

IN THE SUPREME COURT OF THE STATE OF OREGON

FRANK DIXON,

Petitioner,

v.

ELLEN F. ROSENBLUM, Attorney
General State of Oregon,

Respondent.

No. 062043

PETITION TO REVIEW BALLOT TITLE
CERTIFIED BY ATTORNEY GENERAL

Petition to Review Ballot Title for Initiative Petition No. 38 for the General Election of
November 4, 2014.

Ballot title certified by Attorney General on January, 31, 2014.

Chief Petitioner: Mark Frohnmayer, 1263 W. 5th Avenue, Eugene, OR 97402.

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Petitioner Frank Dixon is an Oregon elector. Petitioner serves as the State Party Chair of the Democratic Party of Oregon. Petitioner has an interest in this proposed Initiative that would eliminate party primaries for most partisan offices; eliminate the right of 836,258 members of the Democratic Party of Oregon (along with 657,154 members of the Republican Party and over 160,000 members of minor political parties)¹ to choose a candidate to represent their party in a partisan general election; change the fundamental principle of one person one vote by permitting an elector to vote for more than one candidate in the nomination election; and radically change the general election process to permit only two candidates to appear on the general election ballot for each office.

Petitioner respectfully submits this Petition to Review Ballot Title Certified by Attorney General ("Petition") for Initiative Petition 38 ("IP 38") for the General Election of November 4, 2014. Petitioner asks the Oregon Supreme Court to certify to the Secretary of State a ballot title that complies with ORS 250.035 or refer the Certified Ballot Title back to the Attorney General for modification, pursuant to ORS 250.085(8). The Certified Ballot Title does not substantially comply with the requirements of ORS 250.035 for a valid ballot title, for the reasons set forth in this Petition.

Petitioner has met all procedural, standing and jurisdictional requirements for this Petition. The Attorney General submitted a Revised Draft Ballot Title for IP 38 on December 31, 2013. (Exs. 1, 2 (Initiative text, designated as IP 38); Ex. 3 (Revised Draft

¹ Statistics are drawn from the Oregon Secretary of State's website: "Voter Registration by County, January 2014."

Ballot Title).) Petitioner timely submitted written comments to the Secretary of State by January 15, 2014, pursuant to ORS 250.067. (Exs. 4,5.) The Attorney General submitted a Certified Ballot Title on January 31, 2014 (Ex. 6), along with a letter responding to timely comments submitted by Petitioner and others and explaining changes made to the Draft Ballot Title (Ex. 5). Petitioner then timely filed and served this Petition on or before February 14, 2014, pursuant to ORS 250.085(3)(a), and notified the Secretary of State of the filing in writing on the same day as the filing (*see* Certificate of Service, attached), in compliance with ORS 250.085 (4).

In addition to addressing matters raised in timely written comments pursuant to ORS 250.085(2), this Petition also raises arguments that concern "language [in the Certified Ballot Title] added to or removed from the draft title after expiration of the comment period provided in ORS 250.067" as authorized by ORS 250.085(6).

ARGUMENTS AND AUTHORITIES

1. Content and Consequences of IP 38

IP 38 is largely a reprise of Ballot Measure 65, which was rejected by Oregon voters in the November 2008 General Election. The ballot title for Measure 65 was certified as modified by the Attorney General after a decision by this Court required changes in the ballot title in response to a petition filed by the then-serving Executive Director and Chair of the Democratic Party of Oregon. *Keisling/Lutz/Smith v. Myers*, 343 Or 379 (2007). As will be detailed below, some of the exact same concerns that animated the Court's decision to require modification in that case exist here.

Like Measure 65, IP 38 would eliminate the right of members of major and minor political parties to nominate candidates to run in the general election for most partisan offices. Under the system in place for the last century in Oregon, electors who register as members of major political parties (including the Democratic Party of Oregon and Oregon Republican Party) select their candidate to represent them on the general election ballot in a partisan primary with voters and candidates of that party. Each elector is entitled to only one vote. This primary process accounts for roughly three-fourths of the registered voters in Oregon (approximately 1,495,000 of the 2,150,000 registered voters). *See* fn. 1, *supra*.

Approximately 160,000 members of minor parties and 493,336 non-affiliated voters (*id.*) also select candidates to represent them on the general election ballot by a variety of processes including primary elections, assemblies of electors, and nominating petitions. *See Keisling/Lutz/Smith v. Myers*, 343 Or at 386 (listing processes).

The result of these various nominating processes is that major and minor political parties and non-affiliated voters all have an opportunity to nominate candidates to represent them on the general election ballot. The general election ballot itself is then comprised of as many candidates as qualify for a place on the ballot through the various nomination processes.

Like Measure 65, which would have created what that measure dubbed an "open primary," IP 38 would establish what it calls a "unified primary" which is the same in all material details but one as the "open primary." This Court in *Keisling/Lutz/Smith v. Myers*, 343 Or at 384, rejected the use of the term "open primary" in the ballot title as

misleading and underinclusive, and the Attorney General's Certified Ballot Title here likewise correctly refused to use the term "unified primary" to describe this proposed Initiative. (Exs. 5,6.)

IP 38 would establish a single nominating process for all Oregon voters, regardless of party affiliation or non-affiliation, to choose from among all candidates, regardless of party affiliation or non-affiliation, to run in the general election for most partisan offices. Only the two candidates receiving the most votes in the nominating election for each office would be allowed to run on the general election ballot. There would be no other way onto the general election ballot, and the ballot in the general election would contain only two candidates for election. This would eliminate the rights of party members to choose candidates for the general election ballot; it would eliminate the range of candidate choices for voters on the general election ballot and replace that with only two; and it would eliminate potential plurality general elections among more than two candidates.

In addition to the foregoing, all of which precisely mirror Measure 65, IP 38 adds one additional radical change to the nominating and general election processes. In the nominating election, a voter may vote for one *or more than one* candidate for each office, with the general election ballot then being comprised of the two candidates who gathered the most cumulative votes. This transforms 'one person one vote' into 'one person as many votes as each voter may decide to cast.' Regardless of the significant constitutional questions that would be raised by such a change, there can be no question but that the change would fundamentally alter the nominating and general election processes.

2. Caption

The Caption in the Certified Ballot Title provides:

Changes general election nomination process: provides one common primary ballot; unlimited votes; top two advance

The Caption violates ORS 250.035(2)(a) because it does not "reasonably identif[y] the subject matter of the measure."

