

## Enrolled Senate Bill 861

Sponsored by Senators DEMBROW, MANNING JR, Representatives NOSSE, KENY-GUYER, RAYFIELD; Senators BEYER, BURDICK, FAGAN, FREDERICK, GELSER, MONNES ANDERSON, PROZANSKI, ROBLAN, TAYLOR, WAGNER, Representatives BARKER, BYNUM, CLEM, DOHERTY, DRAZAN, EVANS, FAHEY, GORSEK, GREENLICK, HELM, HERNANDEZ, HOLVEY, LIVELY, MARSH, MCLAIN, MITCHELL, NERON, PILUSO, POWER, PRUSAK, SALINAS, SANCHEZ, SCHOUTEN, SMITH DB, SMITH WARNER, SOLLMAN, WILDE, WILLIAMSON (at the request of Governor Kate Brown, Secretary of State Dennis Richardson and The Bus Project)

CHAPTER .....

AN ACT

Relating to elections; creating new provisions; amending ORS 254.470, 260.665 and 545.163; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 254.**

**SECTION 2. (1) Except as provided in subsection (2) of this section, for each election held in this state, electors shall be provided with a return identification envelope that may be returned by business reply mail. The state shall bear the cost of complying with this subsection.**

**(2) The Secretary of State may require that the return identification envelopes provided to electors be returned by mail by using a method other than business reply mail if the secretary determines that an alternative method is more cost effective or efficient. The state shall bear the cost of returning ballots by mail under any method adopted by the secretary under this subsection.**

**(3) As used in this section, "business reply mail" means a mailing service allowing a preaddressed return identification envelope to be mailed by an elector without charge, with the state paying the mailing fee for a return identification envelope that is returned by United States mail but not for a return identification envelope that is not returned by United States mail.**

**SECTION 3. ORS 254.470, as amended by section 4, chapter 70, Oregon Laws 2018, is amended to read:**

**254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the designation of places of deposit for the ballots cast in an election. The rules shall also specify the dates and times the places of deposit must be open and the security requirements for the places of deposit. At a minimum, the places designated under this section shall be open on the date of the election for a period of eight or more hours, but must be open until at least 8 p.m. At each place of deposit designated under this section, the county clerk shall prominently display a sign stating that the location is an official ballot drop site.**

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, the county clerk shall mail by nonforwardable 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 and not later than the 14th day before the date of the election, to each active elector of the electoral district as of the 21st day before the date of the election.

(b) If the county clerk determines that an active elector of the electoral district as of the 21st day before the date of the election does not receive daily mail service from the United States Postal Service, the county clerk shall mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope to the elector not sooner than the 20th day before the date of an election and not later than the 18th day before the date of the election.

(c) In the case of ballots to be mailed to addresses outside this state to electors who are not military or overseas electors, the county clerk may mail the ballots not sooner than the 29th day before the date of the election.

(3) For an election held on the date of a primary election:

(a) The county clerk shall mail the official ballot of a major political party to each elector who is registered as being affiliated with the major political party as of the 21st day before the date of the election.

(b) The county clerk shall mail the official ballot of a major political party to an elector not affiliated with any political party if the elector has applied for the ballot as provided in this subsection and that party has provided under ORS 254.365 for a primary election that admits electors not affiliated with any political party.

(c) An elector not affiliated with any political party who wishes to vote in the primary election of a major political party shall apply to the county clerk in writing. The application must be completed, signed and submitted by the elector electronically, in person or by mail, in a manner determined by the secretary by rule and must indicate which major political party ballot the elector wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day before the date of the election.

(d) If the primary election ballot includes city, county or nonpartisan offices or measures, the county clerk shall mail to each elector who is not eligible to vote for party candidates a ballot limited to those offices and measures for which the elector is eligible to vote.

(4) For each elector who updates a voter registration after the deadline in ORS 247.025, the county clerk shall make the official ballot, the return identification envelope and the secrecy envelope available either by mail or at the county clerk's office or at another place designated by the county clerk. An elector to whom this subsection applies must request a ballot from the county clerk.

(5) The ballot 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 to a fine.

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(6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign the return identification envelope supplied with the ballot and comply with the instructions provided with the ballot.

