

CHAPTER 9.02

BALLOT MEASURES, INITIATIVE AND REFERENDUM

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9.02.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Court" means the Circuit Court of the State of Oregon for the County of Multnomah.

(b) "Director of Elections" means the director of the Multnomah County Division of Elections, or the director's designees, or any officer subsequently performing the present duties of the director, or the designees of that officer.

(c) "Elector" means any legal voter of Metro.

(d) "Initiative" means a duly authorized command from the electors of Metro to allow the electors of Metro to determine legislation should be adopted.

(e) "Measure" means any Metro legislation, proposition or question.

(f) "Metro legislation" means any legislation which has been or lawfully may be enacted by Metro, and includes any amendment, revision or repeal of the Metro Charter, but does not include any proposition or question.

(g) "Proposition" means any request for voter approval of a property tax levy, tax base, general obligation bond measure, or any tax requiring voter approval pursuant to Section 11 of the Metro Charter, or other similar matter submitted to the electors

of Metro for the purpose of authorizing the imposition of any ad valorem real property tax.

(h) "Question" means any matter other than Metro legislation or a proposition including but not limited to an advisory matter submitted by the Council to the electors of Metro for approval or rejection.

(i) "Referendum" means a duly authorized command from the electors of Metro to require that Metro legislation adopted by the Metro Council be subject to approval of the electors of Metro before it shall become effective.

(j) "Referral" means an action taken by the Metro Council to submit any measure directly to the electors of Metro.

(k) "Regular election" means any election held on the same date as a regular biennial statewide primary or general election.

(l) "Special election" means any election held on a date other than a regular election date.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance 02-977, Sec. 1.)

9.02.020 Referrals by Metro Council

(a) The Metro Council may directly refer any measure to the electors for their approval or rejection, including Metro legislation, any proposition or any question, and may directly refer to the electors proposed amendments or revisions of the Metro Charter or parts thereof. Prior to submitting any revision of the Metro Charter to the voters, the Council shall conduct at least two (2) public hearings with the second (2nd) hearing to be held at least 28 days after the first hearing.

(b) The Council shall act to refer a measure by the adoption of a resolution. The resolution shall contain either directly or as an exhibit the measure referred to the electors, the ballot title, and any other material required by law.

(c) In the case of a Measure the Metro Council shall approve a ballot title complying with the requirements of Oregon laws and shall certify such ballot title to the Director of Elections.

(d) The Director of Elections, upon receiving a ballot title for a Metro measure referred by the Metro Council, shall publish in the next available edition of a newspaper of general circulation within the Metro Area a notice of receipt of the

ballot title including notice that an elector may file a petition for review of the ballot title not later than the date referred to in subsection (e) of this section.

(e) Any elector may petition the court to challenge the ballot title prepared by the Metro Council. Such petition must be filed with the court within seven (7) business days of the Metro Council's certification. Any person filing a petition of review with the court must file a copy of the challenge with the Director of Elections and the Chief Operating Officer and Metro Attorney not later than the end of the business day next following the date the petition is filed with the court. Nothing in this section is intended to invalidate a petition that is timely filed with the court.

(f) A measure shall be considered referred under this section as of the date the Metro Council certifies its ballot title to the Director of Elections.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.030 Prospective Petition

(a) Prior to circulating a petition proposing an initiative or referendum on Metro legislation among the electors, the chief petitioners shall file a prospective petition with the Director of Elections, in such form as the Director of Elections shall prescribe or provide, showing:

- (1) The signatures, printed names and mailing addresses of at least one (1) but not more than three (3) chief petitioners, all of whom must be electors of Metro;
- (2) In the case of an initiative measure proposed for adoption, amendment, revision or repeal, and, where applicable, the title, ordinance number, and charter or ordinance section numbers proposed for amendment, revision or repeal; and
- (3) In the case of referendum measures, the text of Metro legislation proposed for referral, and where applicable, the title, ordinance number or ordinance section numbers of Metro legislation proposed for referral.

(b) The Director of Elections shall inscribe the date of filing upon any prospective petition filed in the Director of Elections office.

(c) After a prospective petition for a referendum measure has been filed with the Director of Elections, and the Director of Elections has determined that the prospective petition complies with the requirements of this chapter, and other applicable law, the Director of Elections shall forthwith certify to one of the chief petitioners that petitions for the referendum measure proposed by the prospective petition may be circulated among the electors, in accordance with the procedures set forth in Section 9.02.050.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.035 One Subject Determination

(a) Not later than the fifth business day after receiving a prospective petition for an initiative measure, the Director of Elections shall determine in writing whether the initiative measure meets the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, and Sections 35 and 40 of the Metro Charter.

(b) If the Director of Elections determines that the initiative measure meets the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, and Sections 35 and 40 of the Metro Charter, the Director of Elections shall proceed as required in Section 9.02.040. The Director of Elections shall include in the publication required under Section 9.02.040(b) a statement that the initiative measure has been determined to meet the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, and Sections 35 and 40 of the Metro Charter.