The Caption is materially underinclusive, in ways already recognized by this Court as a defect in *Keisling/Lutz/Smith v. Myers*. The certified title changed the draft title here by, *inter alia*, changing "processes;" (plural, semicolon) to "process:" (singular, colon). As described above, this proposed measure profoundly changes the existing primary process for political parties, *and* the existing nominating process for minor parties and nonaffiliated voters, *and* the general election process itself. This Court's opinion in *Keisling/Lutz/Smith v. Myers*, 343 Or at 384-386, recognized that the Attorney General's ballot title for Measure 65 was materially underinclusive and thus defective for failing to adequately capture that broader subject matter of that proposed measure.

Here, the Caption refers to one single thing as the subject of the matter, the text that precedes the colon, which tells the reader that what follows the colon then describes what preceded it. "Changes general election nomination process:" refers to only one process, as the process for general election nomination. However, there currently are *multiple* processes for general election nomination, and the proposed measure also would entail profound changes to the general election process itself. The Caption would

substantially comply with ORS 250.035(2)(a) if it stated that the measure "Changes both general election and nomination processes:".

All of the language following the colon in the Caption is new to the Certified Ballot Title since the Draft Ballot Title and comments:

--The term "one common primary ballot" is redundant ("one common") and thus confusing, and the term "one common primary ballot" has no defined meaning discernible by a voter. What exactly is "one common primary ballot"?

--The term "unlimited votes" is a loaded phrase, carrying seemingly positive content (and thus is unfair and misleading). It is the Attorney General's own characterization and is not even drawn from the text of the proposed measure itself, which provides in neutral language for "one or more" votes. The term "unlimited votes" further unfairly and incorrectly implies that the number of votes has been "limited" prior to the proposed 'change in the general election nomination process,' whereas it may only perhaps be the Chief Petitioner who subscribes to the notion that one person one vote as practiced historically in this state and nation is a 'limitation' on the right to vote. This same misguided notion of limited and unlimited votes carries through into the Result Statements and Summary and is equally problematic there as well, reiterating and reinforcing the misperception initiated by the Caption's use of the term "unlimited votes."

--The term "top two advance" is materially underinclusive and unclear and thus misleading with respect to the subject matter. "Advance" to what? Moreover, the Court already has recognized that the Attorney General's title for Measure 65 contained a "shortcoming" because it did not convey that "the general election ballot will offer two

candidates *only*." *Keisling/Lutz/Smith v. Myers*, 343 Or at 386 (emphasis added, consistent with point made in the Court's opinion). "Top two advance" fails to convey the critical point that there will be two, *and only two*, candidates on the general election ballot, and in so doing mischaracterizes the subject matter.

3. The "Yes" Result Statement

The "Yes" Result Statement in the Certified Ballot Title provides:

Result of "Yes" Vote: "Yes" vote replaces current general election nomination process for most partisan offices; all candidates listed on common primary ballot; vote one or more; two advance.

The "Yes" Result Statement does not substantially comply with the requirement of ORS 250.035(2)(b) that it provide a "simple and understandable statement ... that describes the result if the state measure is approved."

"Yes" vote replaces current general election nomination process for most partisan offices", suffers from the same defects as the parallel opening phrase in the Caption.

The phrase, "all candidates listed on common primary ballot" contains new language since the Draft Ballot Title and comments. It eliminates the confusing redundancy (replacing "one common" with "common" and thus demonstrating that the Attorney General recognizes that can be done) and adds the language that "all candidates [are] listed." Nonetheless, the term "common primary ballot" remains undefined, unclear and confusing, not "simple and understandable."

The phrase, "vote one or more" is materially incomplete and confusing since it does not differentiate between candidates and offices, both of which precede it as

references. Since this is an entirely new concept, voters should be told that they could vote for one or more candidates for each partisan office.

The phrase, "two advance", is even less compliant than the defective "top two advance" in the Caption.

4. The "No" Result Statement

The "No" Result Statement in the Certified Ballot Title provides:

Result of "No" Vote: "No" vote retains current general election processes: party primaries for major parties; no common primary ballot; vote limitation; multiple candidates on general election ballot.

The "No" Result Statement contains entirely new language since the Draft Ballot Title and comments, and it does not substantially comply with the requirement of ORS 250.035(2)(c) that it provide a "simple and understandable statement ... that describes the result if the state measure is rejected."

The opening phrase, "'No" vote retains current general election processes:", suffers from the same defects noted above, notwithstanding the use of the plural word "processes," which still fails to make clear that a "No" vote retains party primaries, other nomination processes, and the existing structure of the general election.

The point that a "No" vote retains "party primaries for major parties" is materially underinclusive for failure to reference retention of all of the other nomination processes, as this Court found in *Keisling/Lutz/Smith v. Myers*, 343 Or at 384-386.

Grammatically, the Result Statement is set up with an active verb in the first phrase ("retains") followed by a colon, indicating that what follows is 'retained.' That

works properly when it then states that a "No" vote retains: "party primaries for major parties" and "multiple candidates on general election ballot." It does not track, however, and is extremely confusing and misleading when it provides with a double-negative that a "No" vote retains "no common primary ballot", again also employing a term with no defined meaning that is not "simple and understandable."

The Result Statement also states that a "No" vote retains "vote limitation." As noted above, this fails to comply because it is an extremely inaccurate and unfair characterization of the current system of voting in this state and nation.

5. Summary

To the extent that the Summary carries through any of the same defects noted above, it fails to substantially comply with the requirement of ORS 250.035(2)(d) that it provide a "concise and impartial statement ... summarizing the state measure and its major effect."

Most particularly objectionable is the Summary's new opening pronouncement that "Currently, voters are *limited* to voting for one candidate for each office in primary elections[.]" (Emphasis added.) To the extent this is supposed to describe what occurs currently in primaries, it should simply state that "Currently, people vote for one candidate for each office in primary elections[.]"

Similarly loaded is the new complementary statement in the Summary that if the measure passes, "Voters may vote for *as many candidates as they like* for each office." Rather, it should remove the feel-good language and simply state consistent with the language of

the proposed measure itself that, "Voters may vote for one or more candidates for each office."

6. Relief requested

For each of the foregoing reasons, this Court should modify the Certified Ballot Title or send it back to the Attorney General to do so.

Petitioner also respectfully submits that decision in this case should be held until such time as petition(s) to review ballot tile are filed seeking review of the Certified Ballot Title from the Attorney General with is expected any day on Initiative Petition 51. (Ex. 7.) IP 51 was submitted by the same Chief Petitioner and is essentially equivalent to IP 38.

Respectfully submitted this 13th day of February, 2014.

By: s/ Roy Pulvers
Roy Pulvers, OSB No. 833570
Of Attorneys for Petitioners

KATE BROWN
SECRETARY OF STATE



JIM WILLIAMS
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December 23, 2013

To All Interested Parties:

Secretary of State Kate Brown 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 December 20, 2013, by Mark Frohnmayer, for the General Election of November 4, 2014.

