

AN ACT

Relating to Initiatives; creating new provisions; and amending ORS 162.005 and 251.285.

Preamble

WHEREAS, the people support the initiative process as a means for Oregon citizens to propose laws and enact or reject them at an election independently of the Legislative Assembly; and

WHEREAS, informed public discussion and exercise of the initiative power will be enhanced by review of each statewide measure by an independent panel of Oregon voters, reporting to the electorate in the voters' pamphlet; and

WHEREAS the review should be presented in such a way that it takes only a short time to understand its key points, yet includes enough information to enable voters to fully investigate ballot measures.

NOW, THEREFORE,

Be It Enacted by the People of the State of Oregon:

SECTION 1. Citizen Panels. (1) Not sooner than four months before the date of the general election, and not later than 75 days before the date of the general election, a citizen panel shall be convened under the provisions of this 2008 Act for each state initiative measure that has qualified for the general election ballot under ORS 250.105.

(2) Each citizen panel shall consist of not less than eighteen and not more than twenty-four persons registered to vote in Oregon. Each panel selected in the same election cycle shall be approximately the same size.

(3) The rules for selection of panelists shall:

(a) Provide for the anonymous random selection of panelists, using survey sampling methods that, to the extent practicable, give every person registered to vote in Oregon a similar chance of being selected; and

(b) Ensure, to the extent practicable and legally permissible, that the demographic makeup of the citizen panel fairly reflects the adult population of the state as a whole with respect to age, political party affiliation, education and location of residence.

(4) Compensation shall be paid to each citizen panelist per day served. This per diem compensation shall be calculated based on an eight-hour day paid at the average hourly wage for all occupations as published in the most recent Oregon data published by the Economic and Community Development Department. Each citizen panelist shall also be reimbursed for travel, lodging and other legitimate expenses in accordance with reimbursement policies established by rule.

(5) From the time of appointment through the conclusion of the citizen panel's activities, a citizen panelist may not permit the citizen panelist's name to be used to support or oppose, or make any contribution to support or oppose, any state initiative measure reviewed by that citizen panelist under sections 1 through 11 of this 2008 Act.

(6) Efforts shall be made to encourage employers to release employees to participate in the citizen panel process.

SECTION 2. Citizen Panel Hearings. (1) Each citizen panel shall meet for five days, unless a panel determines by unanimous vote to complete its activities after at least three full days. The activities of each panel shall be moderated by two moderators chosen in accordance with section 7 of this 2008 Act.

(2) Each panel shall hear from a team of proponents of the state initiative measure and a team of opponents of the measure, each identified pursuant to section 6 of this 2008 Act, to present arguments and supporting information. The proponent and opponent teams may also call upon others not on their team to make presentations. Equal time will be given to the proponents and opponents. Time shall also be provided for comments and questions by the panelists.

(3) The rules for conduct of citizen panel hearings shall permit citizen panelists, by majority vote, to request that additional background information or presentations be provided in the public hearings. Citizen panelists may choose from:

(a) Sources identified by staff of the commission established under Section 4 of this 2008 Act, including persons who have notified the commission that they are interested in providing information or a presentation; and

(b) Any additional persons or sources that meet criteria established by the commission.

(4) A citizen panel may meet in small group work sessions of the panelists, which may be interspersed with the public hearings described under this section. The purpose of these work sessions is to allow the panelists to review what they have been learning and report back to the full panel.

(5) Each citizen panel shall prepare and submit a final report on the state initiative measure it considered. A report is final once each component of the report has been submitted and reviewed as described in subsections (6) and (7) of this section. A final report and any component of a final report is not subject to revision by the panel as a whole, the commission, or any other public body. No person has any right to appeal, seek judicial or administrative review or otherwise challenge a final report or any component of a final report.

(6) The final report shall be prepared in a form provided by commission staff and shall include the following:

(a) The ballot title and full text of the initiative measure.

(b) Position statements of not more than 250 words each explaining the reasoning and position taken by the citizen panelists in favor of the measure, by those citizen panelists opposed to the measure, and by those citizen panelists undecided on the measure. Each group shall prepare one position statement representing the views of that group. Each position statement shall identify the number of citizen panelists taking that position. No position statement is required for a position that is not supported by any citizen panelist.

