

CHAPTER 5: ELECTIONS

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Cross-reference:

Elections, see Charter §§ 11.10 through 11.50

Statutory reference:

Conduct of elections, see ORS, Ch. 254

VACANCIES IN OFFICE

§ 5.002 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

DIRECTOR. The Director of the Division of Elections of the county, or authorized representative.

ELECTIVE OFFICE.

- (1) Chair ;
- (2) Auditor;
- (3) Commissioner; and
- (4) Sheriff.

TERM OF OFFICE. The term of office of the last person elected to the office that is vacant. (Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.30.010, 07/01/1998; Ord. 478, passed, 09/20/1985; Ord. 211, passed, 11/29/1979; Ord. 68, passed, 03/29/1973)

§ 5.003 VACANCY IN OFFICE.

A county elective office becomes vacant:

- (A) Upon the incumbent's:
 - (1) Death;
 - (2) Adjudicated incompetence;
 - (3) Conviction of a felony, other offense pertinent to the office, or unlawful destruction of public records;
 - (4) Resignation from office;
 - (5) Recall from the office; or
 - (6) Ceasing to reside within the county, or inability to obtain a corporate surety bond as required under Charter § 4.10(2);

(B) Upon the failure of the person elected or appointed to the office to qualify for it within ten days after the time for the term of office to commence;

(C) In the case of a member of the Board, upon absence:

(1) From the county for 30 consecutive days without the consent of the Board; or

(2) From Board meetings for 60 consecutive days without like consent; or

(D) In the case of the Chair, upon absence from the county for 30 consecutive days without consent of the Board.

Cross-reference:

Board of County Commissioners, see Chapter 3

(Ord. 965, Amended, 09/13/2001; '90 Code, § 4.30.020, 07/01/1998; Ord. 478, passed, 09/20/1985; Ord. 211, passed, 11/29/1979; Ord. 68, passed, 03/29/1973)

§ 5.004 FILLING OF VACANCY.

(A) Upon becoming aware of a vacancy in an elective office, the Board must promptly determine and declare the date of vacancy.

(B) If a vacancy occurs in an elective office of the county and the term of office expires one year or more after the vacancy occurs, then a person will be elected at the next available election for which the state law filing requirement can be met to fill the vacancy for the remainder of the term of office.

(C) If a vacancy occurs in an elective office of the county and the term of office expires less than one year but 90 days or more after the vacancy occurs, then the Board shall appoint a person to fill the vacancy for the remainder of the term of office.

(D) If a vacancy occurs in an elective office of the county and the term of office expires less than 90 days after the vacancy occurs, the vacancy shall not be filled.

(Ord. 965, Amended, 09/13/2001; '90 Code, § 4.30.030, 07/01/1998; Ord. 478, passed, 09/20/1985; Ord. 211, passed, 11/29/1979; Ord. 68, passed, 03/29/1973)

§ 5.005 DESIGNATION OF INTERIM ELECTIVE OFFICERS.

(A) *Purpose.*

(1) When a vacancy occurs in elective county offices, vacancies must be filled by election or appointment, depending on the time remaining before expiration of the affected terms of office.

(2) If there is a vacancy in an elective office, an interim occupant of the office will serve until the vacancy is filled by election or appointment. The Charter requires that the Board prescribe procedures to designate interim occupants of elective offices.

(B) *Interim Officer Designation.*

(1) County elected officials must each designate a person to perform their responsibilities. The designation must be in writing and filed with the clerk of the Board. If the Board does not confirm the designated person by a majority vote within 60 days of filing, the designating elected official must designate another person for Board confirmation.

(2) When there is a vacancy, the designated person shall serve as acting Chair, Commissioner, Auditor, or Sheriff until the vacancy is filled by election or appointment, as appropriate under the Charter.

(3) If a person for an elective office has not been designated, or if the designated person is unable to immediately serve, the Board must promptly meet to fill the vacancy on an interim basis. The appointment must be in writing and filed with the clerk of the Board.

(4) All persons designated to fill elective offices on an interim basis must meet the Charter qualifications for appointees to such offices.

(Ord. 965, Amended, 09/13/2001; Ord. 923, passed, 01/14/1999; '90 Code, § 4.30.035, 07/01/1998; Ord. 716, passed, 03/26/1992)

§ 5.006 APPOINTMENT BY BOARD.

(A) In filling a vacancy, the Board may make such inquiries and interviews as it considers necessary to select the appointment. The appointment must be made at a regular or special Board meeting.

