

Relating to elections; creating new provisions; and repealing ORS 188.120, 248.008, 254.025, 254.056, 254.115 and 254.365.

#### **PREAMBLE.**

All voters shall have an equal right to meaningful participation in our election process. Current election laws give major party voters the ability to vote at an earlier and critical stage of the partisan election process: the primary. Candidates are therefore encouraged to appeal to one of these two separate partisan voter groups in order to advance past the primary. The other 30% of Oregon's voters are completely shut out of the taxpayer-funded partisan primary process.

Oregon should have **Unified Primary Elections**. Here's how the unified primary works:

All candidates for an office, regardless of party affiliation or non-affiliation, appear on the same unified primary election ballot. Each voter, regardless of party affiliation or no affiliation, can vote for one or more candidates for each office. The two candidates with the most votes, regardless of their party or no party affiliation, are placed on the general election ballot.

Every voter gets an equal voice, without regard to party affiliation or the number or similarity of candidates, and candidates are encouraged to appeal to all voters.

Suggested 15 word caption: "Establishes Unified Primary Elections: All Voters Participate, Ballot Contains All Candidates, Top Two Approved Advance"

**SECTION 1. Short title.** This 2014 Act may be cited as the Unified Primary Elections Act of 2014.

**SECTION 2.** Sections 3 to 6 of this 2014 Act are added to and made a part of ORS chapter 249.

**SECTION 3. Statement of intent.** (1) The intent of the Unified Primary Elections Act of 2014 is to create uniform primary election systems for partisan and nonpartisan offices in which each elector has an equal voice on each candidate's ability to advance, without regard to the political party affiliation, or lack of party affiliation, of either the elector or the candidates, and without regard to the number of candidates sharing similar viewpoints. Specifically, each voter may cast a vote in favor of any and all candidates the voter approves to advance, and in so doing may approve of more than one candidate for a single office. The two candidates for each office receiving the most votes from all voters will advance to the general election, in which the winner will be the candidate receiving the greatest number of votes cast at the general election. The early victory condition for nonpartisan offices is preserved in the nonpartisan unified primary for candidates receiving majority support from electors casting votes. This 2014 Act applies to all partisan and nonpartisan offices.

(2) Nothing in this 2014 Act restricts the right of individuals to join or organize into political parties or the right of association of political parties. The legal function of political parties in the elective process is recast from one of general election nomination to one of endorsement in the partisan unified primary and general elections.

(3) This 2014 Act makes no change in current law relating to presidential primaries.

**SECTION 4. Definition.** As used in sections 3 to 6 of this 2014 Act, "partisan office" means the office of United States Senator, Representative in Congress, Governor, Secretary of State, State Treasurer, Attorney General, state Senator and state Representative and any other state, county, city or district office that is not a nonpartisan office nor an office for which nominations to the general election by political parties are expressly authorized by law.

**SECTION 5. Particular provisions for partisan offices.** (1) Electors may vote for one or more candidates listed on the primary election ballot for a partisan office. An elector may vote for as many of the listed candidates as the elector chooses and in so doing may cast a vote for more than one candidate for a single partisan office, provided that the elector does not cast more than one vote for any individual candidate.

(2) Except as provided in a home rule charter or subsection (3) of this section, for partisan offices, the two candidates receiving the highest number of votes at the primary election shall be the sole candidates who advance to the general election.

(3) If three or more candidates for a partisan office are on the ballot for a primary election and a vacancy occurs in a nomination to the office after the primary election and before the 61st day before the general election, the qualified candidate who received the next highest number of votes at the primary election, if any, shall be the replacement nominee. The chief elections officer, as defined in ORS 254.005, shall file the name of the replacement nominee with each appropriate county clerk.

**SECTION 6. Filing and nominating processes for partisan offices.** Except as provided in this 2014 Act, all provisions of state law that apply to the filing and nomination processes for candidates for nonpartisan offices, also apply to partisan offices.