A copy of the text of this proposed initiative petition is on the second page of the letter. 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. Your comments, if any, must be received by the Elections Division no later than January 15, 2013, in order for them to be considered in the review.

KATE BROWN
Secretary of State

BY:

Lydia Plukchi
Compliance Specialist

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KATE BROWN
SECRETARY OF THE STATE

An Initiative

Relating to elections; creating new provisions; and repealing ORS 118.120, 248.008, 254.025, 254.056, 254.115 and 254.365.

The people, exercising their legislative authority under Article IV, Section 2 of the Oregon Constitution, find as follows:

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.

Competitive and open elections that encourage thoughtful debate and maximum participation are healthy for democracy and strengthen citizens' trust in their government.

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.

Political parties should be able to endorse and support any qualified candidate, or none at all, according to the beliefs and choices of their members and without any compulsion or diminishment of their rights through operations of law.

The primary election process should encourage candidates to communicate their platforms candidly; it should not coerce candidates into modifying their platforms to appeal to a party base.

The primary election process should enable voters to vote for the candidate or candidates whom they want to win, regardless of the candidate's or candidates' perceived ability to win. It should not limit voters to choosing from among only the candidates perceived to have a realistic probability of winning.

A primary election process that advances the two candidates receiving the most votes to the general election ballot, and that allows every qualified voter to vote for any and all candidates that voter approves to advance, will promote frankness and consistency in candidates' platforms as well as ensure the election of officials supported by a majority of the electorate. Such a process will better embody democratic principles than Oregon's current primary process and promote citizen confidence in their government.

SECTION 1. Sections 2 to 26 of this 2014 Act may be referred to and cited as the Approval Voting Primary 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 Approval Voting Primary Act of 2014 is to create a fully open primary system in which individual Oregon electors may vote for as many of the candidates listed on the primary ballot as they choose without regard to the political party affiliation, or lack of party affiliation, of either the elector or candidate or candidates. The two candidates receiving the most votes 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. Sections 2 to 26 of this 2014 Act are applicable to all voter choice offices.

(2) Nothing in sections 2 to 26 of this 2014 Act restricts the right of individuals to join or organize into political parties or the rights of private associations of political parties. Nothing in sections 2 to 26 of this 2014 Act restricts the parties' right to contribute to, endorse or otherwise support a candidate for a voter choice office. Political parties may establish internal procedures to endorse or support candidates or otherwise participate in all elections, and may nominate candidates for election to voter choice offices at a party convention or by whatever lawful mechanism they so choose, other than at state-conducted primary elections.

(3) Sections 2 to 26 of this 2014 Act make no change in current law as it relates to presidential primaries. Sections 2 to 26 of this 2014 Act conform to the ruling of the United States Supreme Court in Washington State Grange v. Washington State Republican Party (2008), 128 S.Ct. 1184. Each political party retains the right either to

close its presidential primaries to those voters who disclose their party preference for that party at the time of registration or to open its presidential primary to include those voters who register without disclosing a political party preference.

SECTION 4. Definitions. As used in this chapter, "voter choice office" means the office of United States Senator, Representative in Congress, Governor, Secretary of State, State Treasurer, Attorney General, state Senator or state Representative; or any other state, county, city or district office. "Voter choice office" does not include:

- (1) A nonpartisan office; or
- (2) An office for which nominations to the general election by political parties are expressly authorized by law.

SECTION 5. Particular Provisions for Voter Choice Offices.

(1) Voters may vote for one or more candidates listed on the primary election ballot. A voter may vote for as many of the listed candidates as the voter chooses, and in so doing may cast votes for more than one candidate for a single voter choice office, provided that the voter may not cast more than one vote for any individual candidate.

(2) Except as provided in a home rule charter and subsection (3) of this section, for voter choice 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 at least three candidates were on the ballot for a primary election, then if a vacancy occurs in a nomination to a voter choice 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 shall file the name of the replacement nominee with each appropriate county clerk.

SECTION 6. Filing and nominating petition process for voter choice office.

Except as provided in sections 2 to 26 of this 2014 Act, all provisions of state law that apply to the filing and nomination processes of candidates for nonpartisan offices, also apply to voter choice offices.

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

SECTION 8. Definitions. As used in this chapter, "voter choice office" means the office of United States Senator, Representative in Congress, Governor, Secretary of State, State Treasurer, Attorney General, state Senator or state Representative or any state, county, city or district office. "Voter choice office" does not include:

- (1) A nonpartisan office; or
- (2) An office for which nominations to the general election by political parties are expressly authorized by law.

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

(2) For a voter choice office in a primary election, the county clerk shall print on the ballot:

(a) If the candidate is registered as affiliated with a political party as of the 70th day before the date of the primary election, then following the name of the candidate the statement "Registration: _____" (name of political party); or

(b) If the candidate is not registered as affiliated with a political party as of the 70th day before the date of the primary election, then following the name of the candidate either the statement "Registration: not a member of a party" or, if the candidate chooses, no statement at all concerning the candidate's party registration status; and

(c) At least once on each ballot that contains a voter choice office, the statement: "A candidate's political party registration shown on this ballot for voter choice offices is the candidate's own party registration status as of 70 days prior to the

election. It does not imply the endorsement of the political party identified;" and

(d) The name of any major or minor political party that has officially endorsed that candidate for voter choice office, with the names of any parties preceded by the phrase, "Endorsed by:". The clerk shall print only those endorsements that have been received and accepted by the candidate, through notification to the filing officer no later than the 61st day before the day of the election.

(3) For a voter choice office in a general election, the county clerk shall print on the ballot:

(a) If the candidate is registered as affiliated with a political party as of the 70th day before the date of the primary election, then following the name of the candidate the statement "Registration: _____" (name of political party); or

(b) If the candidate is not registered as affiliated with a political party as of the 70th day before the date of the primary election, then following the name of the candidate either the statement "Registration: not a member of a party" or, if the candidate chooses, no statement at all concerning the candidate's party registration status; and

(c) At least once on each ballot that contains a voter choice office, the statement: "A candidate's political party registration shown on this ballot for voter choice offices is the candidate's own party registration status as of 70 days prior to the election. It does not imply the endorsement of the political party identified."

(d) The name of any major or minor political party that has officially endorsed that candidate for a voter choice office, with the names of any parties preceded by the phrase, "Endorsed by:". The clerk shall print only those endorsements that have been received and accepted by the candidate, through notification to the filing officer no later than the 61st day before the day 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 voter choice office. Except as provided in sections 2 to 26 of this 2014 Act, all provisions of state law that apply to elections and ballots for nonpartisan offices, also apply to voter choice offices.