(b) 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, at any place of deposit designated by the county clerk or at any location described in ORS 254.472 or 254.474.

(c) The ballot must be returned in the return identification envelope. *[If the elector returns the ballot by mail, the elector must provide the postage.]*

(d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector, the person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later than two days after receiving the ballot.

(e) A ballot must be received at the office of the county clerk, at the designated place of deposit or at any location described in ORS 254.472 or 254.474 not later than the end of the period determined under subsection (1) of this section on the date of the election.

(7) An elector may obtain a replacement ballot if the ballot is destroyed, spoiled, lost or not received by the elector. Replacement ballots shall be issued and processed as described in this section and ORS 254.480. The county clerk shall keep a record of each replacement ballot provided under this subsection. Notwithstanding any deadline for mailing ballots in subsection (2) of this section, a replacement ballot may be mailed, made available in the office of the county clerk or made available at one central location in the electoral district in which the election is conducted. The county clerk shall designate the central location. A replacement ballot need not be mailed after the fifth day before the date of the election.

(8) 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, unless a certified statement is submitted under ORS 254.431; and

(c) The signature is verified as provided in subsection (9) of this section.

(9) The county clerk shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration record, 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 count only one ballot cast by that elector.

(10) At 8 p.m. on election day, electors who are at the county clerk's office, a place of deposit designated under subsection (1) of this section or any location described in ORS 254.472 or 254.474 and who are in line waiting to vote or deposit a voted ballot shall be considered to have begun the act of voting.

**SECTION 4.** ORS 260.665 is amended to read:

260.665. (1) As used in this section, "undue influence" means force, violence, restraint or the threat of it, inflicting injury, damage, harm, loss of employment or other loss or the threat of it, or giving or promising to give money, employment or other thing of value.

(2) A person, acting either alone or with or through any other person, may not directly or indirectly subject any person to undue influence with the intent to induce any person to:

(a) Register or vote;

(b) Refrain from registering or voting;

(c) Register or vote in any particular manner;

(d) Be or refrain from or cease being a candidate;

(e) Contribute or refrain from contributing to any candidate, political party or political committee;

(f) Render or refrain from rendering services to any candidate, political party or political committee;

(g) Challenge or refrain from challenging a person offering to vote;

(h) Apply or refrain from applying for a ballot as an absent elector; or

(i) Sign or refrain from signing a prospective petition or an initiative, referendum, recall or candidate nominating petition.

(3) A person may not solicit or accept money or other thing of value as an inducement to act as prohibited by subsection (2) of this section.

(4) This section does not prohibit:

(a) The employment of persons to render services to candidates, political parties or political committees;

(b) The public distribution by candidates, political parties or political committees of sample ballots or other items readily available to the public without charge, even though the distributor incurs costs in the distribution;

(c) Public or nonpromissory statements by or on behalf of a candidate of the candidate's intentions or purposes if elected;

(d) A promise by a candidate to employ any person as administrative assistant, secretary or other direct personal aide;

(e) Free custody and care of minor children of persons during the time those persons are absent from those children for voting purposes;

(f) For persons voting, free transportation to and from places designated for the deposit of ballots under ORS 254.470 or to and from locations described in ORS 254.472 or 254.474; but no means of advertising, solicitation or inducement to influence the vote of persons transported may be used with that transportation;

(g) Individuals or political committees from providing refreshments incidental to a gathering in support of or in opposition to a candidate, political committee or measure; [or]

(h) The public distribution of registration cards by a person approved by the Secretary of State under ORS 247.171 to print, copy or otherwise prepare and distribute registration cards, even though the distributor incurs costs in the distribution[.]; **or**

**(i) An elections official from providing return identification envelopes for ballots that may be returned by mail at no cost to the elector under section 2 of this 2019 Act.**

**SECTION 5.** ORS 545.163 is amended to read:

545.163. (1) An irrigation district may conduct a district election by mail. The board of directors of the district shall designate by resolution, not later than the 50th day before any election, that an election will be conducted by mail.

(2) At an election by mail held for the purpose of electing a person to the board of directors, the qualifications for a director are those set forth in ORS 545.043.