(B) The Board will use the following procedures in the appointment process:

(1) Public notice must be given to appropriate neighborhood organizations, cities, civic groups, a newspaper of general circulation and other recognized groups.

(2) A deadline must be established for submitting applications at least two weeks after such notice.

(3) The person to fill the vacancy must be appointed from those applicants nominated and seconded for consideration by members of the Board. The Board clerk will announce the results of each ballot and will record each commissioner's ballot. An applicant who receives a majority of the votes by the current Board members will be appointed to the vacant position. If no applicant receives a majority vote on the first ballot, the Board shall continue to vote on the two applicants who receive the most votes until an applicant receives a majority vote of the Board.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.30.045, 07/01/1998; Ord. 478, passed, 09/20/1985)

§ 5.007 ELECTION TO FILL VACANCY.

If an election is required to fill a vacancy, the Board must call such an election on the next available election date for which the state law filing requirements can be met, or may call an emergency election if it has been demonstrated that the public interest would be harmed by waiting. The date of the emergency election must allow sufficient time to meet the requirements of § 5.008.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.30.055, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 478, passed, 09/20/1985)

§ 5.008 NOMINATION TO FILL VACANCY.

Nomination for election to fill a vacancy must be made by the petition or declaration method established by state law for the selection of candidates for nomination at a primary election. The Board must set a filing deadline at the time it calls an election. The filing deadline must not be later than the 47th day before the date of the election (Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.30.065, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 478, passed, 09/20/1985)

§ 5.009 SPECIAL RUNOFF ELECTION.

(A) If no candidate receives a majority of votes cast at an election to fill a vacancy, the Board shall call a special runoff election in which the names of the two candidates receiving the highest number of votes will appear on the ballot.

(B) The special runoff election may be held on the next available election date for which the state law filing requirements can be met, or may be an emergency election if it has been demonstrated that the public interest would be harmed by waiting. The special runoff election must occur not less than 47 days after the date of the election referred to in subsection (A).

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.30.080, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 616, passed, 04/27/1989)

INITIATIVE AND REFERENDUM**§ 5.100- DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COUNTY LEGISLATION. Any ordinance that has been or lawfully may be enacted by the county, and any proposed amendment, revision or repeal of the Charter. It does not include any property tax or bond measure or any emergency ordinance.

ELECTOR. Any person eligible under state law to vote in the county.

MEASURE. Any county legislation, or property tax or bond measure proposed for adoption, amendment, revision, repeal or referral through the initiative or referendum procedures prescribed by this subchapter.

REGULAR ELECTION. Any election on a biennial primary or general election date.

SPECIAL ELECTION. Any election on a date other than a regular election date.

Cross-reference:

Initiative and referendum, see Charter § 11.30

(Ord. 965, Amended, 09/13/2001; ‘90 Code, § 4.51.010, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 626, passed, 08/10/1989; Ord. 212, passed, 11/29/1979; Ord. 167, passed, 07/06/1978)

§ 5.101 PROSPECTIVE PETITION.

(A) Before circulating among the electors a petition proposing an initiative or referendum for county legislation, the chief petitioners must file a prospective petition with the director. The director will provide the form showing:

(1) The signatures, printed names and mailing addresses of not less than one and not more than three chief petitioners, all of whom must be electors of the county;

(2) In the case of initiative petitions, the text of the county legislation proposed for adoption, amendment, revision or repeal, and, where applicable, the title, ordinance number, and charter or code section numbers proposed for amendment, revision or repeal;

(3) In the case of referendum petitions, the text of the county legislation proposed for referral, and where applicable, the title, ordinance number or code section numbers of the county legislation proposed for referral; and

(4) Whether one or more persons will be paid for obtaining signatures on the petition.

(B) The director must inscribe the date of filing upon any prospective petition filed in the director's office.

(C) After a prospective petition for referendum of county legislation is filed with the director, and the director determines that the prospective petition complies with the requirements of this subchapter, and other applicable law, the director will certify to one of the chief petitioners that petitions may be circulated among the electors, in accordance with the procedures in § 5.103.

(Ord. 965, Amended, 09/13/2001; ‘90 Code, § 4.51.020, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 212, passed, 11/29/1979; Ord. 167, passed, 07/06/1978)

§ 5.102 BALLOT TITLE; APPEAL.