(c) If the Director of Elections determines that the initiative measure does not meet the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, or Sections 35 or 40 of the Metro Charter, the Director of Elections shall immediately notify the petitioner, in writing by certified mail, return receipt requested, of the determination.

(d) Any elector dissatisfied with a determination of the Director of Elections under subsection (a) of this section may petition the court of the judicial district in which the administrative office of Metro is located seeking to overturn the determination of the Director of Elections. If the elector is dissatisfied with a determination that the initiative measure meets the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, and Sections 35 and 40 of the Metro Charter, the petition must be filed not later than the seventh (7th) business day after the ballot title is filed with the Director of

Elections. If the elector is dissatisfied with a determination that the initiative measure does not meet the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, or Sections 35 or 40 of the Metro Charter, the petition must be filed not later than the seventh (7th) business day after the written determination is made by the Director of Elections.

(e) The review by the court shall be the first and final review and shall be conducted expeditiously to ensure the orderly and timely circulation of the petition.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.040 Ballot Title; Appeal

(a) Prior to the conclusion of the sixth (6th) business day next following the filing of a prospective petition which proposes an initiative measure and which complies with the requirements of this chapter, and other applicable law, the Director of Elections shall transmit two (2) copies to the Metro Attorney, who shall, within five (5) business days thereafter, prepare a ballot title for the measure proposed. The ballot title shall consist of:

- (1) A caption of not more than 10 words which reasonably identifies the subject of the measure;
- (2) A question of not more than 20 words which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure; and
- (3) A concise and impartial statement of not more than 85 words summarizing the measure and its major effect.

After preparing the ballot title, the Metro Attorney shall immediately return one (1) copy of the prospective petition and title to the Director of Elections and shall immediately transmit one (1) copy of the prospective petition and title to one of the chief petitioners.

(b) The Director of Elections, upon receiving a ballot title for a Metro measure, shall publish in the next available edition of a newspaper of general circulation within the Metro Area a notice of receipt of the ballot title including notice that an elector may file a petition for review of the ballot title not later than the date referred to in subsection (c) of this section.

(c) Upon receiving the prospective petition and title from the Metro Attorney, the Director of Elections shall inscribe the date of receipt on it. Within seven (7) business days after that date, any elector may petition the court to challenge the ballot title prepared by the Metro Attorney. At the end of the seven (7) business-days period, or following the final adjudication of any challenge, the Director of Elections shall certify the ballot title as prepared by the Metro Attorney or as prescribed by the court, as the case may be, to one of the chief petitioners.

(d) Any person filing a petition of review with the court must file a copy of the challenge with the Director of Elections and the Chief Operating Officer not later than the end of the business day next following the date the petition is filed with the court. Nothing in this section is intended to invalidate a petition that is timely filed with the court.

(e) The procedures set forth in subsections (a) through (d) of this section for preparation of, and challenges to, ballot titles for initiative measures shall also apply to referendum measures. However, the completion of such procedures shall not be a pre-requisite to the circulation of petitions for referendum measures under Section 9.02.050, and ballot titles need not be stated on petitions circulated to propose referendum measures.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.045 Explanatory Statement; Appeal

(a) Explanatory statements for all Metro measures shall be prepared by the Metro Attorney and shall be filed with the Director of Elections. An explanatory statement shall be an impartial, simple and understandable statement of 500 words or less, explaining the measure and its effect. The explanatory statement for a measure referred by Metro or for a measure proposed by initiative or referendum petition shall be filed with the Director of Elections at the same time the ballot title for the measure is filed.

(b) Upon receipt of an explanatory statement, the Director of Elections shall publish in the next available edition of a newspaper of general circulation within the Metro Area a notice of receipt of the statement including notice that an elector may file a petition for review of the statement not later than the date referred to in subsection (c) of this section.

(c) Any elector dissatisfied with an explanatory statement for a Metro measure may petition the court stating the reasons

why the statement does not meet the requirements of subsection (a) of this section. The petition shall be filed not later than the seventh (7th) business day after the statement is filed with the Director of Elections. An elector filing a petition with the court shall also file a copy of the petition with the Chief Operating Officer and Metro Attorney not later than the end of the next business day following the date the petition is filed with the court. The court shall review the statement and measure, hear arguments, if any, and certify to the Director of Elections a statement for the measure which meets the requirement of subsection (a) of this section. Review by the court shall be first and final.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.050 Petition and Circulation Requirements

(a) After the requirements of subsection (c) of Section 9.02.030 have been met in the case of referendum measures, and after the requirements of Section 9.02.040 have been met in the case of initiative measures, the chief petitioners and any other persons eligible to circulate initiative and referendum petitions under state law may circulate a petition for the measure among the electors. Each copy of the petition so circulated shall consist of a cover page and signature sheet or sheets.

