



# OFFICE OF THE SECRETARY OF STATE

## ELECTIONS DIVISION

<b>Directive of the Secretary of State</b>	<b>Subject:</b> 2014 Measure 92 Recount	<b>Directive Issued at the Request of:</b> Secretary of State	<b>Date:</b> November 26, 2014	<b>Number:</b> 2014-8
--	--	--	-----------------------------------	--------------------------

The Secretary of State, in carrying out the duties of the office shall issue detailed directives necessary to maintain uniformity in the application, operation and interpretation of Oregon election laws (ORS 246.110 and ORS 246.120.) This is an official directive of the Secretary of State. ORS 246.120 also specifies that a county clerk must comply with a directive from the Secretary of State.

An automatic full recount of ballots cast on any measure is required under ORS 258.290 if the difference between votes cast for and against the measure is not more than one-fifth of one percent of the total votes cast for the measure.

According to the certified results of the November 4, 2014, General Election, the difference between the "Yes" and "No" votes on Measure 92 falls within this margin.

This directive instructs County Elections Officials to perform a full recount of all ballots cast for Measure 92 at the November 4, 2014, General Election. Further, it provides instructions on the methods by which to conduct the recount.

The recount must occur in all counties between the dates of **Tuesday, December 2, 2014** and **Friday, December 12, 2014**. County Elections Officials may determine the specific day(s) to conduct the recount in their counties, but must notify the state of their recount schedule according to the instructions provided.

Attached to and included as part of this Directive are the following materials:

- Instructions for completing the automatic full recount for Measure 92
- Ballot examples
- SEL 797 Form (Recount Tally and Certification Form) on which to record the recount tally and return to the State Elections office

Kate Brown  
Secretary of State

By:   
Jim Williams  
Elections Director

## Instructions for Completing Automatic Full Recount

### Preparing for the Recount

Recounts are conducted pursuant to ORS Chapter 258 and the instructions and directives of the Secretary of State. All recounts are conducted by hand. The recount is to be conducted as openly and expeditiously as possible.

### Providing notice to the State of your county's recount schedule

Notify the State Elections office as soon as possible after scheduling your recount. Notice must be given at least two business days before the start of the recount in your county. The schedule for your county must be finalized by **Wednesday, December 3, 2014**. Notice should be provided by email to: [elections@sos.state.or.us](mailto:elections@sos.state.or.us) and should include:

- the start date and time of the recount
- the expected duration of the recount
- the number of counting boards to be appointed for the recount
- the location of the recount

### Providing notice to affected parties and other interested parties

Affected parties for this recount include:

- one organization advocating for a measure contest
- one organization opposing a measure contest

Other interested parties for this recount include:

- state political parties
- county political parties
- statewide media
- local media

The State Elections Division will notify these parties by certified mail, return receipt requested, by regular mail and by email. We will also notify the state political parties and statewide media. Additionally, the recount schedule for each county will be posted on the Secretary of State website.

County Elections Officials are encouraged to notify the county political parties and their local media by regular mail or by email, and should post their recount schedule on the county website. Information provided in the county notice should include the expected duration of the recount and any special parking arrangements for observers.

### Appointment of Counting Boards

The County Elections Official must appoint at least one four-person counting board, consisting of county electors to conduct the hand recount. The members of each counting board cannot all be members of the same political party. Duties of the counting board include determining the voters' intent on each ballot, separating the ballots into different stacks based on the option selected on each ballot, and then counting the number of ballots in each stack. All duties must be performed in a uniform manner in accordance with ORS Chapter 258 and this directive.

## Instructions for Completing Automatic Full Recount (cont.)

County Elections Officials may appoint as many counting boards necessary to ensure the orderly and timely completion of the recount.

The members of a counting board:

- shall be selected from the list of county electors
- shall not have been a candidate for any office voted upon at the election
- shall be compensated at least the minimum wage required by state or federal law, whichever is higher

The County Elections Official should designate a chairperson for each counting board prior to beginning the recount.

### Official Observers

Each official measure organization may designate and authorize an observer for each counting board performing the recount in each county. Such authorization must be in writing and provided to the County Elections Official prior to the beginning of the recount.

All observers must have appropriate written authorization signed by the designated official of an affected organization of Measure 92. The Secretary of State will provide to the county elections official the name of the person representing each affected organization who may sign written authorizations for observers from that organization, to ensure that the properly designated observers are the only observers allowed at the recount.