(c) A citizen panel consensus statement of not more than 150 words explaining the points, if any, upon which all panelists agree.

(d) The following disclaimer, with the blank completed with the commission's web site address:

This statement was developed by an independent panel of registered Oregon voters. Panelists were chosen at random to fairly reflect the state as a whole. The panel has issued this statement, which has not been edited or altered, after several days of hearings and deliberation. The statements and opinions expressed are those of the citizen panel members and are not official opinions or positions endorsed by the State of Oregon, the Citizens' Initiative Review Commission, or any other government agency. A citizen panel is not a judge of the constitutionality or legality of any ballot measure, and any statements about such matters are not binding on any court of law. Additional information is available on the Commission's web site at _____.

(7) Once the position statements are completed, the panelists will reconvene as a whole. The team of proponents may offer brief comments on the statement issued by those favoring the measure, indicating how the team of proponents believes the statement might be improved. The team of opponents may offer brief comments on the statement issued by those opposed to the measure, indicating how the team of opponents believes the statement might be improved. Neither advocacy team may offer comments on the statements that disagree with their positions. Once these comments have been made, each group of citizen panelists that prepared a statement may revise its statement as it desires, doing so with no further input from staff, advocates or any other person, although it may request staff help in moderating and recording its discussions.

(8) The citizen panel shall adjourn after the panel:

(a) Prepares and submits the citizen panel's final report; and

(b) Chooses two members to participate on an evaluation panel as described in section 8 of this 2008 Act.

(9) After each citizen panel report is final, the commission staff shall:

(a) Within two business days, and not later than the 70th day before the general election, transmit the final report of the citizen panel to the Secretary of State for inclusion in the voters' pamphlet. The voters' pamphlet shall include those elements of the report described in subsections (6)(b), (c) and (d) of this section, following the explanation required by ORS 251.185(1)(c) and preceding the arguments submitted pursuant to ORS 251.255; and

(b) Not later than the 60th day before the general election, make available on a commission web site the final report of the citizen panel and such other information as the commission may request by rule.

SECTION 3. Citizens' Initiative Review Commission Established. (1) The Citizens' Initiative Review Commission is established as an independent commission within the executive department of this state.

(2) The purpose of the commission is to ensure that:

(a) Citizen panels are convened to review statewide initiative measures as specified in sections 1 through 11 of this 2008 Act;

(b) The selection and activities of the citizen panels are conducted in a fair and impartial manner;

(c) Training is provided to the citizen panelists, the panel moderators, and the commission staff;

(d) The reports of the citizen panels are publicly disseminated and transmitted to the Secretary of State for inclusion in the voters' pamphlet; and

(e) The funds appropriated to the commission are spent efficiently and effectively.

(3) Commission staff shall make efforts to encourage employers to release employees to participate on citizen panels in accordance with Section 1(6) of this 2008 Act. Such efforts may include, but are not limited to, issuing letters and making phone calls to employers.

SECTION 4. Citizens' Initiative Review Commission Composition. (1) As used in this section, "Fifth Member" means a person selected in accordance with subsection (5) of ORS 251.205, other than a person appointed by the Secretary of State, as the fifth member of a committee to draft an explanatory statement of a state measure proposed by initiative or referendum.

(2) The commission shall consist of 12 commissioners appointed to serve as follows:

(a) Four commissioners shall be chosen as follows:

(i) Two commissioners shall be appointed by the Governor from those persons who have previously served as a Fifth Member; and

(ii) Two commissioners shall be appointed by the Governor from among two persons recommended by the majority leader of the Senate or, if the majority leader of the Senate is of the same political party as the Governor, from among two persons recommended by the minority leader in the Senate. Each person recommended shall be a person who has previously served as a Fifth Member. If any person recommended is not approved by the Governor, another person shall be recommended.

(b) Four commissioners shall be chosen by the moderator panels from those persons who have previously served as moderators of citizen panels in accordance with section 8(3)(e) of this 2008 Act.