SECTION 11. Severability. Section 9 and each of its subsections and paragraphs are severable from sections 2 to 26 of this 2014 Act. If section 9 or any of the subsections or paragraphs in section 9 are held unconstitutional, the remaining parts of sections 2 to 26 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. Federal legislative 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 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 voter choice 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.

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

SECTION 15. Vacancies in voter choice offices. (1) As used in this section, "voter choice 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 voter choice 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 voter choice office in this state and is to be filled by election, the election procedures for voter choice 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) The person appointed is not required to be a member of the same political party.

(2) 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.

(3) 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.

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

(5) 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 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) Nonpartisan candidates shall be nominated or elected by all electors, as described in ORS chapter 249;

(b) Voter choice 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; and

(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 committee persons shall be elected by members of major political parties.

(d) Notwithstanding paragraph (c) of this section, ORS 248.015 (1) and ORS 248.015 (5), if the number of filed candidates for precinct committee persons is equal

to or less than the number of positions to be filled at a primary election, no election shall be held, and all filed candidates 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 names of candidates for the political party nomination for President of the United States who qualified for the ballot under ORS 249.078, and the names of candidates for election as precinct committeeperson, 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, 25 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 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 voter choice office 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 in office of Precinct Committeepersons. Notwithstanding ORS 248.015, the term in office of Precinct Committeepersons elected under ORS Chapter 248.015 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. Repeals. ORS 254.025 and 254.365 are repealed.

SECTION 28. 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 29. Effect. Sections 1 to 11, 13-17, 19, 21-23, 25 and 26 of this 2014 Act and the repeal of ORS 118.120, 248.008, 254.025, 254.056, 254.115 and 254.365 by sections 12, 18, 20, 24 and 27 of this 2014 Act:

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

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

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

(3) Are not intended to require a change in the composition of any committee or commission described in ORS 137.658, 244.250 or 442.035.

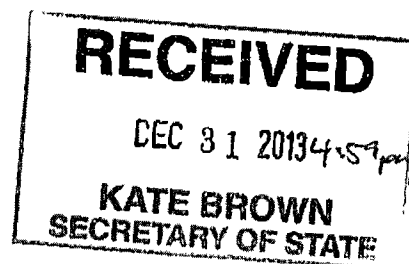
REVISED DRAFT BALLOT TITLE

Changes Election Nomination Processes; Replaces Current Primary System With Unified Primary For All Candidates

Result of "Yes" Vote: "Yes" vote changes election nomination processes for most partisan offices; all candidates run in unified primary; top two primary candidates compete in general election.

Result of "No" Vote: "No" vote retains the current party primary election system, retains procedures for the nomination of minor political party and independent candidates to the general election.

Summary: Currently, major parties nominate candidates to general election through party primaries; minor parties, independents nominate candidates directly to general election; and multiple candidates for office may appear on general election ballot. Measure changes those nomination processes for most partisan offices, including United States Senator; Congressional Representative; Governor; Secretary of State; State Treasurer; Attorney General; State Senator; State Representative; any state, county, city, district office that is either partisan or for which law authorizes political party nominations. Primary ballots contain all prospective candidates; elector may vote for one or more candidates regardless of party affiliation. Top two candidates in primary compete in general election. Primary, general election ballots must contain candidates' party registration, endorsements. Eligible person, regardless of party affiliation, may fill vacancy. Other provisions.





Elections Division
255 Capitol Street NE, Suite 501
Salem, OR 97310

Via regular mail and fax 503 373-7414

Re: Comments on Initiative #38 (2014)

Dear Elections Division:

I am the Chair of the Democratic Party of Oregon and an elector in Oregon. This is to register the following comments on whether Initiative #38 meets the procedural requirements of the Oregon Constitution and to register the following comments to the Attorney General's proposed Ballot Title for Initiative Petition #38 submitted for the 2014 General Election.

OREGON CONSTITUTIONAL REQUIREMENTS

The Initiative does not meet the procedural requirements of the Oregon Constitution because it contains more than one subject. The Petitioner's text, as attached to the Secretary of State's cover letter dated December 23, 2013, states in part:

"An Initiative

Relating to elections; creating new provisions; and repealing ORS 118.120, 248.008, 254.025, 254.056, 254.115 and 254.365."

"SECTION 29. Effect. Sections 1 to 11, 13-17, 19, 21-23, 25 and 26 of this 2014 Act and the repeal of ORS 118.120, 248.008, 254.025, 254.056, 254.115 and 254.365 by sections 12, 18, 20, 24 and 27 of this 2014 Act:

- (1) Apply only to appointments and elections to public [sic] office occurring on or after the effective date of this 2014 Act;
- (2) Apply to a certificate of nomination, nominating petition or declaration of candidacy filed before the effective date of this 2014 Act for an election to a voter choice office to be conducted on or after the effective date of this 2014 Act;
- (3) Apply only to vacancies occurring during terms in office where the person originally elected to the term in office during which the vacancy occurred was elected for that term after the effective date of this 2014 Act and
- (3) Are not intended to require a change in the composition of any committee or commission described in ORS 137.658, 244.250 or 442.035."

ORS 118.120 states:

"(1) In the case of an estate that contains a qualified family-owned business interest, an additional tax shall be imposed under ORS 118.005 to 118.540 if:

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(a) The value of the interest was originally taken as a deduction under section 2057(a) of the Internal Revenue Code in computing the value of the taxable estate for federal estate tax purposes; and

(b) An additional federal estate tax is imposed with respect to the qualified family-owned business interest for the reasons stated in section 2057(f) of the Internal Revenue Code.

(2)(a) The additional tax imposed under this section shall equal the amount of any allowable increase in the state death tax credit under section 2011 of the Internal Revenue Code if the applicable percentage of the family-owned business interest that is being disqualified under section 2057(f) of the Internal Revenue Code were added to the taxable estate for federal estate tax purposes.

(b) The applicable percentage to be used in calculating the additional tax under this subsection shall equal the applicable percentage used in calculating the additional federal estate tax under section 2057(f)(2)(B) of the Internal Revenue Code.

(3) The Department of Revenue must be notified of the qualified family-owned business interest being made subject to additional federal estate tax under section 2057(f) of the Internal Revenue Code at the same time and in the same manner as the Internal Revenue Service is notified of the additional federal tax.

(4) The period for assessment of the additional tax imposed under this section, including any penalty or interest, shall be two years from the date on which the department receives the notice described in subsection (3) of this section.

(5) The other provisions of ORS 118.005 to 118.540 and ORS chapter 305 shall apply to the additional tax imposed under this section in the same manner in which those provisions apply to the tax imposed under ORS 118.010. [1999 c.90 §27] "

Initiative Petition #38 includes other subjects that relate to election primaries, general elections, filling of vacancies of elected offices and terms of Precinct Committee persons. As a result, Initiative #38 violates the Oregon Constitution. (Initiative measures are constitutionally required to contain only one subject. Or Const art IV, §1(2)(d).)

