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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

ELECT 25-2022

CHAPTER 165
SECRETARY OF STATE
ELECTIONS DIVISION

FILED

08/31/2022 8:54 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Defines terms to implement HB3021 and rules requiring translation of voters' pamphlets.

EFFECTIVE DATE: 09/01/2022 THROUGH 02/27/2023

AGENCY APPROVED DATE: 08/25/2022

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NEED FOR THE RULE(S):

In enacting HB3021 (2021) the Legislative Assembly directed the Secretary of State to adopt rules to implement translation activities. This rule is needed to define the terminology of implementation in time for the 2022 General Election.

JUSTIFICATION OF TEMPORARY FILING:

The Secretary of State finds that the failure to act promptly will result in serious prejudice to the public interest of the more than 200,000 Oregon individuals who have limited English proficiency (LEP) and speak one of the most common languages in Oregon other than English. Absent this temporary rule, the state's LEP individuals would not be able to receive voter information in a culturally appropriate way and fully exercise their voting rights in time for the 2022 General Election.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB3021 (2021) available online at oregonlegislature.gov or from the Secretary of State Elections Division.

ADOPT: 165-024-0005

RULE TITLE: Definitions

RULE SUMMARY: HB 3021 (2021) created provisions codified in ORS Chapter 251 requiring the Secretary of State to adopt rules necessary for implementing the translation of voters' pamphlets, including using the best available and appropriate data to determine and publish the lists of most commonly spoken languages in Oregon, coordinating with county and state election officials to produce professionally translated pamphlets in multiple languages, accepting and reviewing candidate's and filers' translated candidate statements and measure arguments, establishing and consulting with a Translation Advisory Council, and translating and posting pamphlets for all elections beginning with the 2022 General Election. This rule explains the definitions the Secretary of State will use to fulfill the law and related rules, OAR 165-024-0005 to OAR 165-024-0030.

RULE TEXT:

- (1) The following definitions apply for purposes of OAR 165-024-0005 to OAR 165-024-0030.
- (2) Candidate Filer means a candidate or a candidate's agent.
- (3) Candidate's agent means a person who has actual oral or written authority, either express or implied, to make or authorize the filing of translated statements on behalf of the candidate.
- (4) Community Validation means obtaining recommendations from a range of culturally and linguistically diverse communities to ensure that translated materials meet the information needs of the intended audience in a culturally and linguistically responsive way.
- (5) Council means the Translation Advisory Council.
- (6) The County List of Languages means the sum of the following:
 - (a) the Top Five Languages in the state of Oregon; and
 - (b) all of the Top Five Languages in the county that are the primary language for at least 100 people with Limited English Proficiency in the county; and
 - (c) any language that previously appeared on the Top Five Languages list for the county, if the language remains the primary language for at least 100 people in the county who have Limited English Proficiency; and
 - (d) if none of the Top Five Languages in the county is the primary language for at least 100 people with Limited English Proficiency in the county, then the Most Commonly Spoken Language in the county.
- (7) County Voters' Pamphlet means a written document mailed at the direction of a county elections official to county residents for the purpose of providing any of the information described in OAR 165-024-0025.

- (8) Culturally responsive means identifying, nurturing, and using community customs, norms, and values, usually through direct experience in a culture, and appropriately expressing and reflecting those to meet the intended audience's needs.
- (9) Language(s) means languages other than English.
- (10) Limited English Proficiency means that a person does not speak English as their primary language and has a limited ability to read, speak, write, or understand English.
- (11) Local Ballot Measure Information means the local government ballot title, explanatory statements and statements created by state, local and special government bodies.
- (12) The Most Commonly Spoken Language(s) in a state or county means the primary language(s) for the most people in the state or county who have Limited English Proficiency.
- (13) Plain Language means written communication that the intended audience can understand the first time they read it.
- (14) Selected Voters' Pamphlet Material means the portions of the state and county voters' pamphlets that this rule requires the Secretary of State to have translated and post online.
- (15) State List of Languages means the sum of the following:
 - (a) the Top Five Languages in the state of Oregon; and
 - (b) the Top Five Languages in any county in Oregon, and
 - (c) any language that previously appeared in a Top Five Languages list for any county in Oregon, and
 - (d) if none of the Top Five Languages in a county is the primary language for at least 100 people with Limited English Proficiency in the county, then the Most Commonly Spoken Language in that county.
- (16) Top Five Languages means the five Most Commonly Spoken Languages in the state or county, as appropriate.
- (17) Translate or translation means transferring written text accurately from one language into another to convey and retain the original meaning in an equivalent and culturally and linguistically responsive manner for the community being served.
 - (a) Translations of written statements are distinct from interpretation of spoken statements.
 - (b) The community to be served by a translation of voters' pamphlet material is the community of people in Oregon who have Limited English Proficiency and who speak the language as their primary language.

STATUTORY/OTHER AUTHORITY: HB3021, ORS 247.005, ORS 246.150, ORS 251.026, ORS 251.167, ORS 251.170, ORS 251.173, ORS 251.315

STATUTES/OTHER IMPLEMENTED: ORS 251.026, ORS 251.167, ORS 251.170, ORS 251.173, ORS 251.315