(b) The cover page shall state the names and mailing addresses of the chief petitioners, shall contain the information required by paragraph 2 of subsection (a) of Section 9.02.030 or paragraph 3 of subsection (a) of Section 9.02.030, and shall state the ballot title certified by the Director of Elections under subsection (c) of Section 9.02.040.

(c) Each signature sheet shall contain space for signatures of not more than 20 electors. Each elector signing the petition shall do so by affixing the elector's signature, the date of the signature, and by printing the elector's name, residence address and, if known, the elector's precinct number.

(d) Each signature sheet of an initiative petition shall contain the caption of the ballot title.

(e) Each signature sheet of a referendum petition shall contain the title, ordinance number or ordinance section numbers of Metro legislation proposed by referral.

(f) No signature sheet shall be circulated by more than one person. Each signature sheet shall 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 Metro and that the information placed on the sheet by each such elector is correct.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.060 Filing and Percentage Requirements; Verification

(a) The Director of Elections shall accept for signature verification in accordance with this chapter only petitions which comply with the requirements of this chapter and other applicable law.

(b) No petition shall 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) of this section.

(c) No initiative petition shall be accepted for signature verification more than six (6) months after the date of the Director of Elections' certification under subsection (c) of Section 9.02.040.

(d) Any petition to refer legislation adopted by the Metro Council must be submitted for verification not more than 90 days after Metro's adoption of such legislation, and no later than the effective date of the ordinance if the ordinance contains an emergency clause. Legislation adopted by the Metro Council is not subject to the referendum after the date it becomes effective or 90 days, whichever is sooner.

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

(f) Upon the acceptance of a petition, the Director of Elections shall verify the signatures thereon. Such verification may be performed by random sampling in a manner approved by the Secretary of the State of Oregon.

Within 15 days after the Director of Elections' acceptance of a petition, the Director of Elections shall certify to Metro whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed measure to the electors and shall also state in the certificate the number of qualified signatures prescribed by subsections (g), (h) or (i) of this section to require the proposed measure to be

submitted to the electors. The petition shall be considered filed as of the date of the Director of Elections' certification.

(g) An initiative measure proposing the amendment or repeal of the Metro Charter, or parts thereof, shall be submitted to the electors if the number of qualified signatures on the petition therefor equals or exceeds 8 percent of the total number of votes cast in the Metro Area for all candidates for Governor of Oregon at the most recent previous 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 Metro legislation, or parts thereof, shall be submitted to the electors in the number of qualified signatures on the petition therefor equals or exceeds 6 percent of the total number of votes cast in the Metro Area for all candidates for governor at the most recent previous general election at which the office of governor was filled for a four-year term.

(i) A referendum measure shall be submitted to the electors if the number of qualified signatures on the petition therefor equals or exceeds 4 percent of the total number of votes cast in the Metro Area for all candidates for governor of Oregon at the most recent previous general election at which the office of governor was filled for a four-year term.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 977, Sec. 1.)

9.02.070 Election Dates

(a) Upon receiving the Director of Elections' certificate that a petition has been filed with sufficient qualified signatures to require an initiative or referendum to be submitted to the electors under Section 9.03.060, the Metro Council shall call an election for submission of the measure to the electors. The Metro Council shall call the election no later than the next available general or primary election date that is not sooner than the 90th day after the date of the Director of Elections' certificate certifying sufficient signatures, but may call the election in its discretion at an earlier election date available under state law for which the filing deadlines may be met.

(b) In the event of a Metro Council referral of a measure under Section 9.03.020, the election shall be held on the election date specified by the Metro Council in the resolution referring the measure to the voters.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.080 Election Procedure

(a) Measures referred by the Metro Council shall be designated on the ballot "Referred to the People by the Metro Council."

(b) Measures proposed by referendum petition shall be designated on the ballot "Referred by Petition of the People."

(c) Measures proposed by initiative petition shall be designated on the ballot "Proposed by Initiative Petition."

(d) Within 20 days following any election, the Director of Elections shall certify the election results to the Metro Council. The Metro Council shall thereupon canvass the vote and enter its proclamation of the results in the Council records.

(e) Metro legislation adopted by the electors shall take effect upon the certification of the results of the election at which it is adopted after the election, unless such measure expressly provides a later effective date. The results of elections on propositions or questions shall be effective upon the proclamation of the results.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.090 Applicability of State Law

Applicable provisions of state law, dealing with any initiative and referendum procedures or other election matters regulated by this chapter, shall be controlling where there is a direct and irreconcilable conflict with the provisions of this chapter. However, the provisions of this chapter shall be given full force and effect and shall be construed liberally in order that they shall be found not to conflict with provisions of state elections law and shall be considered paramount relating to matters subject to regulation and legislation by the Metro Council.

(Ordinance No. 93-517B, Sec. 1.)