

## **Ballot Measures and the League of Women Voters of Lane County October 2017**

### **Introduction**

For those who have ever wondered how measures land on the ballot that arrives in your mailbox, this report will provide some information on the workings of direct democracy in Oregon and an update on some of the measures that will or might appear on the ballot in the near future. This material also describes how the League of Women Voters carries out its dual purposes of education and advocacy in response to ballot measures.

What determines if a measure may be placed on a ballot? For each situation there are provisions in the Oregon Constitution, state laws and regulations, and municipal home-rule charters that dictate the process. Some of the determining factors are:

- Does it apply to the entire state of Oregon or just a city, county, or local district?
- Does it affect the Oregon Constitution or just a statute?
- Did it originate with a government entity or a group of citizens?
- Does it authorize new taxes and government spending?

## **State Ballot Measures**

### **Initiative Process**

An initiative petition is a method of direct democracy that allows any person to propose new laws, change existing laws or amend the Oregon Constitution. To begin the process the chief petitioner begins by filing the appropriate forms and sending them to the Oregon Secretary of State Elections Division with the text of the ballot measure.

### **Designating Chief Petitioners**

An initiative or referendum may have up to three chief petitioners who are the individuals responsible for the preparation and organization of the petition. In Oregon any person, acting individually or on behalf of an organization, may be a chief petitioner. Chief petitioners are responsible for:

- signing and filing a statement providing required information for all chief petitioners
- designating whether petition circulators will be paid or unpaid
- establishing a petition committee prior to approval to circulate
- educating and monitoring circulators
- collecting signatures
- submitting signatures

### **Campaign Finance Reporting**

Oregon campaign finance law requires chief petitioners to establish a campaign account and file a Statement of Organization designating a treasurer within three business days of first receiving a contribution or making an expenditure after filing a prospective petition with the Elections Division. Campaign finance law also requires the electronic filing of campaign finance transactions.

### **Draft Ballot Title**

A ballot title is a concise and impartial statement summarizing the initiative and its major effect. Once 1000 sponsorship signatures are gathered, the measure is forwarded to the Attorney General for a ballot title. After receiving the text of the initiative and signatures, the Attorney General prepares a draft

ballot title and files it with the Elections Division. The Oregon Constitution has established the following requirements for initiative petitions:

- must contain a single subject or closely related subject
- must include the full text
- must be legislative rather than administrative in nature

### **Certified Ballot Title**

After considering comments submitted on the draft ballot title by citizens or petitioners, the Attorney General issues a certified ballot title and files it with the Elections Division.

### **Ballot Title Appeal**

A registered voter who has submitted timely written comments on the draft ballot title and is dissatisfied with the certified ballot title issued by the Attorney General may petition the Oregon Supreme Court to review the ballot title.

### **Approval to Circulate**

After receiving the final ballot title, the Elections Division provides the chief petitioners official templates that must be used to prepare cover and signature sheets for circulation. The number of signatures required to qualify an initiative for the ballot is based on a percentage of the total votes cast for governor at the last election. For a constitutional initiative (affecting the Oregon Constitution) 8% of valid signatures are required, for a statutory initiative (affecting the laws of Oregon) only 6% are required.

### **Submitting Signatures**

Chief petitioners, or an authorized agent if making a monthly submission, must mail or hand-deliver signature sheets to the Elections Division. There are various requirements that must be met when submitting the signatures sheets, such as signing and dating each sheet appropriately. Chief petitioners paying circulators to gather signatures are required to submit all signatures gathered during the previous calendar month by all individuals paid to circulate. The Elections Division will not accept a petition for verification unless chief petitioners affirm they have submitted at least 100% of the required number of signatures and that they believe the petition is complete.

### **Verifying Signatures**

The Elections Division processes signature sheets submitted for verification by using the voter registration rolls and a sampling process.

After signature verification has been completed, the Elections Division provides to chief petitioners:

- results of signature verification
- final number of signatures determined to be valid

If the ballot measure is verified, the Elections Division assigns a unique measure number.

### **Withdrawal of an Initiative**

A petition can only be withdrawn if chief petitioners have not submitted the total number of signatures required for verification. Once withdrawn, the petition cannot be re-activated.

### **State Initiatives Currently Approved for Circulation as of September 1, 2017.**

Below are the ballot titles and the summaries as approved for circulation. If sufficient signatures are verified by the Secretary of State, these measures will be approved for the November 2018 ballot.

#1) Amends Constitution: Prohibits spending "public funds" (defined) directly/indirectly for "abortion" (defined); exceptions; reduces abortion access.