CAPTION

The caption violates ORS 250.035(2)(a) (reasonably identifies subject matter), as it is not fair and accurate (and thus not reasonable). The caption uses a term "Unified Primary" that has no independent accepted meaning in common lay usage. The caption fails to include any reference to the significant change to general elections in that voters will choose between only two candidates in the general election, and minor political party selected candidates will be forced to compete with major political party endorsed candidates in the primary and finish at least second to appear on the general election ballot. Currently, minor political party selected candidates are guaranteed a line on the general election ballot, as are major political party candidates chosen by primary ballot. The caption fails to mention in any way the important subject of the change in the way vacancies are filled in certain offices including Oregon House and Senate seats in that a vacancy may be filled by a candidate of another party to serve out an unexpired term without the

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vote of the people, thus potentially changing the Senate President, Speaker of the House and majority leaders.

In addition, the text of Measure 65 (2008) is virtually the same as the substantive text of the current Initiative 38 (2014), except for the inclusion of the provisions to allow primary voters to cast votes for more than one candidate for a single office. The approved caption for Measure 65 was "Changes General Election Nomination Processes for Major/Minor Party, Independent Candidates for Most Partisan Offices." The use of similar language for the present initiative's caption, rather than the creation of misleading and inaccurate terminology, is in keeping with the intent of ORS 250.035(2)(a).

RESULT STATEMENTS

The "Yes" Result Statement suffers from the same basic problems noted for the caption. It is therefore not simple nor understandable, as required by ORS 250.035(2)(b), nor is it fair and accurate, implicit in that requirement. In addition, the "Yes" Result Statement fails to convey a fundamental change in the way we conduct elections in that an elector in a primary may vote for as many candidates as the elector wishes for a single office.

The "No" Result Statement is not a simple nor understandable statement of the result if the measure is rejected, as required by ORS 250.035(2)(c), nor is it fair and accurate, implicit in that requirement, in that it fails to mention retention of the current general election system and retention of the system to fill vacancies with members of the same party.

SUMMARY

The summary is not a concise and impartial statement summarizing the state measure and its major effect as required by ORS 250.035(2)(d), nor is it fair and accurate, implicit in that requirement. All of the defects noted above are repeated in the Summary. In addition, the summary fails to convey a fundamental change in the way we conduct elections in that an elector in a primary may vote for as many candidates as the elector wishes for a single office.

Very truly yours,

<

Frank Dixon
State Party Chair
Democratic Party of Oregon

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ELLEN F. ROSENBLUM
Attorney General



FREDERICK M. BOSS
Deputy Attorney General

DEPARTMENT OF JUSTICE
APPELLATE DIVISION

January 31, 2014

Jim Williams
Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

RECEIVED
2014 JAN 31 PM 2:58
KATE BROWN
SECRETARY OF THE STATE

Re: Proposed Initiative Petition — Changes General Election Nomination Process: Provides
One Common Primary Ballot; Unlimited Votes; Top Two Advance
DOJ File #BT-38-13; Elections Division #38

Dear Mr. Williams:

We have received the comments submitted in response to the revised draft ballot title for prospective Initiative Petition #38 (2014). Comments were submitted by Kyle Markley; Frank Dixon; Dan Meek and Seth Woolley; and Mark Frohnmayer and Dave Frohnmayer. We provide the enclosed certified ballot title.

This letter summarizes the comments we received, our response to those comments, and the reasons we made or declined to make the changes proposed by the commenters. This letter must be included in the record in the event the Oregon Supreme Court is asked to review this ballot title. ORAP 11.30(7).

The proposed measure changes the general election nomination processes for candidates for partisan offices. Under the measure, all candidates for partisan offices appear on the ballot, and every voter in the primary election is allowed to vote for any or all of the candidates. The top two vote-getters for each office appear on the ballot in the general election.

The commenters suggest changes to all parts of the revised draft ballot title, as discussed below.

I. The draft caption

The draft caption provides:

**Changes Election Nomination Processes; Replaces Current Primary System With
Unified Primary For All Candidates**

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Comments of Kyle Markley

Commenter Markley has two objections to the draft caption. First, he objects that it captures only one of the three major effects of the proposed measure, which:

- replaces the current closed primary election system with a single, common primary for all political parties (even minor parties);
- changes voters' choices at the general election from one candidate per party to a choice between at most two candidates, who may both be members of the same party; and
- eliminates the current requirement that vacancies filled by appointment must be filled by a member of the same political party.

Markley comments that the draft caption is deficient because it only alerts voters to the measure's effect on the primary election, not its impact on the general election. He asserts that the caption must include at least the first two of the major effects above. We agree, and have revised the title accordingly.

Second, Markley objects to the draft caption's use of the term "unified primary" on the ground that it has "positive connotations." He suggests replacing "unified" with "common," because it is a more neutral, impartial word. We agree that "unified" may be a politically loaded word; we have eliminated it from the caption.

Comments of Frank Dixon

Commenter Dixon asserts that the draft caption is not fair and accurate; that the term "unified primary" has no independent, common meaning; that it fails to include any reference to the measure's significant change to general elections; and that it fails to mention the measure's change of the way vacancies are filled in certain offices, include Oregon House and Senate seats. As noted above, we have changed the caption to eliminate the reference to "unified" primaries and have noted the changes to the general election. Given the scope of other changes made by the proposed measure, we believe that the provisions regarding vacancies in the state house and senate are less significant and need not be included.

According to this commenter, the caption fails to tell voters that, under the measure, only two candidates for each office will be on the ballot in the general election. Minor political party candidates will be forced to compete with major political party candidates in the primary and "finish at least second to appear on the general election ballot." In contrast, currently, candidates selected by minor political parties are "guaranteed a line on the general election ballot, as are major party candidates chosen by primary ballot." The revised caption we have prepared notes those changes to the current system

Commenter Dixon notes that the measure's text is substantially the same as the text of Measure 65 (2008), except that this measure allows primary voters to cast votes for more than

one candidate for a single office. He points out that the Supreme Court approved the following caption for Measure 65 (2008): "Changes General Election Nomination Processes for Major/Minor Party, Independent Candidates for Most Partisan Offices." Dixon asserts that the use of similar language for the present initiative's caption, "rather than the creation of misleading and inaccurate terminology," is in keeping with the intent of ORS 250.035(2)(a).¹ We agree that this measure is very similar. However, we believe that the caption we have prepared, as revised, better identifies the subject matter of the measure. See ORS 250.035(2)(a).