(c) Four commissioners shall be chosen by the evaluation panels from among those persons who have previously served as citizen panelists, in accordance with section 8(2)(d) of this 2008 Act.

(3) The term of office of a commissioner is four years. The terms of the commissioners shall be staggered so that the terms of six commissioners expire every two years.

(4) Each commissioner must be a registered voter of this state. No person serving as a statewide official as defined in ORS 244.020(18) or as a member of the Legislative Assembly may simultaneously serve as a commissioner.

(5) The term of office of a commissioner begins on January 1. Each commissioner shall serve until a successor is appointed and takes office. Vacancies shall be filled by appointment in the same manner as for the commissioner whose position is vacant. A vacancy shall be filled for the unexpired term. Commissioners may not be appointed to successive terms, except that if a commissioner is appointed to fill a term of two or fewer years the commissioner may be appointed to an additional full term.

(6) No commissioner shall permit the name of the commissioner to be used to support or oppose, or make any campaign contribution to support or oppose, any state initiative measure while serving as a commissioner.

(7) The commission shall meet at least three times per year and may appoint its own chairperson, vice chairperson, and other officers and committees as it deems appropriate.

(8) Commissioners shall be compensated for attendance at commission meetings and be reimbursed for travel expenses related to attendance at commission meetings in the same manner as citizen panelists under section 1(4) of this 2008 Act.

SECTION 5. Citizens' Initiative Review Commission Powers. (1) The Citizens' Initiative Review Commission has the following powers:

(a) To select, after a fair and impartial review process, and employ an executive director who will hire and manage research, technical and clerical personnel and consultants as the commission determines necessary;

(b) To enter into any contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, corporations, and individuals, and to pay for services rendered or furnished;

(c) To adopt rules necessary to carry out its responsibilities and to administer this 2008 Act, including rules to ensure that each citizen panel is able to carry out its responsibilities under sections 1 through 11 of this 2008 Act in a manner that is fair and impartial;

(d) To lease, purchase or otherwise contract for the use of real or personal property or any interest in real or personal property, as it finds necessary to carry out the activities conducted under this chapter; and

(e) To perform all other acts necessary to execute the authority expressly granted to it.

(2) Persons employed by the commission shall receive compensation in an amount set by the commission, are exempt from the provisions of ORS chapters 240 and 243, and shall be reimbursed for reasonable and necessary travel and other expenses in accordance with reimbursement policies established by the commission.

(3) The commission shall not be subject to the Public Contracting Code, ORS chapters 279, 279A, 279B and 279C.

(4) The budget for the commission shall be established to permit the review under this 2008 Act of a number of state initiative measures equal to the average number of state initiative measures on the general election ballot for the previous five election cycles.

SECTION 6. Rules; Selection of Advocacy Teams. (1) The Citizens' Initiative Review Commission shall adopt rules to ensure that citizen panels are conducted in a fair and impartial manner. The rules shall include, but are not limited to:

(a) Provisions for the release of citizen panel reports and media relations;

(b) Provisions permitting citizen panelist selection and notification to begin before initiative measures are certified to the ballot by the Secretary of State; and

(c) Provisions for instruction to citizen panelists regarding use of information gathered outside of the citizen panel proceedings.

(2) The commission shall adopt uniform rules regarding service on a citizen panel that the commission considers necessary to keep the citizen panel process from being unduly influenced by persons having special knowledge of or a special interest in the state initiative measure being evaluated. These rules may include, but are not limited to, provisions that prohibit service on a citizen panel by a person who:

(a) Has made a contribution to support or oppose the state initiative measure being evaluated,

(b) Has volunteered to support or oppose, has been employed to support or oppose, or has received compensation for supporting or opposing the state initiative measure being evaluated; or

(c) Holds a statewide elected public office, serves as a commissioner on a state board, or is a director of a state agency.

(3) The Secretary of State will notify the commission upon receipt of an initiative petition for signature verification. The commission will then give notice to any person who makes written request to the commission for notice and reasonable statewide public notice of the establishment of a citizen panel. The notice must include the date, time, and place of each citizen panel hearing and must explain how to register to provide information or a presentation to the citizen panel. The commission shall provide to the citizen panel information regarding any person who registers timely, and those persons may be called by the panel during the open public hearings at the discretion of the citizen panel. Each notice shall establish a deadline for registration that is at least two weeks prior to the date the citizen panel is scheduled to convene.