*Summary: Amends constitution. Under current law, abortions may be obtained, when approved by medical professional, under state-funded health plans or under health insurance procured by or through a public employer or other public service. Measure amends constitution to prohibit spending "public funds" (defined) for "abortion" (defined) or health benefit plans that cover "abortion." Measure defines "abortion," in part, as "purposeful termination of a clinically diagnosed pregnancy." Exception for ectopic pregnancy and for pregnant woman in danger of death due to her physical condition. Exception for spending required by federal law, if requirement is "found to be constitutional." No exception for pregnancies resulting from rape /incest unless federal law requires. Effect on spending by public entities other than the state unclear. Measure reduces access to abortion. Other provisions.*

#5) Amends constitution: All current voter registrations expire in 2020; registration requires "providing" citizenship documents/otherwise proving citizenship.

*Summary: Current voter registration expires two years after proposed measure passes; to vote, all current voters must re-register. Proposed measure provides no funding, sets no deadline for county clerks to complete registrations. Proposed measure requires applicant to "provide" specified documents proving citizenship. If specified documents are unavailable, state must request verification by federal Immigration and Naturalization Service. Secretary of State holds hearing on request if no federal response received. Under current law, voters may register by submitting registration card online/by mail/in person; voter must attest United States citizenship. Felony criminal penalties for providing false attestation. Driver and Motor Vehicle Division (DMV) submits information received from individuals to Secretary of State; if DMV information documents citizenship, individuals are registered to vote unless they opt out.*

## **Referendum Process**

The referendum allows petitioners to refer a newly enacted law from the Legislature to the voters for final approval. Voters may adopt or reject any nonemergency act or portion of a nonemergency act passed by the legislature and signed into law by the Governor. The process mirrors closely the steps in the initiative process.

## **Chief Petitioners**

The number of chief petitioners is the same as the Initiative Process. The act may be the entire act or portions of the act. The primary difference from the initiative is that it is recommended that petitioners authorize individuals to act on their behalf, establish a campaign account and file a Statement of Organization designating a treasurer with the Elections Division. Once received by Elections Division the petition is reviewed, numbered, and proper templates are prepared for use by the chief petitioner.

## **Approval to Circulate**

Once approved, the petition can then be circulated in public. The requirements of gathering signatures are similar to the initiative process. Instead of circulating with the final ballot title, which is only prepared if the referendum qualifies to the ballot, referendum petitions are circulated using the final measure summary from the act or last engrossed bill. Once the petitioner has enough signatures, they are submitted for review. The Elections Division verifies the signatures in the same manner as the initiative process. For petitions qualified to the ballot, the Elections Division forwards copies of the text of prospective petition to the Attorney General for drafting of the ballot title.

**Draft Ballot Title**

The draft ballot has the same requirements as the initiative process and follows the same procedures. It is certified by the Elections Division and can be appealed to the Supreme Court. The primary change is that it is not subject to the single subject rule as in initiative petitions.

**Withdrawing a Referendum**

The petition can only be withdrawn if chief petitioners have not submitted the total number of signatures required for verification. Once withdrawn the petition cannot be re-activated.

**Distribution of Initiative or Referendum**

To facilitate circulation of approved forms, chief petitioners may, but are not limited to:

- utilize paid or volunteer circulators to solicit signatures
- mail to a subscription list or other interested parties
- publish on a website
- email to a subscription list or other interested parties for voters to print individually at home
- insert into a publication for distribution

**State Referendum Currently in Process**

Sections of HB 2391 are subjects of a referendum for a January 23, 2018 special election if enough signatures are collected. The sections being referred relate to funding health care. No ballot title is yet applied, but the subject provided by petitioners is "Stop Healthcare Taxes." HB 2391 was passed by the Legislature containing 51 sections. Sections 3, 5, 8, 9 and 27 are revenue provisions to be approved or rejected by the electorate.

**Legislative Referrals**

In addition to citizens placing a bill passed by the Legislature on the ballot using the referendum process, the Legislature may directly refer a measure to voters to adopt or reject. Both houses of the Legislature must vote to refer the measure and the referral cannot be vetoed by the Governor. Any change to the Oregon Constitution passed by the Legislature requires referral to voters.

**Local Ballot Measures****Referral**

At the local level a referral occurs when a local governing body such as a city council submits a proposal to a vote of the citizens of its jurisdiction. Often these referrals are seeking authorization for additional property taxes for on-going operations or capital projects because all such tax increases must be approved by the voters.