**SECTION 7.** Sections 8 to 10 of this 2014 Act are added to and made a part of ORS chapter 254.

**SECTION 8. Definition.** As used in this chapter, "partisan office" means the office of United States Senator, Representative in Congress, Governor, Secretary of State, State Treasurer, Attorney General, state Senator and state Representative and any other state, county, city or district office that is not a nonpartisan office nor an office for which nominations to the general election by political parties are expressly authorized by law.

**SECTION 9. Election ballots for partisan offices.** (1) This section is intended to give electors access to information in the public record about candidates for partisan offices and the political parties that endorse those candidates, without infringing on the rights of political parties and their members to organize and associate.

(2) For each primary election that includes a partisan office, the county clerk shall print on the ballot:

(a)(A) If the candidate for a partisan office is registered as affiliated with a political party on the 70th day before the date of the election, following the name of the candidate the statement "Registration: \_\_\_\_\_" (name of political party); or

(B) If the candidate for a partisan office is not registered as affiliated with a political party on the 70th day before the date of the election, following the name of the candidate the statement "Registration: not a member of a party" or, if the candidate chooses, no statement concerning the candidate's party registration status;

(b) The statement: "A candidate's political party registration shown on this ballot for partisan offices indicates the candidate's party registration status as of 70 days prior to the election. It does not imply the endorsement of the political party identified."; and

(c) For each candidate for a partisan office, following the name of the candidate the name of any political party that has officially endorsed the candidate, preceded by the phrase "Endorsed by:". The county clerk shall print only those endorsements that have been received and accepted by the candidate and for which the chief elections officer has received notice not later than the 61st day before the date of the election.

(3) For each general election that includes a partisan office, the county clerk shall print on the ballot:

(a)(A) If the candidate for a partisan office is registered as affiliated with a political party on the 70th day before the date of the election, following the name of the candidate the statement "Registration: \_\_\_\_\_" (name of political party); or

(B) If the candidate for a partisan office is not registered as affiliated with a political party on the 70th day before the date of the election, following the name of the candidate the statement "Registration: not a member of a party" or, if the candidate chooses, no statement concerning the candidate's party registration status;

(b) The statement: "A candidate's political party registration shown on this ballot for partisan offices indicates the candidate's party registration status as of 70 days prior to the election. It does not imply the endorsement of the political party identified."

(c) For each candidate for a partisan office, following the name of the candidate the name of any political party that has officially endorsed the candidate, preceded by the phrase "Endorsed by:". The county clerk shall print only those endorsements that have been received and accepted by the candidate and for which the chief elections officer has received notice not later than the 61st day before the date of the election.

(4) As used in this section, "political party" means a party qualified as a major or minor political party in this state under ORS chapter 248.

(5) The Secretary of State may adopt rules to implement this section.

**SECTION 10. Election process for partisan offices.** Except as provided in this 2014 Act, all provisions of state law that apply to elections and ballots for nonpartisan offices, also apply to partisan offices.

**SECTION 11. Severability.** Section 9 of this 2014 Act and each of its subsections, paragraphs and subparagraphs is severable from this 2014 Act. If section 9 of this 2014 Act or any subsection, paragraph or subparagraph in section 9 of this 2014 Act is held unconstitutional, the remaining parts of this 2014 Act shall remain in force.

**SECTION 12.** ORS 188.120 is repealed and section 13 of this 2014 Act is enacted in lieu thereof.

**SECTION 13. Congressional vacancies.** (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, nominations to the election shall take the form of a declaration of candidacy or nominating petition, which may be filed by any otherwise eligible elector.

(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 to the special election called to fill the vacancy. A declaration of candidacy or nominating petition may be filed by any otherwise eligible elector not later than the 10th day following the issuance of the writ of election.

(4) Special elections and special primary elections conducted under this section shall be as provided for partisan offices generally, except that the Secretary of State may accept nominating petitions, declarations of candidacy and endorsements according to a schedule for filing set by the secretary, and except that, in the case of a special election held under subsection (1) of this section, the ballot shall include the names of all qualified candidates who have filed declarations of candidacy or nominating petitions.

(5) As used in this section, "partisan office" has the meaning given that term in section 4 of this 2014 Act.