(A) Prior to the conclusion of the fifth business day after a prospective petition for an initiative is filed and complies with the requirements of this subchapter and other applicable law, the director will review the text of the proposed initiative to determine whether it complies with the single subject requirement and determine if the initiative proposes “county legislation.”

(B) If the proposed text does not meet the requirements of subsection (A), the director must notify the chief petitioner by certified mail, return receipt requested, that the prospective petition does not meet the single subject or legislative requirement.

(C) Any elector who is dissatisfied with the director's determination that the proposed initiative does not meet the requirements of subsection (A) may petition the circuit court for the county. The petition must be filed not later than the seventh business day after the written determination by the director.

(D) (1) If the proposed initiative meets the requirements of subsection (A), or a referendum petition has been certified for circulation, the director will transmit two copies of the prospective petition to the county attorney. The county attorney has five business days after receiving the prospective petition to prepare a ballot title for the proposed

measure and an explanatory statement for the voter's pamphlet. The ballot title must conform to the requirements of state law.

(2) The explanatory statement must consist of an impartial, simple and understandable statement explaining the measure and its effect. The explanatory statement shall not exceed 500 words.

(3) After preparing the ballot title and explanatory statement, the county attorney will immediately return one copy of the prospective petition, ballot title and explanatory statement to the director and one copy to one of the chief petitioners.

(E) After receiving a ballot title and explanatory statement for a county measure to be referred or initiated from the county attorney, the director must publish in the next available edition of a newspaper of general circulation in the county a notice of receipt of the ballot title and explanatory statement. The notice must state that an elector may file a petition for review of the ballot title or explanatory statement not later than the date referred to in subsection (F).

(F) After receiving the prospective petition, ballot title and explanatory statement from the county attorney, the director must inscribe the date of receipt on it. Within seven business days after that date, any elector may petition the circuit court for the county to challenge the ballot title or explanatory statement prepared by the county attorney. After the seven-day period, or following the final adjudication of any challenge, the director must certify the ballot title as prepared by the county attorney or as prescribed by the court to one of the chief petitioners.

(G) Any person filing a petition of review with the circuit court must file a copy of the challenge with the director not later than the end of the business day next following the date the petition is filed with the circuit court. This requirement does not invalidate a petition that is timely filed with the circuit court.

(H) The procedures set forth in subsections (A) through (G) for preparation of, and challenges to, ballot titles and explanatory statements for

initiative measures also apply to referendum measures. However, the completion of such procedures are not a prerequisite to the circulation of petitions for referendum measures under § 5.103. Ballot titles need not be stated on petitions circulated to propose referendum measures.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.51.030, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 601, passed, 12/27/1988; Ord. 212, passed, 11/29/1979; Ord. 167, passed, 07/06/1978)

§ 5.103 PETITION AND CIRCULATION REQUIREMENTS.

(A) After the requirements of § 5.101(C) are met for referendum petitions, and after the requirements of § 5.102(F) are met for initiative petitions, the chief petitioners may circulate a petition for the measure among the electors. The petition (cover sheet and signature sheet) must conform to the requirements of state law.

(B) The petition identification number will be assigned by the director.

(C) Each signature sheet of a referendum petition must contain the title, ordinance number or code section numbers of the county legislation proposed by referral and the date it was adopted by the Board.

(D) No signature sheet may be circulated by more than one person. Each signature sheet must contain a statement signed by the circulator that each elector who signed the sheet did so in the circulator's presence, and, to the best of the circulator's knowledge, each such elector is a legal voter of the county and that the information placed on the sheet by each such elector is correct.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.51.040, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 601, passed, 12/27/1988; Ord. 298, passed, 02/25/1982; Ord. 167, passed, 07/06/1978)

§ 5.104 FILING AND PERCENTAGE REQUIREMENTS; VERIFICATION.

(A) The director will accept for signature verification in accordance with this subchapter only petitions that comply with the requirements of this subchapter and other applicable law.

(B) No petition may be accepted for filing unless it contains at least the required number of verified signatures to submit the measure to the electors, as prescribed by subsections (G), (H) or (I).

(C) No initiative petition may be accepted for signature verification more than six months after the date of the director's certification under § 5.102(F).

(D) Any petition to refer legislation adopted by the Board must be submitted for signature verification not more than 90 days after the Board's adoption of such legislation.

(E) An initiative or referendum petition may not be accepted for signature verification if it contains less than 100% of the required number of signatures.

