

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 165
SECRETARY OF STATE
ELECTIONS DIVISION

FILED

04/04/2024 11:47 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Expands residence address exemption to family members and transfers program administration to county elections officials.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/30/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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255 Capitol Street NE, Suite 126
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Filed By:
Bob Roberts
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 05/29/2024

TIME: 2:00 PM - 2:30 PM

OFFICER: Bob Roberts

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 762403459

NEED FOR THE RULE(S)

The amendments to this rule are needed to implement the changes mandated by SB 166 (2023). These changes expanded residence address exemption for certain electors residing with an election worker. Further, this amendment is needed to transfer administration of this program to county elections officials. Though the Secretary of State will oversee the program, transferring day-to-day administration of this program to county elections officials will ensure this program aligns with other elector address exemption processes already administered by the counties.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 166 (2023) available online at oregonlegislature.gov or from the Secretary of State Elections Division.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This rule promotes racial equity. The terms of the rule and manuals promote racial equity by protecting against implicit bias and ensuring that the same guidelines and procedures apply consistently to everyone.

FISCAL AND ECONOMIC IMPACT:

Though the administration of the program is being transferred to county elections officials, the proposed amendments are only expected to cause a minimal fiscal or economic impact because a limited number of people are eligible for this exemption and counties will be able to integrate this process into their existing address exemption procedures.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) There may be a minimal fiscal impact for county elections offices to implement and answer questions regarding compliance with this rule, or for other unanticipated reasons.

(2)(a)-(c) Because these rules regulate the activity of county elections offices this rule is not expected to impact small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved as this rule does not directly affect small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The fiscal impact of the proposed amendments is expected to be minimal at most.

AMEND: 165-005-0135

RULE SUMMARY: HB 4144 (2022) created a provision codified in ORS Chapter 247 allowing for the exemption of residence addresses in Oregon voter registration records of election workers. The law required the Secretary of State to define "elections worker" by rule. SB 166 (2023) expanded the law to include family members residing with an election worker. The changes to this rule implement the expansion set forth in SB 166 (2023) and transfers the administration of this program to the county elections offices under the direction of the Secretary of State, Elections Division.

CHANGES TO RULE:

165-005-0135

Election Worker Residence Address Disclosure Exemptions

(1) The purpose of this rule is to define when elections officials shall exempt the residence address of an election worker or a member of the election worker's household from disclosure as a public record.¶

(2) The terms used in this rule shall have the same meaning as defined in ORS Chapters 246 through 260, commonly referred to as "Oregon Election Laws."¶

(3) The Elections Division shall maintain an electronic process by which an election worker may request that a county elections official not disclose their residence address because they are an election worker as described in section (5) of this rule.¶

(a) ~~The ECounty elections Division~~officials shall verify whether an elector who makes requests through the portal is an election worker, and may re-verify periodically. ~~The ECounty elections Division~~officials may at any time remove an elector's residence address exemption who no longer meets the criteria outlined in section (5) of this rule.¶

(b) ~~The ECounty elections Division~~officials shall periodically update voter registration records to indicate which electors are verified election workers whose residence addresses are exempt from disclosure and to provide the verified election workers' substitute mailing addresses.¶

(c) ~~County e~~lections officials may not disclose the residence address of an election worker designated ~~by the Elections Division~~as exempt from disclosure under this subsection (3) except in compliance with a court order, a request by a law enforcement agency, or with the consent of the election worker.-County elections officials shall

use the substitute address of such election workers for purposes of mailing a ballot to an elector under ORS 254.470.¶

(4) An exemption from disclosure granted under this rule shall include the residence address on the election worker's voter registration record, on registration lists produced in accordance with ORS 247.940 and 247.945, voter records, and on any other material produced or maintained by ~~the county~~ elections officials which is available for public inspection that may reveal the election worker's residence address. The election worker's mailing address may be used in place of the exempt residence address.¶

(5) An elector may demonstrate by attestation that the elector is an election worker identified by the Secretary of State, a county clerk or county elections official, or another public body as defined in ORS 174.109. Such attestation must be sufficient to demonstrate to the satisfaction of the Secretary of State or the county elections official that the elector meets the criteria in this section (5).¶

(a) For purposes of this rule, an "election worker" is an individual employed full-time, part-time or as a volunteer who is serving the State of Oregon or any other public body, as defined in ORS 174.109, as an elected official, appointed official, employee or agent, and whose official duties include carrying out any duty, function or power set forth in Oregon Election Laws and whose residence address is in Oregon.¶

(b) Election workers include, but are not limited to, the following:¶

(A) County clerks;¶

(B) Employees hired by state, county, or local elections officials to perform any duty, function or power set forth in Oregon Election Laws or assist in such work;¶

(C) Volunteers appointed by state, county, or local elections officials to perform any duty, function or power set forth in Oregon Election Laws, or to assist in such work;¶

(D) Employees of vendors under contract with state, county, or local elections officials to perform any duty, function or power set forth in Oregon Election Laws, or to assist in such work, including providing or maintaining voting machines and vote tally systems or printing official ballots;¶

(E) The Secretary of State;¶

(F) Employees of the Secretary of State's Election Division and other employees of the Secretary of State who assist in their work; and¶

(G) Employees of the federal government or employees of vendors under contract with the federal government who administer federal elections laws or otherwise assist state, county, or local officials in performing any duty, function or power set forth in Oregon Election Laws.¶

(c) The Secretary of State, a county clerk or county elections official, or another public body as defined in ORS 174.109 may identify an elector as an election worker as follows:¶

(A) by issuing a certificate of election to the elector for the office of Secretary of State or county clerk under ORS 254.545(5) or ORS 254.555(1)(c);¶

(B) by hiring or appointing the elector to carry out any duty, function or power set forth in Oregon Election Laws;¶

(C) by contracting with the elector or the elector's employer to carry out any duty, function or power set forth in Oregon Election Laws; or¶

(D) by administrative rule.¶

(6) If the election worker ~~is required to update~~ their voter registration, the election worker may apply for another exemption from disclosure.¶

(7) An election worker who has requested inclusion on the ~~Election Division's exemption~~ list may revoke the request in writing to either the county elections official or the Elections Division indicating that the elector is no longer an election worker or that the disclosure no longer constitutes a danger to personal safety. The request must be signed by the person who submitted the original request for nondisclosure of the residence address.¶

(8) If a county elections official declines to grant an exception application or revokes an application, they must provide in writing the applicant's name and reason for denial to the Election Division. The Elections Division will review the refusal or revocation, and if the Elections Division deems it invalid, will instruct the county to grant or reinstate residence address exemption under this rule.

Statutory/Other Authority: ORS 247.965, ORS 246.150, ORS 247.969, HB 4144 (2022), SB 166 (2023)

Statutes/Other Implemented: ORS 247.965, ORS 247.969, ORS 247.967, ORS 192.345, HB 4144 (2022), SB 166 (2023)