(4)(a) The chief petitioners of an initiative measure shall select two persons to lead a team to provide information and presentations in favor of the measure to the citizen panel. If the proponents fail to timely select two team leaders, the commission, by procedures established by rule, may designate leaders for a team in favor of the measure.

(b) The commission shall establish by rule procedures for selecting opponents of the measure to lead a team to provide information and presentations in opposition to the measure to the citizen panel, subject to the following:

(i) The commission shall notify each member of the committee chosen under ORS 251.205 as an opponent of the measure of the opportunity to serve as leader of the opponent team.

(ii) If no individual selected as an opponent of the measure under ORS 251.205 volunteers to serve, or if more than one individual volunteers to serve, the commission staff shall attempt to facilitate an agreement among those individuals as to who should lead the team.

(iii) If no decision can be reached among the individuals, the commission staff shall choose the team leader. Two team leaders may be selected if there is more than one group opposing the measure.

(5) No person may appeal or challenge the choice of a team leader.

(6) Prior to the date that the citizen panel convenes, commission staff shall prepare an agenda for the citizen panel proceedings, including the agendas or outlines submitted by each team, and send that schedule to each citizen panelist and to each person to whom notice was sent under subsection (3) of this section.

SECTION 7. Moderators. (1) The Citizens' Initiative Review Commission shall establish minimum qualifications for citizen panel moderators, including:

(a) Minimum levels of experience in facilitation or mediation and completion of at least two days of training specifically designed for moderators of citizen panels to be convened under this 2008 Act; and

(b) Any additional qualifications the commission considers appropriate in order to ensure that the citizen panel process is conducted in a fair and impartial manner.

(2) The commission shall request and evaluate the qualifications of potential moderators, and shall designate a pool of moderators. The commission shall contract with two moderators for each citizen panel to be convened. Each contract for services shall provide for compensation of the moderators for their services in preparation for a citizen panel, moderating a citizen panel, and participating on the subsequent moderator panel.

(3) A moderator may not at any time while serving as a moderator permit the moderator's name to be used, or make any contribution, to support or oppose the initiative measure reviewed by the citizen panel served by the moderator.

SECTION 8. Evaluation. (1) The Citizens' Initiative Review Commission shall evaluate the conduct of the citizen panels. After the general election in each year that a citizen panel was convened, the commission shall:

(a) Conduct a statewide survey of Oregon citizens and collect other data to determine the usefulness of the citizen panels and their reports, and make the results available to the public; and

(b) Convene, by no later than February 1 of the following year, an evaluation panel in accordance with subsection (2) of this section and a moderator panel in accordance with subsection (3) of this section.

(2)(a) The executive director, or, in the absence of an executive director, the commission, shall convene the evaluation panel, which shall consist of two members from each citizen panel conducted during the preceding election cycle as provided in section 1 of this 2008 Act.

(b) The evaluation panel shall meet for not more than three days to conduct its review. The evaluation panel shall submit a written

report and may make recommendations to the commission on all procedural aspects of the citizen panel proceedings.

(c) Panelists serving on the evaluation panel shall be compensated for their attendance at evaluation panel meetings and reimbursed for their expenses in the same manner as citizen panelists under section 1(4) of this 2008 Act.

(d) Every two years, the evaluation panel shall choose two former citizen panelists to serve on the commission for a four-year term, in accordance with section 4 of this 2008 Act.

(3)(a) For each election cycle in which a citizen panel is convened, the commission shall convene a moderator panel to meet no later than February 1 of the following year.

(b) The moderator panel shall consist of all those who served as moderators of the citizen panels for the most recent election cycle.

(c) The moderator panel shall meet for not more than two days to conduct its review. The moderator panel shall submit a written report and may make recommendations to the commission on all procedural aspects of the citizen panel process.

(d) Moderator panelists shall be compensated for their attendance at moderator panel meetings at the same daily rate they were paid as moderators of the citizen panels, and reimbursed for their travel expenses in the same manner as citizen panelists under section 1(4) of this 2008 Act.