(F) Upon the acceptance of a petition, the director must verify the signatures thereon. Such verification may be performed by random sampling in a manner approved by the Secretary of State. Within 30 days after the director's acceptance of a petition, the director must certify to the Board whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed measure to the electors, and also state in the certificate the number of qualified signatures prescribed by subsections (G), (H) or (I) to require the proposed county legislation to be submitted to the electors. The petition will be considered filed as of the date of the director's certification.

(G) An initiative measure proposing the amendment, revision or repeal of the Charter, or parts thereof, will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds 8% of the total number of votes cast in the county for all candidates for governor of Oregon at the last general election at which the office of governor was filled for a four-year term.

(H) An initiative measure proposing the adoption, amendment or repeal of any other county legislation, or parts thereof, will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds 6% of the total number of

votes cast in the county for all candidates for governor at the last general election at which the office of governor was filled for a four-year term.

(I) A referendum measure will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds 4% of the total number of votes cast in the county for all candidates for governor at the last general election at which the office of governor was filled for a four-year term.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.51.050, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 601, passed, 12/27/1988; Ord. 167, passed, 07/06/1978)

§ 5.105 MEASURES REFERRED BY BOARD.

(A) The Board may directly refer to the electors any county legislation adopted by it and any proposed property tax or bond measure, and may directly refer to the electors proposed amendments, or revisions or the repeal of the Charter or parts thereof. The Board must refer all amendments proposed by the Charter Review Committee.

(B) The county attorney will prepare a ballot title and explanatory statement that conforms to the requirements of state law. The Board will certify and file the ballot title and explanatory statement with the director.

(C) The director will publish in a newspaper of general circulation in the county a notice of receipt of the ballot title and explanatory statement including notice that an elector may file a petition for review of the ballot title or explanatory statement not later than the date set in subsection (D).

(D) Any elector may petition the circuit court to challenge the ballot title or explanatory statement certified by the Board. Such petition must be filed with the circuit court within seven business days of the Board's filing of the ballot title. Any person filing a petition of review with the circuit court must file a copy of the challenge with the director not later than the end of the business day next following the date the petition is filed with the circuit court. This requirement does not invalidate a petition that is timely filed with the circuit court.

(E) A measure will be considered filed under this section as of the date the Board delivers its certified ballot title with the director.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.51.060, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 626, passed, 08/10/1989; Ord. 601, passed, 12/27/1988; Ord. 212, passed, 11/29/1979; Ord. 167, passed, 07/06/1978)

§ 5.106 ADOPTION OR ELECTION.

(A) Upon receiving the director's certification that a petition has been filed with sufficient qualified signatures to require the proposed county legislation to be submitted to the electors under § 5.104(F), the Board may either by ordinance adopt the proposed legislation or call an election for submission of the legislation to the electors. The Board may also call an election to submit county legislation to the electors upon referral under § 5.105.

(B) The Board must call the election on the next election date available under state law that is not sooner than the 90th day after the date of the director's certificate of sufficient signatures. For a Board referral, the election on the referendum of county legislation must be held on the next election date available under state law.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.51.070, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 626, passed, 08/10/1989; Ord. 601, passed, 12/27/1988; Ord. 298, passed, 02/25/1982; Ord. 167, passed, 07/06/1978)

§ 5.107 ELECTION NOTICE AND PROCEDURE.

(A) Notice of elections on measures to be submitted to the electors on regular or special election dates must be given in accordance with state law.

(B) Measures referred by the Board will be designated on the ballot: "Referred to the People by the Board of County Commissioners."

(C) Measures proposed by referendum petition will be designated on the ballot: "Referred by Petition of the People."

(D) Measures proposed by initiative petition will be designated on the ballot: "Proposed by Initiative Petition."

(E) Within 20 days following any election, the director must certify the election results to the Board. The Board must canvass the vote and enter its proclamation of the results in its minutes.

(F) A measure adopted by the electors takes effect 30 days after the election, unless such measure expressly provides a later effective date.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.51.080, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 601, passed, 12/27/1988; Ord. 167, passed, 07/06/1978)

§ 5.108 STATE LAW APPLIES.

Applicable provisions of state elections law dealing with matters not regulated by this subchapter apply to initiative and referendum procedures on county legislation, together with this subchapter. The provisions of this subchapter prevail over any conflicting provisions of state law.

(Ord. 965, Amended, 09/13/2001; ' 90 Code, § 4.51.090, 07/01/1998; Ord. 881, passed, 06/26/1997; Ord. 167, passed, 07/06/1978)