**SECTION 14.** Section 15 of this 2014 Act is added to and made a part of ORS chapter 236.

**SECTION 15. Vacancies in partisan offices.** (1) As used in this section, "partisan office" has the meaning given that term in section 4 of this 2014 Act.

(2) Notwithstanding ORS 171.051, 171.060, 171.068, 236.100, 236.215 and 236.217, whenever a vacancy exists in any partisan office in this state and is to be filled by appointment, a person who is otherwise eligible may be appointed to fill the vacancy regardless of the person's affiliation or lack of affiliation with a political party, and whenever a vacancy exists in any partisan office in this state and is to be filled by election, the election procedures for partisan offices shall be followed.

**SECTION 16.** Section 17 of this 2014 Act is added to and made a part of ORS 171.051 to 171.064.

**SECTION 17. State legislative vacancies.** In the case of a vacancy in the office of state Senator or state Representative that is to be filled by an appointing authority as provided in ORS 171.051, the following apply:

(1) Notwithstanding ORS 171.051, an otherwise eligible person may be appointed to fill the vacancy regardless of the person's affiliation or lack of affiliation with a political party.

(2) Candidates for the remaining two years of the term of office of a state Senator under ORS 171.051 (4) shall be nominated as provided for that office in ORS chapter 249, except that the Secretary of State shall accept declarations of candidacy and nominating petitions according to a schedule for filing set by the secretary, but in any case not later than the 62nd day before the first general election to be held during that term of office.

(3) ORS 171.060 (1) does not apply to the appointment.

(4) The procedure described in ORS 171.060 (2) for a vacancy in the office of state Senator or state Representative not affiliated with a major political party applies to the appointment.

**SECTION 18.** ORS 254.056 is repealed and section 19 of this 2014 Act is enacted in lieu thereof.

**SECTION 19. Date and purpose of general election and primary election.** (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 ORS 254.650, 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 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) Nonpartisan candidates shall be nominated or elected by all electors, as described in ORS chapter 249;

(b) Partisan office candidates shall be nominated by all electors, as described in ORS chapter 249, for offices to be filled at the general election held in that year;

(c) In a presidential election year, delegates to nominating conventions for the offices of President and Vice President of the United States shall be selected as provided in ORS chapters 248 and 249, and precinct committeepersons shall be elected by members of major political parties; and

(d) Notwithstanding paragraph (c) of this section and ORS 248.015 (1) and (5), if the number of candidates having filed for precinct committeeperson is equal to or less than the number of positions to be filled at the primary election, no election for precinct committeeperson shall be held and all candidates having filed shall be issued a certificate of election under ORS 248.023.

SECTION 20. ORS 254.115 is repealed and section 21 of this 2014 Act is enacted in lieu thereof.

SECTION 21. Official primary election ballot. (1) The official primary election ballot shall be styled "Primary Election Ballot" 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, voter choice or other offices whose nominating petitions or declarations of candidacy have been made and filed, and who have not died, withdrawn or become disqualified.

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

(e) In a presidential election year, the name of each candidate for a political party nomination for President of the United States who has qualified for the ballot under ORS 249.078, and the names of candidates for election as precinct committeepersons, if required. Only votes cast by members of the applicable political party shall be tallied and published for any such contest.

(2) The ballot may not contain the name of any person other than those referred to in subsection (1) 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 with their names to distinguish one from another.

SECTION 22. Sections 23 and 26 of this 2014 Act are added to and made a part of ORS chapter 248.

SECTION 23. Political party nominations. Notwithstanding ORS 248.006 and 248.007 and section 25 of this 2014 Act, at the primary election, a political party otherwise authorized by law to nominate candidates through the primary election may nominate candidates only for an office for which nominations to the general election by political parties are expressly authorized by law.

SECTION 24. ORS 248.008 is repealed and section 25 of this 2014 Act is enacted in lieu thereof.

SECTION 25. Qualification for and maintenance of minor political party status. (1) An affiliation of electors becomes a minor political party in the state, a county or other electoral district, qualified to make nominations for public office in that electoral district and in any other electoral district wholly contained within the electoral district, when the affiliation of electors has acted as described in either paragraph (a) or (b) of this subsection:

(a)(A) When the affiliation of electors has filed with the Secretary of State a petition with the signatures of at least a number of electors equal to one and one-half percent of the total votes 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.

