

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

12/03/2024 4:30 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Incorporates a new filing deadline process for the County Elections Security Plan.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/24/2025 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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Filed By:
Coline Benson
Rules Coordinator

HEARING(S)

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

DATE: 01/15/2025

TIME: 11:00 AM - 11:30 AM

OFFICER: Coline Benson

REMOTE HEARING DETAILS

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

PHONE NUMBER: 1-503-446-4951

CONFERENCE ID: 41658047

NEED FOR THE RULE(S)

The proposed amendment would allow additional time for counties to file the County Elections Security Plan. This administrative rule is needed to implement the provisions of SB 166 (2023). Without this rule, counties may not be able to file the County Elections Security Plan timely.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 166 (2023) available online at 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 and manuals promote racial equity by protecting against implicit bias and ensuring that the same guidelines and procedures apply consistently to all individuals, committees, and filers.

FISCAL AND ECONOMIC IMPACT:

The proposed amendments may cause minimal fiscal or economic impact to local elections offices and the Secretary of State, Elections Division.

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 Elections Division to answer questions regarding compliance with this rule, or for other unanticipated reasons. There is no fiscal impact to members of the public, as this rule does not apply to members of the public.

(2)(a) There are no effects to small businesses.

(2)(b)-(c) There are no effects to 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?

No. The fiscal impact of the proposed amendments is expected to be minimal at most.

AMEND: 165-007-0310

RULE SUMMARY: The amendments to this rule account for changes set out in Senate Bill 166 Section 4 (2023) by allowing the Secretary of State to establish a new filing deadline for County Elections Security Plan adopted under the authority of ORS 254.074.

CHANGES TO RULE:

165-007-0310

County Elections Security Plan ¶¶

(1) A security plan shall be submitted to the Secretary of State Elections Division; not later than ~~the 31st of January of a date established by the Elections Division~~ each year.¶¶

(2) Approved Security Plans will be valid from ~~March 1 of each year through the last day of February of the following year~~ the date of approval until a successor plan is approved by the elections division, the current plan becomes materially outdated by changes in county practices, or approval is removed by the elections division.¶¶

(3) Any revisions to the plan must be submitted to the Secretary of State Elections Division not later than one business day after the revision is made, and at least 30 days before the first election date at which the revisions are to be used.¶¶

(4) The security plan and all supporting documentation are confidential and not subject to public disclosure.¶¶

(5) All ballots must be secured from their inception into the county's computers, through final storage. This secure process must be followed through ballot reception, verification, inspection, scanning and tally of votes.¶¶

(6) The County Elections Official must include accountability procedures for ballots during the election process.¶¶

(7) During each phase of the process the County Elections Official must maintain an audit trail for all ballots, whether voted or unused.¶¶

(8) Copies of all security agreements with outside vendors must be submitted to the Secretary of State as part of the overall security plan.¶¶

(9) Upon receipt of the county security plan the Secretary of State Elections Division shall review the plan based upon the criteria in subsection (11).¶¶

(10) In order for a county to be permitted to scan ballots upon receipt pursuant to ORS 254.478, the county's security plan must be approved in writing by the Secretary of State Elections Division.¶¶

(11) The Security Plan must include the following components:¶¶

(a) Ballot security at the printer;¶¶

(b) Ballot storage security;¶¶

- (c) Ballot security during transport to inserter (if applicable), to the county, or to the post office;¶
- (d) Ballot security during insertion;¶
- (e) Ballot security at dropsites;¶
- (f) Security of voted ballots awaiting verification;¶
- (g) Security of voted ballots verified and awaiting inspection;¶
- (h) Security of voted ballots opened and inspected;¶
- (i) Facsimile ballot security;¶
- (j) Ballot tally system;¶
- (k) Early scanning procedure (if applicable);¶
- (l) Preventing the premature release of vote tally;¶
- (m) Post election security; and¶
- (n) Information about whether or not secrecy envelopes or sleeves will be used.

Statutory/Other Authority: ORS 246.150

Statutes/Other Implemented: ORS 254.074, 2009 OL Ch. 592 (HB 2451), SB 27 (2021)