Commenters Dan Meek and Seth Woolley

Commenters Meek and Woolley claim that the draft caption is substantively incorrect in stating that the measure "replaces current primary system with unified primary for all candidates." They assert that the measure "does not remove the existing mechanisms for minor parties, assemblies of electors, or individual nonaffiliated candidates, to place candidates on the general election ballot." The commenters point out that section 3 of the measure, a statement of intent, "affirmatively states" that the measure is not intended to prevent minor parties from continuing to nominate candidates to the general election ballot[.] Section 3(2) provides, in pertinent part:

* * * Political parties may establish internal procedures to endorse or support candidates or otherwise participate in all elections, and may nominate candidates for election to voter choice offices [defined in the measure] at a party convention or by whatever lawful mechanism they so choose, other than at state-conducted primary elections.

According to Meek and Woolley, section 3(2) demonstrates an intent to preserve the authority of minor parties to place candidates on the general election ballot. Thus, they claim, the draft caption's phrase "all candidates run in unified primary" is incorrect, as is the phrase "top two primary candidates compete in general election." Meek and Woolley misread the measure.

These commenters posit that the proposed measure forces only major party candidates (currently Democrats and Republicans) to engage in the "Voter Choice" process, since they are the only parties "otherwise authorized to nominate candidates through primary election." Compare proposed measure § 23 with ORS 248.006 and 248.007. The measure, they assert, does not change the current statutorily recognized processes by which minor parties, assemblies, and individual electors nominate candidates. Therefore, these commenters state, the draft ballot title must be entirely redrafted to conform to their interpretation of the measure. This

¹ ORS 250.035(2)(a) provides:

(2) The ballot title of any state measure to be initiated or referred shall consist of:

(a) A caption of not more than 15 words that reasonably identifies the subject matter of the state measure. * * *

interpretation of the proposed measure is not correct, and we decline to adopt it or to modify the caption to conform to that incorrect reading.

Meek and Woolley next make the same point made by commenter Dixon, that the draft ballot title should be essentially the same as the approved ballot title for Measure 65 (2008), because the measures are substantially the same. These commenters rely on the legislative intent underlying ORS 250.062, which requires identical ballot titles for measure to be submitted *at the same election*, if they are “substantially similar.” In addition, they rely on *Keisling v. Myers*, 343 Or 379, 171 P3d 345 (2007), which approved the modified ballot title for Measure 65 (2008). According to these commenters, the draft caption fails under *Keisling* because it fails to note that the measure would affect the “general election”—something the court required of the caption for Measure 65 (2008). We have modified the ballot title to include the effect on general elections. ORS 250.062 does not require the same caption as for measure in past election cycles; however, the caption we have prepared is substantially the same.

The commenters claim that the draft caption is vague, and they also object to the draft caption’s use of the term “unified primary,” which has no recognized meaning outside of the measure. We have modified the caption and dropped that term.

Comments of Mark Frohnmayer and David Frohnmayer

These commenters proposed replacing “current primary” with “closed primary.” They explain the current nomination processes as follows:

Currently Oregon voters nominates [*sic*] candidates for partisan office to the General Election ballot in one of three ways. Candidates registered with one of Oregon’s two major political parties are nominated through a primary election operated by the state. In this partisan primary election, voters registered with a major party receive ballots showing only candidates within that party, and voters not registered with a major party do not participate in the primary elections for these offices. Candidates registered with a minor party are nominated through a convention held by that minor party, and candidates not affiliated with a party are nominated by petition. This system * * * is known in election science and lay usage as a “Closed Primary” system. * * *

At the same time that Oregon holds primary elections for partisan offices, it also holds elections for nonpartisan offices, which follow a different set of nomination rules. The partisan primary and nonpartisan elections occur simultaneously, and they are known together in lay usage as the “Primary.”

We have revised the caption to explain that the measure would result in a single primary ballot.

The commenters object that the second part of the draft caption, “Replaces Current Primary,” is both overinclusive and ambiguous, and it may mislead voters to assume that the measure affects election to nonpartisan offices at the primary. They suggest substituting “closed” for “current,” in order to clarify that the measure affects only offices that are currently

the subject of the closed primary system. Because we have substantially revised the caption to include the concept of unlimited voting, there is simply no room to include that information.

Frohnmayr and Frohnmayr approve of the draft caption's use of the phrase "unified primary for all candidates" as "fully convey[ing] the essence of the change" effected by the measure's replacement for the partisan primary system. The commenters explain that a "unified primary" means a primary system in which "all voters and candidates [are] joined together politically with a single ballot." They note that the phrase "for all candidates" correctly tells voters that the nomination process in the measure "affect[s] all candidates for the specific office, not just those currently nominated by primary elections." In short, they assert, the draft caption reasonably identifies the subject matter of the state measure. We have decided that the phrase "unified primary," from among the various terms that could be used to describe that concept, is less descriptive and neutral than the term we have chosen, "common primary." That phrase clearly expresses that there will be a single primary ballot with all candidates for a given office.

The Attorney General's certified caption

We agree with commenter Markley and commenters Frohnmayr and Frohnmayr that the measure affects the way *all* candidates for partisan office are chosen to be on the general election ballot. It replaces the current closed primary election system with a single nominating process for all political parties (even minor parties); it changes voters' choices at the general election from one candidate per party to a choice between at most two candidates, who may both be members of the same party. Accordingly, we do not accept Meek's and Woolley's contrary interpretation of the measure's effects on current nomination processes.

We certify the following caption:

**Changes general election nomination process: provides one common primary ballot;
unlimited votes; top two advance**

II. The draft result statements

The draft result statements provide:

Result of "Yes" Vote: "Yes" vote changes election nomination processes for most partisan offices; all candidates run in unified primary; top two primary candidates compete in general election.

Result of "No" Vote: "No" vote retains the current party primary election system, retains procedures for the nomination of minor political party and independent candidates to the general election.

Comments of Kyle Markley

Markley comments that the word “unified” should be replaced with the word “common” in the “Yes” result statement. We agree, and have revised the caption accordingly.

Comments of Frank Dixon

Dixon comments that the “Yes” result statement suffers from the same problems he finds in the caption. Therefore, he asserts, the “Yes” result statement is not simple and understandable, as required by ORS 250.035(2)(b), nor is it fair and accurate. We accept his comments to the same extent that we accepted them with regard to the caption.

Dixon also comments that the “Yes” result statement “fails to convey a fundamental change in the way we conduct elections in that an elector in a primary may vote for as many candidates as the elector wishes for a single office.” We agree that change is important, and we have included it in the revised caption.