Proposals for other taxes such as gas taxes may be placed on the ballot if the council wants the community to ratify an action it could take independently. Referrals can also pertain to non-fiscal matters such as changes to the city charter (local constitution) or transportation plan or department structure.

In order to place the measure on the ballot the council or other governing body must submit a Notice of Measure Election by the deadline (about 60 days before the election) to the county elections department,

which ensures that the required information in the proper format is provided about the purpose and dollar impact of the proposal.

The November 2017 ballot contains several examples of a measure referred by a local government. The first four measures filed with Lane County Elections Department were Measure 20-273, Five Year Levy for Springfield Jail Operations and Police Services; Measure 20-274, Amends (Eugene) Charter regarding election to fill a vacant mayor or councilor position; Measure 20-275, (Eugene) Bonds to Fix Streets, Fund Bicycle and Pedestrian Projects; and Measure 20-276 Oakridge School District General Obligation Facilities Bond. All except the Eugene charter amendment are property tax increase measures.

The Springfield measure provides an example of a typical situation and the filing requirements. In general, Oregon municipalities each have a unique permanent property rate that was established in the mid-1990s, and any property taxes in excess of that rate must be approved by the voters of that municipality. A referral to increase the taxing authority to fund operating expenses is called a **local option levy**, and it has an effective period of no more than five years, unless it is reauthorized by voters in a subsequent election. Such taxes are still subject to the Oregon limitation that property taxes for general government (not schools) cannot exceed \$10 per \$1,000 of real market value of the property.

For each such ballot measure a city must provide a Notice of Measure Election which contains a caption, a question and a summary. The **caption** is a title; for Measure 20-273, the caption is "Five-Year Levy for Springfield Jail Operations and Police Services."

The **question** must be stated so it can be answered "yes" or "no" with "yes" meaning approval and "no" meaning rejection. It must include the purpose, the number of years that the tax will be imposed, and either the amount of property tax in dollars and cents or the tax rate per \$1,000 of assessed value. The question for Measure 20-273 reads "Shall Springfield levy \$1.40 per \$1,000 of assessed value for five years beginning 2018-19 for Springfield jail operations and police services."

The **summary** is an explanation in plain, factual, and non-technical language that does not advocate a "yes" or "no" vote, but the city can choose what it considers pertinent facts. Some excerpts from Springfield's summary are "The funds generated from this levy will maintain the current levy of services and can only be used for jail, police and municipal court. This levy will replace the current \$1.28 levy that will expire on June 30, 2018. Jail capacity from the existing levy has substantially improved the ability to incarcerate those accused of or convicted of crimes. Since the jail opened, property crimes have been reduced by 31%."

Municipalities and districts can also raise additional property tax revenue for capital projects, generally by using the tax revenue to pay the debt service on general obligation bonds. Examples are: The Eugene bond measure for roads (Measure 20-275) and the Oakridge School District measure to upgrade district facilities (Measure 20-276).

General obligation bond measures can be approved for a maximum of 10 years, and property taxes raised for this purpose are **not** subject to the \$10 per thousand of real market value limitation or the similar \$5 per thousand for schools.

Referrals are also possible for non-monetary measures such as Measure 20-274, the Eugene Charter amendment that changes the method of electing the mayor or councilor to a vacant position. This is essentially a housekeeping measure the need for which was discovered when Councilor George Poling

resigned. The summary from the city's Notice of Measure Election provides an understandable explanation of a confusing situation: 'The measure would amend the Eugene Charter to clarify that no election would be held to fill a vacant Mayor or Councilor position if the election would occur in the fourth year of the vacated position's term. If amended the Charter would allow the person appointed to the vacated position to remain in the position until the next 4-year term began. Currently, if a Mayor or City Council seat becomes vacant, the Council appoints someone to temporarily fill the vacancy until an election is held to fill the remainder of the term. If no candidate for the vacated position receives a majority vote in May, the top two candidates have a runoff in November. However, if a runoff election is held in November of the fourth year of the vacated position's term, the winner of the election never takes office because a new 4-year term starts that January and the person elected to the new 4-year term takes office instead.'

### **Local Initiatives and Referendums**

Citizens of cities and counties are able to place local initiatives and referendums on the ballot. The rules for such actions must comply with the Oregon Constitution and Oregon statutes, but many of the details can be set by the local government.

In the City of Eugene there is currently an initiative in the signature gathering phase that is a Charter amendment to create an Office of the Independent Auditor led by an elected City Auditor. The petitioners need to collect 8,091 signatures of Eugene registered voters in order to place the measure on the May 2018 ballot. The number of required signatures is 15% of the number of votes cast in the November 2016 mayoral election.