(e) Every two years, the moderator panel shall choose two of its members to serve on the commission for a four-year term, in accordance with section 4 of this 2008 Act.

SECTION 9. Appointment of Initial Commissioners.

Notwithstanding section 4 of this 2008 Act, the initial Citizens' Initiative Review Commission shall consist of eight commissioners to be appointed and serve as follows:

(1) Four commissioners shall be appointed as follows:

(a) The Governor shall appoint two commissioners from those persons who have previously served as a "Fifth Member" as defined in section 4(1) of this 2008 Act, one to serve a term of four years and one to serve a term of two years.

(b) The Governor shall appoint two additional commissioners from among two persons recommended by the majority leader of the Senate, or in the event the majority leader of the Senate is of the same party as the Governor, the minority leader of the Senate. Each person recommended shall be a person who has previously served as a "Fifth Member" as defined in section 4(1) of this 2008 Act. If any person recommended is not approved by the Governor, another person shall be recommended. One commissioner so appointed shall be appointed to serve a term of four years and one to serve a term of two years.

(2) The four commissioners chosen under subsection (1) of this section will appoint four additional commissioners from among persons experienced in moderation and facilitation. Experience in serving as moderator for panels similar to the citizen panels established under this 2008 Act will be preferred, but not required. Of the four commissioners appointed under this subsection (2), two shall be appointed for a term of four years and two shall be appointed for a term of two years. Successors to these commissioners shall be appointed by the moderator panel in accordance with section 8(3)(e) of this 2008 Act. In the event the four commissioners appointed under subsection (1) are deadlocked in selecting one or more commissioners under this subsection, then the Governor shall resolve the deadlock by appointing a commissioner to fill each unfilled appointment from among persons proposed for appointment under this subsection by the four commissioners appointed under subsection (1).

(3) For the initial Citizens' Initiative Review Commission, no citizen panelist members shall be appointed. Following the first election cycle in which citizen panels are convened, the evaluation panel established in accordance with section 8 of this 2008 Act shall appoint four commissioners from among those persons who have previously served as citizen panelists. Two shall be appointed for a term of four years and two shall be appointed for a term of two years. Successors to these commissioners shall be selected in accordance with section 8(2)(d) of this 2008 Act.

SECTION 10. Report in Voters' Pamphlet. ORS 251.185 is amended to read as follows:

Sec. 251.185. (1) The Secretary of State shall have printed in the voters' pamphlet for a general election or any special election a copy of the title and text of each state measure to be submitted to the people at the election for which the pamphlet was prepared. Each measure shall be printed in the pamphlet with:

(a) The number and ballot title of the measure;

(b) The financial estimates and any statement prepared for the measure under ORS 250.125;

(c) The explanatory statement prepared for the measure pursuant to ORS 251.205, 251.215, 215.225 or 251.235; [and]

(d) The information received from the Citizens' Initiative Review Commission under section 2 of this 2008 Act; and

(e)[(d)] Arguments relating to the measure and filed with the Secretary of State.

(2) A county measure or measure of a metropolitan service district organized under ORS chapter 268, and ballot title, explanatory statement and arguments relating to the measure, filed by the county or metropolitan service district under ORS 251.285 shall be included in the voters' pamphlet described in subsection (1) of this section if required under ORS 251.067.

SECTION 11. Panelists designated as Public Servants.

ORS 162.005 is amended to read as follows:

As used in ORS 162.005 to 162.425 and 162.465, unless the context requires otherwise:

(1) "Pecuniary benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary, in the form of money, property, commercial interests or economic gain, but does not include a political campaign contribution reported in accordance with ORS chapter 260.

(2) "Public servant" includes:

(a) A public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state;

(b) A person serving as an advisor, consultant or assistant at the request or direction of the state, any political subdivision thereof or of any governmental instrumentality within the state;

(c) A person nominated, elected or appointed to become a public servant, although not yet occupying the position; [and]

(d) Jurors; **and**

(e) Citizen panelists, moderators and evaluation panelists serving in accordance with the provisions of this 2008 Act.