State. If the county clerk determines that an elector to whom a replacement ballot has been issued has voted more than once, the county clerk shall not count any ballot cast by that elector.

(11) Any ballot and any elector casting a ballot may be challenged pursuant to rules adopted by the Secretary of State. [1981 c.805 §2; 1983 c.199 §2; 1985 c.575 §2; 1987 c.357 §3; 1987 c.733 §7a; 1993 c.493 §44]

## 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.

(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; 1987 c.267 §51; 1993 c.713 §35]

**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]

**254.500 Tally of write-in votes.** This section governs the tally of votes cast for persons whose names were not printed on the ballot but are written in by electors. All such write-in votes for each office on the ballot shall be tallied together, except as follows:

(1) If the total number of write-in votes for candidates for the same nomination or office equals or exceeds the number of votes cast for any candidate for the same nomination or office on the ballot who appears to have been nominated or elected, the county clerk shall tally all write-in votes cast for the office to show the total number of votes cast for each write-in candidate.

(2) If no names of candidates are printed on the ballot for an office, the county clerk shall tally the votes cast for each candidate for the office who received a vote.

(3) The county clerk shall tally the votes cast for each candidate who filed a written request under ORS 249.007 for a separate tally of votes. [1985 c.508 §2; 1993 c.493 §45]

**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 elector 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) Except as provided in subsection (4) of this section, the county clerk shall keep the return sheets in the office for 90 days after the election.

(3) Except as provided in subsection (4) of this section, 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.

(4) In accordance with 42 U.S.C. 1974, any ballot, voter registration records and any

other materials relating to any election at which a candidate is nominated or elected to federal office shall be retained for not less than 22 months following the date of the election. [1979 c.190 §274; 1993 c.713 §36]

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; 1987 c.267 §52]

**254.548 Individual nominated or elected by write-in votes; form.** An individual nominated or elected to a public office by write-in votes shall sign and file a form indicating that the individual accepts the nomination or office before the filing officer may issue a certificate of nomination or

election. The Secretary of State by rule shall prescribe the form to be used under this section. [1991 c.719 §56]

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; 1987 c.267 §53]

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; 1987 c.267 §54]

**254.568 Certificate of election required before taking oath of office.** When a candidate elected to public office is required by law to take, file, subscribe or indorse an oath of office before entering upon the duties of the office, the candidate shall not take, file, subscribe or indorse the oath until the candidate has been granted a certificate of election. [1993 c.493 §101]

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]