Information posted by the Eugene City Recorder lists the following steps in the initiative process:

- chief petitioners' submission of a prospective initiative petition
- preparation of a ballot title by the city attorney, potential appeal of ballot title
- city recorder review of the cover and signature sheets that will be circulated
- collection of signatures, submission of petition signature sheets for verification by Lane County Elections.

In addition the chief petitioners must register with the Oregon Secretary of State by filing a statement of organization and file reports of all financial transactions.

The proposed Charter amendment would give the City Auditor authority and responsibility over all audits of City of Eugene operations and activities. The purpose is to determine if the City is acquiring, documenting, managing, protecting and using its resources economically, efficiently, equitably and effectively. The proposed City Auditor would not report to the Eugene City Council. This Charter amendment would prevail in the event of conflicts with any other provisions of the Charter.

The local referendum process gives voters the ability to reject legislation adopted by a local government but not yet in effect. As described in information posted by the Eugene City Recorder, the process has similar steps to those required in the initiative process. The number of signatures required to place a City of Eugene referendum on the ballot is currently 5,394, which is 10% of the votes cast in the November 2016 mayoral election. Because an ordinance generally takes effect 30 days after approval by Council, the time limit for signature collection and filing is very short - within 30 days of the passage of the ordinance. If the petitioners fail to complete the process within 30 days, the petition is void. However, the petitioners may later file an initiative petition.

There have been some successful local referendum campaigns. The City of Springfield in 2004 adopted a comprehensive utility tax that would have applied to all utilities doing business in the city and would have imposed new taxes on wireless telecommunications providers. The ordinance was subjected to a referendum and defeated by a vote of 76 to 24 percent following a campaign funded by non-local opponents.

In Eugene in 2007 local gas station owners and the Oregon Petroleum Industry collected enough signatures to force a referendum on city action to raise its gasoline tax by three cents a gallon to eight cents. Voters passed the referendum in November to reject the increase.

## **Ballot Measures and the League**

As an organization that encourages citizens to exercise their right to vote and to influence government action, the League of Women Voters is very interested in the measures that appear on a ballot and how they got there. The League's dual purposes of education and advocacy are applicable to the ballot content.

The education approach is exemplified by this study report, which describes the workings of the initiative, referendum, and referral processes and some measures that will or might appear on future ballots. Other examples are the unbiased Voters Guides researched and distributed by the League of Women Voters of Oregon, the ballot measure presentations made to community groups, and League-sponsored debates between proponents and opponents of a measure.

The advocacy approach occurs when the League itself supports or opposes a ballot measure based on League's public policy positions that were developed through member study and consensus. For example, the LWCLC is supporting the November 2017 City of Eugene Road Bond Measure referral based on a local statement of position on the importance of maintaining capital assets. LWVLC previously supported bond measures of Willamalane Parks and Recreation District based on our local Parklands position and various school district bond measures based on our Elementary and Secondary School Facilities position. The LWVLC also supported the City of Eugene library local option levy based on our Library Services position.

The League can also support or oppose measures placed on the ballot by citizens using the initiative or referendum process. For example, the League of Women Voters of Oregon supported the Measure 97 corporate tax increase initiative that appeared on the November 2016 ballot.

In general the League does not take a stance on a citizen-generated measure until sufficient signatures have been obtained to place it on the ballot. However, League does encourage citizens to "Think Before You Ink," that is, to evaluate an initiative or referendum petition before signing it.

## **References**

The following information was gathered from the Oregon Secretary of State Elections Division website (<http://sos.oregon.gov/voting-elections/Pages/default.aspx>) and the Initiative Referendum Manual. You can view the manual to search for more specific information at <http://sos.oregon.gov/elections/Documents/stateIR.pdf>.

Local ballot measures: <https://lanecounty.org/cms/One.aspx?portalId=3585881&pageId=8668549>

City requirements for initiatives and referendums: <https://www.eugene-or.gov/518/Elections>

City Auditor charter amendment initiative: <https://cityaccountability.org/full-ballot-measure-text/>

Springfield utility tax referendum: <https://www.orcities.org/Portals/17/Premium/Telecom%20TF-%20Final%20Report%20%206-4-08%20web.pdf>

Eugene gas tax referendums:

<http://www.cspdailynews.com/fuels-news-prices-analysis/fuels-news/articles/gas-tax-reduction-effort-tanks>

There are other various rules that cover the gathering of signatures by the means listed above. You can go to <http://sos.oregon.gov/elections/Documents/stateIR.pdf> for in depth information.

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