As to the “No” result statement, Dixon finds it to be not simple and understandable, as required by ORS 250.035(2)(c), nor fair and accurate. Dixon asserts the “No” results statement is deficient in those respects because it “fails to mention retention of the current general election system and retention of the system to fill vacancies with members of the same party.” As revised, the “no” result statement includes that information. Dixon’s suggestion to include the retention of the current system for filling vacancies contravenes the statutory admonition to “us[e] the same terms in both statements, to the extent practical.” ORS 250.035(2)(c). Therefore, we do not adopt it.

Commenters Dan Meek and Seth Woolley

Meek and Woolley reiterate their objection that the draft ballot title misunderstands the effects of the proposed measure. They claim that the result statements “entirely misinterpret [the measure], which does not preclude nominations to the general election ballot by minor parties, assemblies of electors, and individual petitioned-for candidates.” As already discussed, we disagree with the commenters’ argument, and we decline to speculate that the measure has effects other than those plainly identifiable from its text. We also disagree that the draft result statements “are so vague as to be incomprehensible.”

Comments of Mark Frohnmayer and David Frohnmayer

These commenters suggest that the draft “Yes” statement be revised to “specifically enumerate the unified primary’s four attributes: that all voters may participate, that all candidates participate equally on the same ballot, the use of “approval voting” and the advancement of the top two candidates.” As revised, we believe that the “yes” statement includes those concepts.

The commenters suggest revising the “No” result statement to include more specificity in the description of the result of a “no” vote. Specifically, they would have the “No” statement

inform voters that, under the current system, “major party candidates [are] nominated by their registered party voters in plurality primary elections, others nominated by convention or petition.” We believe that explanation would be more confusing than helpful to voters.

We decline to adopt the commenters’ suggestion to substitute “closed” for “current” in describing the current primary election system; that term may be confusing to voters. We decline to substitute “non-affiliated” for “independent” in the phrase “independent candidates to the general election,” because we have eliminated that phrase entirely.

Attorney General’s certified “Yes” and “No” result statements

We certify the following result statements:

Result of “Yes” Vote: “Yes” vote replaces current general election nomination process for most partisan offices; all candidates listed on common primary ballot; vote one or more; two advance.

Result of “No” Vote: “No” vote retains current general election nomination processes: party primaries for major parties; no common primary ballot; vote limitations; multiple candidates on general election ballot.

III. The draft summary

The draft summary provides:

Summary: Currently, major parties nominate candidates to general election through party primaries; minor parties, independents nominate candidates directly to general election; and multiple candidates for office may appear on general election ballot. Measure changes those nomination processes for most partisan offices, including United States Senator; Congressional Representative; Governor; Secretary of State; State Treasurer; Attorney General; State Senator; State Representative; any state, county, city, district office that is either partisan or for which law authorizes political party nominations. Primary ballots contain all prospective candidates; elector may vote for one or more candidates regardless of party affiliation. Top two candidates in primary compete in general election. Primary, general election ballots must contain candidates’ party registration, endorsements. Eligible person, regardless of party affiliation, may fill vacancy. Other provisions.

Comments of Kyle Markley

Markley comments that the draft summary would be improved by mentioning that the two candidates in the general election may be from the same political party—a fact that would be significant to most electors, and likely to occur, but that may not be obvious to most readers. We agree, and we have revised the summary accordingly.

Comments of Frank Dixon

Dixon renews his objections to the other parts of the ballot title, finding the same flaws in the draft summary. In addition, he asserts that the draft summary "fails to convey a fundamental change in the way we conduct elections in that an elector in a primary may vote for as many candidates as the elector wishes for a single office." We agree that the draft summary could more clearly capture that, and we have modified the summary accordingly.

Comments of Dan Meek and Seth Woolley

These commenters renew the same objections they made to the caption and the result statements. In addition, they object to the provision stating that "independents nominate candidates directly to general election," asserting it is incorrect. These commenters suggest the following alternative language:

Currently, major parties (Democratic and Republican) nominate candidates to general election through party primaries; minor parties nominate candidates by conventions or other methods; and individuals can get on the general election ballot by collecting sufficient voter signatures.

We have eliminated the reference to independent candidates in the summary to make room for discussion of the concept of approval voting.

Comments of Mark Frohnmayer and David Frohnmayer

These commenters generally approve the draft summary. They suggest only replacing "elector may vote for one or more candidates regardless of party affiliation" with "elector may vote one or more candidates per office regardless of party affiliation." We decline to use that exact language, but we have revised the summary to more clearly state that concept.

The Attorney General's certified summary

On our own review, we conclude that the following statement in the draft summary is inaccurate: "Measure changes those nomination processes for most partisan offices, including * * * any state, county, city, district office that is either partisan or for which law authorizes political party nominations." The measure applies to "voter choice offices," as defined in the measure. Section 4 of the measure provides:

* * * "Voter choice office" *does not include*:

(1) A nonpartisan office; or

(2) An office for which nominations to the general election by political parties are expressly authorized by law.

January 31, 2014

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(Emphasis added.) Therefore, the draft summary's phrase "for which law authorizes political party nominations" is the exact opposite of what Section 4 provides, and we delete it for that reason.

The Attorney General certifies the following summary:

Summary: Currently, voters are limited to voting for one candidate for each office in primary elections; multiple candidates may appear for each office on general election ballot. Major parties nominate candidates through party primaries with separate ballots for each. Measure replaces that system for most partisan offices, including many federal (not presidential), all state, county, city, district partisan offices. Primary ballot will list all candidates for each office. Voters may vote for as many candidates as they like for each office, regardless of party affiliation of voter/candidate. Only top two candidates will appear on general election ballot; may be from same party. Primary, general election ballots must contain candidates' party registration/endorsements. Eligible person, regardless of party, may be selected to fill vacancy. Other provisions.

IV. Conclusion

We certify the attached ballot title.

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Enclosure

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BALLOT TITLE

Changes general election nomination process: provides one common primary ballot; unlimited votes; top two advance

Result of "Yes" Vote: "Yes" vote replaces current general election nomination process for most partisan offices; all candidates listed on common primary ballot; vote one or more; two advance.

Result of "No" Vote: "No" vote retains current general election nomination processes: party primaries for major parties; no common primary ballot; vote limitations; multiple candidates on general election ballot.

Summary: Currently, voters are limited to voting for one candidate for each office in primary elections; multiple candidates may appear for each office on general election ballot. Major parties nominate candidates through party primaries with separate ballots for each. Measure replaces that system for most partisan offices, including many federal (not presidential), all state, county, city, district partisan offices. Primary ballot will list all candidates for each office. Voters may vote for as many candidates as they like for each office, regardless of party affiliation of voter/candidate. Only top two candidates will appear on general election ballot; may be from same party. Primary, general election ballots must contain candidates' party registration/endorsements. Eligible person, regardless of party, may be selected to fill vacancy. Other provisions.

