

OFFICE OF THE SECRETARY OF STATE

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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 165  
SECRETARY OF STATE  
ELECTIONS DIVISION

**FILED**

10/18/2024 3:13 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Defines requirements for Convening of Presidential Electors.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/13/2024 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.*

CONTACT: Bob Roberts  
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Public Service Building  
255 Capitol Street NE, Suite 126  
Salem, OR 97310

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: 12/12/2024

TIME: 2:00 PM - 3:00 PM

OFFICER: Bob Roberts

REMOTE HEARING DETAILS

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

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 494995791

NEED FOR THE RULE(S)

Federal law prescribes general processes that states must follow to designate members of the Electoral College, who select a president and vice president every four years. In 2022, the federal government passed the Electoral Count Reform and Presidential Transition Improvement Act, or ECRA, to clarify the processes for counting electoral votes and to strengthen security features. This bipartisan legislation updated the Electoral Count Act of 1887, which had not been substantially changed since its enactment. This rule implements legislative mandates found in HB 4019 (2024) to incorporate ECRA changes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB 4019 (2024), Electoral Count Reform and Presidential Transition Improvement Act of 2022 available online at [oregonlegislature.gov](http://oregonlegislature.gov) or from the 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 promote racial equity by protecting against implicit bias and ensuring that the same guidelines and procedures apply consistently to all qualified Presidential Electors and all political

parties.

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FISCAL AND ECONOMIC IMPACT:

Proposed rules may cause minimal fiscal or economic impact to the Secretary of State, Elections Division.

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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 the state Elections Division to implement and answer questions regarding compliance with these rules, or for other unanticipated reasons.

(2)(a) Because these rules regulate the activity of State, it is not expected to impact small businesses.

(2)(b), (c) The cost that any elections office required to comply with this rule may be responsible for is dependent upon specific circumstances and cannot readily be determined.

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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.

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

The fiscal impact of proposed rules are expected to be minimal at most.

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ADOPT: 165-025-0120

RULE SUMMARY: Enacts HB 4019 (2024). Defines requirements for Convening of Presidential Electors. Designates Oregon's Secretary of State to establish time, place, and manner to perform the official administrative duties of electors casting and the Executive Branch transmitting the electors' Presidential and Vice-Presidential votes. Aligns Oregon with the Electoral Count Reform and Presidential Transition Improvement Act of 2022.

CHANGES TO RULE:

165-025-0120

Convening of Presidential Electors

(1) Not later than six days prior to the convening of presidential electors, the Secretary of State shall

(a) prepare and sign certificates of ascertainment in the manner required by law;

(b) ensure the certificates of ascertainment have been presented to and signed by the Governor as required by law;

(c) notify presidential electors of the exact time and location of the convening of presidential electors under ORS 248.370.

(2) The Secretary of State or a designee shall preside over the convening of presidential electors.

(3) The Secretary of State's duties related to the convening of presidential electors shall include but shall not be limited to, the following:

(a) administering the roll call;

(b) ensuring the oath of office is administered to presidential electors;

(c) presiding over votes concerning the continuance of the roll call under section 4;

(d) presiding over votes to fill vacancies in the office of presidential elector;

(e) maintaining the record of such votes and preparing any documents required by law to document the filling of a vacancy, including but not limited to amended certificates of ascertainment;

(f) preparing ballots for presidential electors to vote separately for the offices of President and Vice President of the United States, distributing the ballots to the presidential electors, and tallying the votes in the manner required by law;

- (g) preparing any documents required by law to document such vote, including but not limited to the number of original certificates of vote required by law;¶
- (h) ensuring all original documents to be transmitted to officials of the United States are signed, prepared, collated, and sealed as required by law; ¶
- (i) preparing official minutes of the convening of presidential electors; ¶
- (j) preparing any other official records related to the convening of electors that are required by law; and ¶
- (k) preparing any other records related to the convening of electors that the Secretary of State deems necessary and proper.¶
- (4) A vacancy in the office of presidential elector shall be declared if a presidential elector is physically absent at the end of the roll call during the convening of presidential electors.¶
- (5) Notwithstanding section 4, the presidential electors may determine, by unanimous vote of those who are physically present during roll call, to continue the roll call until a later time in the same day to permit an absent presidential elector to appear. In making this determination, the presidential electors must allow sufficient time on the day of the convening to perform the duties required of them by the Constitution and laws of the United States. ¶
- (6) If a vacancy in the office of the presidential elector is declared as described in section 4, the presidential electors who are physically present shall fill the vacancy as required by law.
- Statutory/Other Authority: ORS 246.150, Electoral Count Reform and Presidential Transition Improvement Act, HB 4019 (2024), ORS 248.370
- Statutes/Other Implemented: HB 4019 (2024), ORS 248.370