(3) An election by mail shall be conducted within the district or divisions within a district according to, as nearly as is practicable, the general provisions of ORS 545.137, 545.139, 545.141, 545.145, 545.149 and 545.153. However, the judges of election appointed under ORS 545.137 (2) are not required to be in attendance until after 8 p.m. on the day of the election.

(4) The secretary of the board of directors for the district shall mail an official ballot with a return identification envelope and a secrecy envelope to an elector, not sooner than the 20th day before the date of the election to be conducted by mail and not later than the 14th day before the election. The secretary shall cause to be placed in or on each return identification envelope a statement to be completed by the elector that says that the elector, under penalty of perjury, swears and affirms that the elector is the sole elector authorized to cast the ballot. In addition, the secretary shall verify that, according to the records of the district as of the 21st day before the election, the elector is entitled to vote.

(5) When a ballot is mailed to a corporate landowner, a person authorized to act in a representative capacity or landowners under multiple ownership, the secretary shall enclose voting instructions advising the elector that the voting rights of electors for corporate, representative or multiple ownerships are as described in ORS 545.002.

(6) The secretary of the board of directors may not mail voting materials to an elector who actually acquires ownership of land within the district after the 21st day before the date of an election. When an elector has acquired ownership of land within the district after the 21st day before the date of an election, the secretary shall make voting materials available, and the elector may vote, only at the district office or at another place designated by the board.

(7) When the elector is an elector described in subsection (6) of this section, the secretary of the board of directors shall, before making voting materials available, require that the elector file with the district a copy of a recorded deed or a memorandum of contract demonstrating the acquisition of land by the elector within the district. The secretary shall then allow the elector to mark

the ballot, sign the return identification envelope and return the ballot in the return identification envelope to the secretary.

(8) An elector may obtain a replacement ballot if the original ballot is destroyed, spoiled, lost or not received by the elector. The secretary shall keep a record of each replacement ballot provided to an elector. An elector may obtain a replacement ballot and may vote at the district office or another place within the district designated by the board of directors on the actual date of the election, during the hours designated in ORS 545.139.

(9) Until the time for the close of the polls, an elector may obtain a replacement ballot from the secretary of the board of directors, at a place designated by the board, if the original ballot is destroyed, spoiled, lost or not received by the elector.

(10) When an elector receives vote by mail materials, the elector shall comply with all written instructions provided, mark the ballot, sign both the return identification envelope and the sworn statement of entitlement to vote and return the marked ballot to the district by placing the ballot in the return identification envelope and either depositing the envelope in the United States mail or delivering the sealed envelope to the district office or another place designated by the district. *[If the elector returns the ballot by mail, the elector shall provide the postage.]*

(11) A completed ballot must be received by the district, at the proper place designated by the district, no later than 8 p.m. on the day of the election.

(12) A ballot shall be counted only if:

(a) The ballot was returned in the sealed return identification envelope provided by the district;

(b) The elector signed the return identification envelope; and

(c) The secretary of the board of directors has verified the name of the elector and the elector's ownership of land within the district.

(13) Using the records of the district, the secretary shall verify the name and land ownership of each elector. If the secretary determines that an elector to whom a replacement ballot has been issued has voted more than once, the secretary may not count any ballot cast by that elector.

**SECTION 6. Notwithstanding any other provision of law, the General Fund appropriation made to the Secretary of State by section 1 (2), chapter \_\_\_\_, Oregon Laws 2019 (Enrolled House Bill 5034), for the biennium beginning July 1, 2019, for the Elections Division, is increased by \$1,668,783 for providing return identification envelopes that may be returned at no cost to electors in the manner described in section 2 of this 2019 Act.**

**SECTION 7. Section 2 of this 2019 Act and the amendments to ORS 254.470, 260.665 and 545.163 by sections 3 to 5 of this 2019 Act apply to elections held on or after January 1, 2020.**

**SECTION 8. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.**

**Passed by Senate June 29, 2019**

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House June 30, 2019**

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Tina Kotek, Speaker of House

**Received by Governor:**

.....M,....., 2019

**Approved:**

.....M,....., 2019

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2019

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Bev Clarno, Secretary of State