

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
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ELECTIONS — (503) 986-1518

May 16, 2005

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 (#38), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #38 was filed in our office on May 13, 2005, by Phillip A. Keisling, 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 June 7, 2005, in order for them to be considered in the review.

BILL BRADBURY
Secretary of State

BY:

Carla Corbin
Compliance Specialist

AN ACT Relating to elections; creating new provisions; amending ORS 188.120, 249.016, 249.020, 249.046, 249.072, 249.076, 254.056 and 254.115; and repealing ORS 249.023, 249.048, 249.068, 249.088, 249.190, 249.200, 254.025 and 254.365.

Whereas competitive and open elections, that encourage thoughtful debate and maximum participation, are healthy for democracy and strengthen citizens' trust in their government; and

Whereas citizens should be able to register and affiliate with any legal political party, or none at all, according to their beliefs, and without any coercion or diminishment of their rights as voters; and

Whereas all Oregon voters should have the full and equal ability, at every election, to choose those whom they believe are best suited to govern them; therefore

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OREGON:

SECTION 1. Sections 2 to 6 are added to and made a part of ORS chapter 249.

SECTION 2. Definitions.

"Voter choice office" means the office of United States Senator, Representative in Congress, Governor, Secretary of State, State Treasurer, Attorney General, state Senator, state Representative, or any state, county, city or district office that is not a nonpartisan office.

SECTION 3. Top-two candidates nominated.

(1) Except as provided by subsection (2) or (3) of this section or by a home rule charter, the two candidates receiving the highest number of votes at the primary election shall be nominated for the voter choice office or the nonpartisan office.

(2) Except as provided in subsection (3), when a candidate for nonpartisan office receives a majority of the votes cast for the office at the nominating election, that candidate is elected.

(3) When a candidate for the office of sheriff, county clerk, or 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 4. Content of filing.

Subject to ORS 249.046, a nominating petition or declaration of candidacy filed by a candidate for a voter choice office shall contain the name of the political party of which the candidate will have been a member during at least 180 days before the deadline for filing a nominating petition or declaration of candidacy.

SECTION 5. Vacancy in nomination or office.

(1) The Secretary of State shall adopt by rule a procedure and schedule for:

(a) Filing a vacancy in a nomination for a voter choice office;

(b) Nominating candidates to fill a vacancy in a voter choice office.

(2) Subsection (1) of this section does not apply in any case when 188.120 or 171.050 to 171.064 apply.

SECTION 6. Nominations by minor parties.

ORS 249.705 to 249.850 apply only to nomination for the offices of president and vice-president and do not apply to any voter choice office.

SECTION 7. Sections 8 to 10 are added to and made a part of ORS chapter 254.

SECTION 8. Definitions.

“Voter choice office” means the office of United States Senator, Representative in Congress, Governor, Secretary of State, State Treasurer, Attorney General, state Senator, state Representative, or any state, county, city or district office that is not a nonpartisan office.

SECTION 9. Elections.

(1) Notwithstanding ORS 254.470, the ballot containing voter choice offices shall be mailed to every qualified registered elector, without regard to the elector’s party affiliation.

(2) At the primary election, an elector may vote for any candidate for a voter choice office, without regard to the party affiliation of either the candidate or the elector.

SECTION 10. Party membership printed on ballot.

Notwithstanding ORS 254.135, for voter choice office:

(1) The county clerk shall print on the ballot, opposite the name of the candidate, the political party affiliation of the candidate, as listed on the candidate’s voter registration card. If the candidate is not a member of a party, the county clerk shall print “no party” opposite the name of the candidate; and

(2) The county clerk shall include the following statement on each ballot that contains a voter choice office: “Candidate political party affiliation is provided for voter information only and does not represent formal support or endorsement by the political party listed.”

SECTION 11. Nomination of candidates. ORS 249.016 is amended to read:

249.016. A candidate [of a major political party] for [public] voter choice office or a candidate for nonpartisan office shall be nominated only in the manner provided in ORS 249.016 to 249.205.

SECTION 12. Filing for office. ORS 249.020 is amended to read:

249.020. (1) An eligible elector may become a candidate for nonpartisan office, or for voter choice office [the nomination to an office by the major political party of which the elector is a member], by filing a nominating petition or a declaration of candidacy.

(2) At the time of filing, a declaration of candidacy shall be accompanied by the filing fee specified in ORS 249.056.

(3) At the time of filing, a nominating petition shall contain the signature sheets described under ORS 249.064.

SECTION 13. Effect of inactive registration. 249.046 is amended to read:

249.046. [If a candidate has not been a member of the major political party for at least 180 days before the deadline for filing a nominating petition or declaration of candidacy, the candidate shall not be entitled to receive the nomination of that major political party.] If a candidate is registered as a member of a political party and the candidate’s registration becomes inactive, the inactive status shall not constitute a lapse of membership in the party if, immediately before the registration became inactive, the candidate was a member of the party and was not a member of any other political party within the 180 days preceding the deadline for filing a nominating petition or declaration of candidacy. The requirement that the candidate be qualified by length of membership does not apply to any candidate whose 18th birthday falls within the period of 180 days [or to a write-in candidate].

SECTION 14. Nominating Petitions. 249.072 is amended to read:

249.072. (1) [If the nonpartisan office is to be voted for in the state at large, the] A nominating petition for an office to be voted for in the state at large or for candidate for

Representative in Congress shall contain at least 1,000 signatures of electors, or a number of signatures of electors equal to at least one percent of the vote cast in the state or **congressional district, as the case may be**, for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term, whichever is less. The signatures shall include those of electors registered in each of at least five percent of the precincts in each of at least seven counties. **If the office is one to be voted for in a congressional district, the signatures shall include those of electors registered in at least five percent of the precincts in each of at least one-fourth of the counties in the congressional district.**

(2) For an election next following any change in the boundaries of a congressional district, there shall be at least 1,000 signatures or the number of signatures at least equal to one percent of the average number of votes cast in all congressional districts in this state, as the case may be, for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term, whichever is less.