RECEIVED
2014 JAN 31 PM 2 55
KATE BROWN
SECRETARY OF THE STATE

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

PREAMBLE.

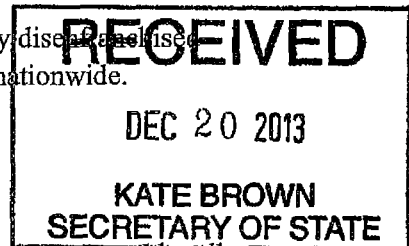
It's time to fix the broken two-party system. Despite Oregon's constitutional guarantee of Free and Equal Elections, **our publicly-funded partisan election process is divided and unfair:** in the primary election, voters may only vote for candidates sharing their same major party affiliation, and the **30% of voters** and all candidates that are not members of one of the two major parties **are effectively shut out.**

Candidates wanting a chance to win must therefore **mold themselves to the partisan interest of one of the two major parties** before making their cases to the whole electorate they will serve. In districts dominated by one party, the election is decided in the primary, before the majority of voters have even had a say.

The outcomes of our current election process: a disillusioned, largely disenfranchised electorate and polarized, ineffective, corruptible lawmaking bodies nationwide.

This **Fair and Unified Elections Initiative** will:

- **unify** our divided partisan election process,
- give **every voter an equal voice** on every candidate,
- give every voter a nuanced choice between the **two candidates most approved** by all voters,
- allow all candidates to **appeal to the entire electorate** for the full election cycle and
- give all candidates a uniform level playing field, regardless of political party affiliation.



The **Fair and Unified Elections Initiative** recasts the primary election from a partisan filter to a uniform process that narrows the field from all candidates to the two democratically best.

Every voter receives a ballot that shows all candidates for non-presidential partisan offices, and then **each voter casts a simple "up-or-down" approval vote** on each candidate on the ballot. The two candidates for each office approved by the most voters advance to the general election for a runoff.

This **Fair and Unified** process has several advantages: it is a minor tweak to our existing ballot architecture, it is **scientifically best-in-class** for simple two-stage voting systems, it never requires voters to make the strategic choice to decline support for their most-favored candidates and therefore gives all candidates a fair accounting, and it does away with the "spoiler" effect.

It's time for a better Democracy. Oregon will lead the way.

SECTION 1. Short title and suggested 15-word summary. This 2014 Act may be cited as the Fair and Unified Elections Act of 2014, and summarized as "Unifies partisan elections: Primary ballots contain all candidates; two most voter-approved advance to General."

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 Fair and Unified Elections Act of 2014 is to create a unified election system in which each elector has, at the primary election, 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 receiving the most votes 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. This 2014 Act applies to all voter choice 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. Nothing in this 2014 Act restricts the right of political parties to contribute to, endorse or otherwise support a candidate for a voter choice office. Political parties may establish internal procedures to endorse or support candidates or otherwise participate in all elections, and may nominate candidates for election to voter choice offices at a party convention or by whatever lawful mechanism the parties choose, other than at primary elections conducted under ORS chapter 254.

(3) This 2014 Act makes no change in current law relating to presidential primaries. This 2014 Act conforms to the ruling of the United States Supreme Court in *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442 (2008). Each political party retains the right to restrict participation in its presidential primary to those electors who disclose their political preference for that party at the time of registration or to open its presidential primary to include electors who register without disclosing a political preference.

SECTION 4. Definition. (1) As used in sections 3 to 6 of this 2014 Act, and except as provided in subsection (2) of this section, "voter choice 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.

(2) "Voter choice office" does not include a nonpartisan office or an office for which nominations to the general election by political parties are expressly authorized by law.

SECTION 5. Particular provisions for voter choice offices. (1) Electors may vote for one or more candidates listed on the primary election ballot for a voter choice 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 voter choice 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 voter choice 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 voter choice 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 voter choice 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 voter choice 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. (1) As used in this chapter, and except as provided in subsection (2) of this section, "voter choice 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.

(2) "Voter choice office" does not include a nonpartisan office or an office for which nominations to the general election by political parties are expressly authorized by law.

SECTION 9. Election ballots for voter choice offices. (1) This section is intended to give electors access to information in the public record about candidates for voter choice 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 voter choice office, the county clerk shall print on the ballot:

(a)(A) If the candidate for a voter choice 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 voter choice 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 voter choice 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 voter choice 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 voter choice office, the county clerk shall print on the ballot:

(a)(A) If the candidate for a voter choice 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 voter choice 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 voter choice 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 voter choice 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 voter choice 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 voter choice 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 voter choice 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, "voter choice 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 voter choice offices. (1) As used in this section, "voter choice 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 voter choice 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 voter choice office in this state and is to be filled by election, the election procedures for voter choice 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 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) Nonpartisan candidates shall be nominated or elected by all electors, as described in ORS chapter 249;

(b) Voter choice 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 voter choice 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. Repeals. ORS 254.025 and 254.365 are repealed.

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

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

(2) Apply to a certificate of nomination, nominating petition or declaration of candidacy filed before the effective date of this 2014 Act for an election to a voter choice office to be conducted on or after the effective date 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 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 30. The Legislative Assembly shall enact any legislation that may be necessary to carry out the provisions of this 2014 Act.

CERTIFICATE OF FILING

I certify that on February 13, 2014, I caused to be filed this PETITION TO REVIEW BALLOT TITLE CERTIFIED BY ATTORNEY GENERAL with the State Court Administrator by electronic filing.

State Court Administrator
Appellate Courts Records Section
1163 State Street
Salem, OR 97301

Dated this 13th day of February, 2014.

By: s/ Roy Pulvers
Roy Pulvers, OSB No. 833570
Of Attorneys for Petitioner

CERTIFICATE OF SERVICE

I certify on February 13, 2014, I caused to be served a true copy of the PETITION TO REVIEW BALLOT TITLE CERTIFIED BY ATTORNEY GENERAL via First Class Mail/Certified, Return Receipt, deposited in the United States Post Office at Portland, Oregon, addressed to:

Secretary of State
Oregon Secretary of State
Elections Division
141 State Capitol
Salem, OR 97310

Frederick M. Boss, Deputy Attorney
General
Anna Joyce, Solicitor General
Attorney General of the State of Oregon
Office of the Solicitor General
1162 Court Street NE
Salem, OR 97301-4096

Mark Frohnmayer
1263 W. 5th Avenue
Eugene, OR 97402

I also caused to be provided a copy by fax to the Secretary of State, Elections Division at 503-373-7414 and to the Attorney General at 503-378-6306.

Dated this 13th day of February, 2014.

By: s/ Roy Pulvers
Roy Pulvers, OSB No. 833570
Of Attorneys for Petitioners