The State Elections Division has identified the following persons as representatives of the affected parties to sign written authorizations for observers:

- Vote Yes on Measure 92; [info@oregonrighttoknow.org](mailto:info@oregonrighttoknow.org)  
Contact: Paige Richardson  
Email: [paigeme@mac.com](mailto:paigeme@mac.com)  
Phone: 503-877-3639
  
- No on 92 Coalition; [info@voteno92.com](mailto:info@voteno92.com)  
Contact: Pat McCormick  
Email: [pat@ampmpr.com](mailto:pat@ampmpr.com)  
Phone: 877-443-6688

Authorized observers will be allowed as close as possible to the counting boards without impeding the process given the space limitations of each county. Observers shall not in any way interfere with the preparation or counting procedure. Any comments or questions about the proceedings in progress shall be directed to elections supervisory personnel, not to the counting boards. If at any time any observer creates a distraction or otherwise impedes the progress of the preparation or the count, the proceedings will be stopped and corrective action may be taken by the elections official.

Authorized observers do not have the right to address a counting board concerning the process. Any observed procedural irregularity or perceived error may be reported to elections supervisory personnel who are to take corrective actions, if necessary.

In addition to authorized observers for the measure organizations, County Elections Officials may allow other observers at their discretion.

## Instructions for Completing Automatic Full Recount (cont.)

### Preparation for Recount Procedures

Preparation for recount may include any preliminary preparation of the ballots that the elections official deems necessary.

Some election-related materials are not part of a recount but are available to be examined. At the request of an affected party, these materials shall be reviewed as soon as practicable following a request, at a time designated by the elections official.

Under 254.426(3), challenge envelopes are confidential and are NOT included in the recount and are NOT available for examination. This does not apply to ballot return envelopes challenged under ORS 254.431 for non-matching or missing signatures.

### Ballot Counting Procedures

Before starting the recount, the elections official, or designated staff member, shall assemble all ballot containers and other materials pertinent to the recount. Each counting board shall examine the seals of the containers to make certain they have not been broken. The seals on all containers holding ballots to be recounted shall be broken in the presence of the counting board and authorized observers.

The ballots or ballot cards shall be taken from the container. The ballots to be recounted shall be separated into the following stacks:

- "yes" votes
- "no" votes
- overvotes\*
- undervotes\*
- duplicated ballots
- rejected ballots, if any (as defined in ORS 254.505)\*\*

\*An overvote occurs when an elector marked the "yes" and the "no" for the measure. An undervote occurs when the elector does not mark any choice for the measure. Each overvote and undervote ballot must be examined by the counting board to confirm that the voter did, in fact, cast an overvote or an undervote.

\*\*During the original count there may have been some ballots rejected by elections personnel in the pre-inspection process. These ballots should be in a 'Rejected Ballots' envelope. Each of these ballots must be re-inspected and a decision made by at least three of the members of the counting board whether to count the ballot not previously counted. If the decision is to count the ballot, it is to be counted in the same manner as all other ballots. The rejected ballots are to be signed or initialed and dated by the counting board chairperson. If any ballots that were originally not counted are determined to be countable, this fact and the quantity counted shall be noted on the 'Rejected Ballots' envelope to explain the discrepancy between the original count and the recount.

Any ballot that was duplicated by the original election board shall be checked against the original ballot to insure that the vote for the office or measure being recounted was properly duplicated. Duplicated ballots shall be sorted into appropriate stacks according to how the ballots were voted. The original ballot should then be resealed.

## Instructions for Completing Automatic Full Recount (cont.)

The four member counting boards shall divide into two-person teams after all of the ballots have been separated into the appropriate stacks and inspected. Each two-person team shall count each stack of ballots and record the count on scratch paper. The teams shall compare their counts. If the counts do not agree, each stack must be recounted again until agreement is reached. Once the count is agreed upon, the number shall be recorded on the SEL 797 Form provided.

The county elections official will compare the vote count reported by the counting board with the original vote count. Any difference in the vote count prepared by the counting board and the original count must be reviewed by the county elections official before the recount of a precinct is considered complete.

For each step in the process, every ballot and each count should be verified by at least two members of the counting board.

All materials must be resealed after the recount is completed. Resealing may be done precinct by precinct, in groups of precincts contained in one sealable container, or as a county as a whole, in the county elections official's discretion. If the recount occurs over more than one day, all ballots must be resealed in containers at the close of business each day.