~~[(2)]~~ **(3)(a)** The nominating petition for *[a nonpartisan]* an office not provided for in subsection (1) or (2) of this section shall contain at least 500 signatures of electors in the electoral district, or a number of signatures of electors equal to at least one percent of the vote cast in the electoral district for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term, whichever is less. *[In addition.]*

(b) In the case of candidates for the office of state Senator or state Representative, for an election next following any change in the boundaries of the districts of state Senators or state Representatives under section 6, Article IV of the Oregon Constitution, the nominating petition shall contain at least 500 signatures.

~~[(a)]~~ **(c)** If an office under this subsection is to be voted for in more than one county, the signatures shall include those of electors registered in each of at least six percent of the precincts in the electoral district that are located in each of two or more of the counties, or portions of the counties, within which the electoral district is located. If six percent of the precincts of the electoral district in one of the counties or portion thereof does not constitute a whole precinct, the nominating petition shall contain signatures from at least one precinct in that county.

~~[(b)]~~ **(d)** If the office is to be voted for in only one county or in a city, the signatures shall include those of electors registered in each of at least 10 percent of the precincts in the electoral district.

SECTION 15. Signing nominating petitions. 249.076 is amended to read:

249.076. *[No person who is not a member of the same major political party as the candidate for nomination by the major political party may sign the nominating petition of the candidate. However, any] Any* elector may sign:

- (1) A** *[a]* nominating petition or certificate of nomination of any candidate for nonpartisan office or **voter choice office; and** *[independent candidate and nominating petitions or certificates of nomination]*
- (2) Nominating petitions or certificates of nomination** for more than one candidate for the same office.

SECTION 16. Vacancy in federal election or office. ORS 188.120 is amended to read:

188.120. (1) If a vacancy in election or office of Representative in Congress or United States Senator occurs before the 61st day before the general election, the Governor

shall call a special election to fill that vacancy. If a vacancy in election or office of United States Senator occurs after the 62nd day before the general election but on or before the general election, and if the term of that office is not regularly filled at that election, the Governor shall call a special election to fill the vacancy as soon as practicable after the general election.

(2) If a special election to fill the vacancy in election or office of Representative in Congress or United States Senator is called before the 80th day after the vacancy occurs, *[each major political party shall select its nominee for the office and certify the name of the nominee to the Secretary of State. The Secretary of State shall place the name of the nominee on the ballot]* **the candidate who receives the highest number of votes is elected. A declaration of candidacy or qualifying petition may be filed not later than the 10th day following the issuance of the writ of election.**

(3) If a special election to fill the vacancy in election or office of Representative in Congress or United States Senator is called after the 79th day after the vacancy occurs, a special primary election shall be conducted by the Secretary of State for the purpose of nominating **candidates** *[a candidate of each major political party]*. A declaration of candidacy or qualifying petition may be filed not later than the 10th day following the issuance of the writ of election.

SECTION 17. Date and purpose of general election and primary election. ORS 254.056, as amended by section 7, chapter 542, Oregon Laws 2003, is amended to read:

254.056. (1) The general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year. Except as provided in section 2, chapter 542, Oregon Laws 2003, 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:

- (a) **P***[p]*recinct committeepersons shall be elected;
- (b) **Nonpartisan candidates may be elected as provided in Section 3 of this Act; [and major political party]**
- (c) **Voter choice** candidates shall be nominated for offices to be filled at the general election held in that year; **and**
- (d) **In a presidential election year, candidates for president and vice-president.**

SECTION 18. Official primary election ballot. ORS 254.115 is amended to read:

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

- (a) The name of the county for which it is intended.
- (b) The date of the primary election.
- (c) The names of all candidates for nomination **or election** at the primary election to **nonpartisan or voter choice office** 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.]

(e) The number, ballot title and financial estimates under ORS 250.125 of any measure.

(2) If the election is conducted at polling places as provided in this chapter, any ballot to be issued at a polling place shall also state the number or name of the precinct for which it is intended.

[(3) 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) In a year in which a President and Vice President of the United States are to be elected, the official primary election ballot or ballot label shall be styled "Official Primary Nominating Ballot for the _____ Party" and shall state:

(a) The names of candidates for the party nomination for President of the United States who qualified for the ballot under ORS 249.078; and

(b) The information described in subsection (1) of this section.

(4) The ballot *[shall]may* not contain the name of any person other than those referred to in subsections (1) and (3) 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.

SECTION 19. Section 20 is added to and made a part of ORS chapter 248.

SECTION 20. Political party nominations.

Notwithstanding ORS 248.006 to 248.008, at the primary election a political party may not nominate candidates for any offices except for the offices of president and vice-president.

SECTION 21. Repeals. ORS 249.023, 249.048, 249.068, 249.088, 249.190, 249.200, 254.025 and 254.365 are repealed.

SECTION 22. Captions. The unit captions used in this 2006 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2006 Act.

SECTION 23. Effect. (1) This 2006 Act becomes operative January 1, 2007.

(2) This 2006 Act applies only to nominations for, and appointments and elections to, public office occurring on or after the effective date.

(3) This 2006 Act applies to a certificate of nomination, nominating petition or declaration of candidacy filed before the effective date of this 2006 Act for an election to a voter choice office to be conducted on or after the effective date of this 2006 Act.

(4) Nothing in this 2006 Act is intended to require a change in the composition of any committee or commission described in ORS 137.658, 244.250 or 442.035.