

BILL BRADBURY
SECRETARY OF STATE



JOHN LINDBACK
DIRECTOR

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ELECTIONS — (503) 986-1518

July 7, 2004

To All Interested Parties:

Secretary of State Bill Bradbury is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#4), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #4 was filed in our office on July 6, 2004, by Charlie Ringo, for the General Election of November 7, 2006.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division in the State Capitol. Your comments, if any, must be received by the Elections Division no later than July 28, 2004, in order for them to be considered in the review.

BILL BRADBURY
Secretary of State

BY: *Summer Davis*

Summer Davis
Compliance Specialist

Relating to the Legislative Assembly; creating new provisions; and amending
ORS 249.002, 249.088, 254.005, 254.365.

SECTION 1. ORS 249.002 is amended to read:

249.002. As used in this chapter:

(1) "Candidate" means an individual whose name is or is expected to be printed on the official ballot.

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

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

(4) "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon Tax Court, or any county judge who exercises judicial functions.

(5) "Member" means an individual who is registered as being affiliated with the political party.

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

(7) "Nonpartisan office" means the office of judge, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries, **state Senator, state Representative**, any elected office of a metropolitan service district under ORS chapter 268, justice of the peace, county clerk, county assessor, county surveyor, county treasurer, sheriff, district attorney or any office designated nonpartisan by a home rule charter.

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

(9) "Public office" means any national, state, county, city or district office or position, except a political party office, filled by the electors.

(10) "State office" means Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, judge, state Senator, state Representative or district attorney.

SECTION 2. ORS 249.088 is amended to read:

249.088. (1) [*Unless otherwise provided by*] **Subject to subsections (2) and (3) of this section and the provisions of a home rule charter**, at the nominating election held on the date of the primary election, two candidates shall be nominated for the nonpartisan office.

(2) [*However,*] **Except as provided in subsection (3) of this section**, when a candidate[, *other than a candidate for the office of sheriff, a candidate for the office of county clerk, a candidate for the office of county treasurer or a candidate to fill a vacancy,*] **for nonpartisan office** receives a majority of the votes cast for the office at the nominating election, that candidate is elected.

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[(2)] (3) When a candidate for the office of **state Senator, state Representative**, sheriff, [*the office of*] county clerk, [*the office of*] county treasurer or a candidate to fill a vacancy receives a majority of votes cast for the office at the nominating election, that candidate alone is nominated.

SECTION 3. ORS 254.005 is amended to read:

254.005. As used in this chapter:

(1) "Ballot" means any material on which votes may be cast for candidates or measures. In the case of a recall election, "ballot" includes material posted in a voting compartment or delivered to an elector by mail.

(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 court or the Oregon Tax Court, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries, **state Senator, state Representative**, any elected office of a metropolitan service district under ORS chapter 268, justice of the peace, county clerk, county assessor, county surveyor, county treasurer, county judge who exercises judicial functions, sheriff, district attorney or any office designated nonpartisan by a home rule charter.

(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.

SECTION 4. ORS 254.365 is amended to read:

254.365. (1) An elector shall not be qualified or permitted to vote at any primary election for any candidate of a major political party, 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) Except as provided in ORS 254.470 (4), 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 section 2, Article I, 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."

SECTION 5. (1) The amendments to ORS 249.002, 249.088, 254.005, 254.365, and by sections 1 to 4 of this 2006 Act apply only to nominations for and appointments and elections to the offices of state Senator and state Representative, and appointments involving members of the Legislative Assembly, occurring on or after the effective date of this 2006 Act. A certificate of nomination, nominating petition or declaration of candidacy for the office of state Senator or state Representative filed before the effective date of this 2006 Act for an election to be conducted on or after the effective date of this 2006 Act shall be considered to have been filed for the nonpartisan office of state Senator or state Representative.