The results for individual precincts are considered unofficial until they have been abstracted and certified by the county elections official.

### Certification of Votes for the Recount

The results of this Automatic Recount will become the official results of the election for Measure 92. As soon as possible after completion of the recount, the County Elections Official shall certify the abstract of recounted votes to the Secretary of State. This certification should be emailed to the Secretary of State as soon as possible.

### Certification of Recount Costs

Pursuant to ORS 258.231, the certification of costs may include:

- Payment to recount boards at a rate not to exceed the rate at which such elections personnel were paid during the election prior to the recount;
- Payment to additional employees required to conduct the recount and overtime payment to regular employees who are eligible to receive overtime payments;
- Postage and telephone charges directly related to the recount.
- The costs for security

The Secretary of State allows billing for the costs of renting facilities, furniture and vehicles if used solely for the purpose of a recount.

The certification of costs of a recount shall not include:

- General administrative costs;
- Allowances for meals or lodging.

## Ballot Examples

The following are some examples of ballots which may have been marked by the voter in a manner that may not have allowed the vote tally system to tally it as the voter intended.

While the final determination is made by the counting board, these standards are adopted in the *2014 Vote by Mail Procedures Manual*.

### Examples

---



Two (or more) voting areas have been marked and one mark has been erased, but enough residue is left that the scanner may read an overvote.

 **Yes**  
 **No** (erasure has been done)

Tally as a **Yes** vote because an attempt at erasure was made.  
 Vote tally system probably recorded as an overvote.

---

One response is indicated with a heavy line or dark oval and a second response is marked with a narrow line or pale oval, but no erasure has been attempted.

 **Yes**  
 **No** (erasure has not been done)

Tally as an **overvote** because no attempt at erasure was made.  
 Vote tally system probably recorded as an overvote.

---



The voting area has been completed for one response and a dot or partially completed voting area is marked for the other.

 **Yes**  
 **No**

Tally as a **Yes** vote.  
 Vote tally system probably recorded as an overvote.

---

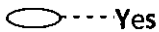

The voting area has not been marked, but the response is circled.

 **Yes**  
 **No**

Tally as a **No** vote.  
 Vote tally system probably recorded as an undervote.

---

The voting area has not been marked but there is a connective line between the response and the voting area to indicate the vote.

 **Yes**  
 **No**

Tally as a **Yes** vote.  
 Vote tally system probably recorded as an undervote.

### Ballot Examples (cont.)

More than one voting area has been completed, but a word or mark is used to indicate the correct vote.



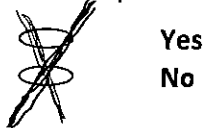
Tally as a **Yes** vote.  
Vote tally system probably recorded as an overvote.

A word has been used to indicate the vote instead of completing the voting area.



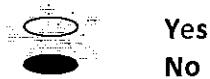
Tally as a **No** vote.  
Vote tally system may or may not have recorded as a No vote.

The entire response area for a contest is crossed out.



Tally as an **undervote**.  
Unclear how vote tally system may have recorded.

Corrections are made with liquid white-out.



Tally as a **No** vote.  
Vote tally system probably recorded as an overvote.

# Recount

**SEL 797**

rev 11/14  
ORS 258.241

## Tally and Certification

→ Complete a separate form for each contest or measure subject to a recount. If the number of precincts exceed the number of rows below, use an additional SEL 797.

County Information		
County	Contact	Election Date

Recount Information				
<input type="checkbox"/> Automatic	<input type="checkbox"/> Demand 5% of all precincts	<input type="checkbox"/> Demand 3 specific precincts	<input type="checkbox"/> Demand All precincts	<input type="checkbox"/> Demand All remaining precincts
Contest or Measure			Precincts	

Recount Results		
Start Date	Completed Date	Did the contest outcome change? <input type="checkbox"/> Yes <input type="checkbox"/> No

Candidate Name or Measure Response If applicable, Include write-ins, overvotes and undervotes			
01		06	
02		07	
03		08	
04		09	
05		10	

Totals										
Precinct	01	02	03	04	05	06	07	08	09	10



**Totals (cont.)**

Precinct	01	02	03	04	05	06	07	08	09	10
<b>Total</b>										

**County Elections Official Certification**

→ By signing this document, I hereby state that the votes recorded on this SEL 797 Recount Tally and Certification correctly summarize the tally of votes cast at the election indicated above.

Name | Contact Phone

Signature | Date Signed