(B) The petition must contain only original signatures and must be filed not later than two years following the date the prospective petition is filed. The petition must state the intention to form a new political party and designate a name for the political party.

(C) Before circulating the petition, the chief sponsor of the petition must file with the Secretary of State a signed copy of the prospective petition. The chief sponsor must include with the prospective petition a statement declaring whether one or more persons will be paid money or other valuable consideration for obtaining signatures of electors on the petition. After the prospective petition is filed, the chief sponsor must notify the filing officer not later than the 10th day after the chief sponsor first has knowledge or should have had knowledge that:

(i) Any person is being paid for obtaining signatures, when the statement included with the prospective petition declared that no person would be paid for obtaining signatures of electors.

(ii) No person is being paid for obtaining signatures, when the statement included with the prospective petition declared that one or more persons would be paid for obtaining signatures of electors.

(D) The circulator shall certify on each signature sheet that the circulator witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet and that the circulator believes each individual is an elector registered in the electoral district.

(E) The Secretary of State shall verify whether the petition contains the required number of signatures of electors. The Secretary of State may not accept a petition for filing if it contains less than 100 percent of the required number of signatures. The Secretary of State by rule shall designate a statistical sampling technique to verify whether a petition contains the required number of signatures of electors. A petition may not be rejected for the reason that it contains less than the required number of signatures unless two separate sampling processes both establish that the petition lacks the required number of signatures. The second sampling must contain a larger number of signatures than the first sampling. The Secretary of State may employ professional assistance to determine the sampling technique. The statistical sampling technique may be the same as that adopted under ORS 250.105.

(b) When the affiliation of electors has polled for any one of its candidates for any public office in the electoral district at least one percent of the total votes cast in the electoral district for all candidates for:

(A) Presidential elector at the last general election at which candidates for President and Vice President of the United States were listed on the ballot; or

(B) Any single state office to be voted upon in the state at large at the most recent primary or general election at which a candidate for the office was elected to a full term.

(2) After satisfying either subsection (1)(a) or (b) of this section, the minor political party may nominate candidates for election at the next primary election for a Partisan office, as defined in section 4 of this 2014 Act, or general election for President and Vice President of the United States.

(3) A filing officer may not accept a certificate of nomination of a candidate nominated by a minor political party for a subsequent primary or general election unless the minor political party has maintained status as a minor political party as described in subsection (4) of this section.

(4) In order to maintain status as a minor political party for a subsequent primary or general election:

(a) Following each general election, at any time during the period beginning on the date of the next primary election and ending on the 90th day before the next general election, a number of electors equal to at least one-half of one percent of the total number of registered electors in this state must be registered as members of the party; or

(b)(A) Following each general election, at any time during the period beginning on the date of the next primary election and ending on the 90th day before the next general election, a

number of electors equal to at least one-tenth of one percent of the total votes cast in the state or electoral district for all candidates for Governor at the most recent general election at which a candidate for Governor was elected to a full term must be registered as members of the party; and

(B) At least once in a four-year period, a candidate or candidates of the party must poll at least one percent of the total votes cast in the electoral district for all candidates for:

(i) Presidential elector at the last general election at which candidates for President and Vice President of the United States were listed on the ballot; or

(ii) Any single state office to be voted upon in the state at large at the most recent primary or general election at which a candidate for the office was elected to a full term.

(5) An affiliation of electors that fails to maintain status as a minor political party ceases to be a minor political party on the 90th day before the date of the next general election.

(6) During the period beginning on the date of the primary election and ending on the 90th day before the date of the general election, the Secretary of State shall determine at least once each month whether registration requirements to maintain status as a minor political party have been satisfied.

(7) If a minor political party changes its name, only those electors who register on or after the effective date of the name change as members of the party under the new party name shall be counted as members of the party.

(8) An affiliation of electors or a minor political party may not nominate a candidate who is the nominee of another political party at the same election in order to satisfy the one percent requirement referred to in subsection (1)(b) or (4)(b)(B) of this section.

(9) For purposes of this section, "subsequent primary or general election" means any primary or general election that is held after the first general election following qualification as a minor political party under subsection (1) of this section.

SECTION 26. Term of office of precinct committeeperson. Notwithstanding ORS 248.015, the term of office of a precinct committeeperson elected under ORS 248.015 before the effective date of this 2014 Act is four years and expires on the 24th day after the date of the primary election held in a presidential election year at which the precinct committeeperson was last elected.

SECTION 27. ORS 249.088 is repealed and section 28 of this 2014 Act is enacted in lieu thereof.

SECTION 28. Nomination or election of nonpartisan candidate at nominating election.

(1) Except as provided in ORS 249.091, at the nominating election held on the date of the primary election:

(a) Electors may vote for one or more candidates listed on the primary election ballot for a nonpartisan office. An elector may vote for as many of the listed candidates as the elector chooses and in so doing may cast a vote for more than one candidate for a single nonpartisan office, provided that the elector does not cast more than vote for any individual candidate.

(b) Unless only one candidate for the nonpartisan office receives votes from a majority of the electors who cast votes on the office, the two candidates who receive the highest number of votes are nominated.

(c) If only one candidate for the nonpartisan office receives votes from a majority of the electors who cast votes on the office, that candidate is elected.

(2) The application of this section is subject to the provisions of a home rule charter.

SECTION 29. ORS 249.091 is repealed and section 30 of this 2014 Act is enacted in lieu thereof.

SECTION 30. Nomination of certain nonpartisan candidates or candidates to fill a vacancy in nonpartisan office. (1) If a nominating petition or declaration of candidacy is filed by no more than two candidates for the office of sheriff, county treasurer or county clerk or by no more than two candidates to fill a vacancy in a nonpartisan office:

(a) The candidate or candidates are nominated; and

(b) The name or names of the candidate or candidates may not be printed on the ballot at the nominating election.

(2) If a nominating petition or declaration of candidacy is filed by more than two candidates for the office of sheriff, county treasurer or county clerk or by more than two candidates to fill a vacancy in a nonpartisan office:

(a) Unless only one candidate for the nonpartisan office receives votes from a majority of the electors who cast votes on the office, the two candidates who receive the highest number of votes are nominated.

(b) If only one candidate for the nonpartisan office receives votes from a majority of the electors who cast votes on the office, that candidate alone is nominated.

(3) The application of this section is subject to the provisions of a home rule charter.

SECTION 31. Repeals. ORS 254.025 and 254.365 are repealed.

SECTION 32. Captions. The section captions used in this 2014 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 2014 Act.

SECTION 33. Effect. Sections 3 to 6, 8 to 11, 13, 15, 17, 19, 21, 23, 25, 26, 28 and 30 of this 2014 Act and the repeal of ORS 188.120, 248.008, 249.088, 249.091, 254.025, 254.056, 254.115 and 254.365 by sections 12, 18, 20, 24, 27, 29 and 31 of this 2014 Act:

(1) Apply only to appointments and elections to public office occurring on or after the effective date set forth in section 35 of this 2014 Act;

(2) Apply to a certificate of nomination, nominating petition or declaration of candidacy filed before the effective date set forth in section 35 of this 2014 Act for an election to a partisan office to be conducted on or after the effective date set forth in section 35 of this 2014 Act;

(3) Apply only to vacancies occurring during terms of office where the person originally elected for the term during which the vacancy occurred was elected for that term after the effective date set forth in section 35 of this 2014 Act; and

(4) Are not intended to require a change in the composition of any committee or commission described in ORS 137.658 or 244.250.

SECTION 34. The Legislative Assembly shall enact any legislation that may be necessary to carry out the provisions of this 2014 Act.

SECTION 35. The Seventy-eighth Legislative Assembly shall enact any legislation that may be necessary to carry out the provisions of this 2014 Act during the 2015 regular session.

SECTION 36. This 2014 Act first applies to elections held after January 1, 2016.