

# Enrolled House Bill 3021

Sponsored by Representative PHAM; Representatives ALONSO LEON, BYNUM, CAMPOS, DEXTER, GRAYBER, HUDSON, MEEK, POWER, RUIZ, SALINAS, VALDERRAMA, WILDE, WILLIAMS, Senator LIEBER

CHAPTER .....

## AN ACT

Relating to multilingual election materials; creating new provisions; amending ORS 251.026, 251.055 and 251.315; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Sections 2, 3 and 7 of this 2021 Act are added to and made a part of ORS chapter 251.**

**SECTION 2. (1) The Secretary of State shall create and make publicly available a list of:**

**(a) The five most commonly spoken languages in the state, other than English; and**

**(b) The five most commonly spoken languages in each county, other than English.**

**(2) The lists created under subsection (1) of this section must:**

**(a) Be based on the best available data, which may include the most recent American Community Survey from the United States Census Bureau, estimates from the Portland State University Population Research Center and any other necessary data sources;**

**(b) Include, when complying with subsection (1)(b) of this section, the estimated number of individuals in each county who speak each listed language; and**

**(c) Be updated at least once every five years.**

**(3) The Secretary of State shall:**

**(a) Ensure each state voters' pamphlet mailed to residents of a county is translated in the manner described in section 3 of this 2021 Act into:**

**(A) Each language listed by the Secretary of State under subsection (1)(a) of this section;**

**(B) Each language listed by the Secretary of State under subsection (1)(b) of this section that the Secretary of State estimates under subsection (2)(b) of this section to be spoken by 100 or more individuals in any one county; and**

**(C) Each language that has previously been listed by the Secretary of State under subsection (1)(b) of this section, even if the language is not included in the most recent list created by the Secretary of State;**

**(b) Ensure each county voters' pamphlet mailed to residents of a county is translated in the manner described in section 3 of this 2021 Act into:**

**(A) Each language listed by the Secretary of State under subsection (1)(a) of this section;**

**(B) Each language listed for the county for that county voters' pamphlet by the Secretary of State under subsection (1)(b) of this section that the Secretary of State estimates under subsection (2)(b) of this section to be spoken by 100 or more individuals in the county; and**

(C) Each language that has previously been listed by the Secretary of State for the county for that county voters' pamphlet under subsection (1)(b) of this section, even if the language is not included in the most recent list created by the Secretary of State;

(c) Make each translation of the voters' pamphlet that is made under paragraph (a) or (b) of this subsection or subsection (4) of this section available on the website of the Secretary of State and of the county as applicable; and

(d) Prominently provide the website address for each translation in the manner set forth in ORS 251.026 and 251.315.

(4) Notwithstanding subsection (3)(a)(B) and (b)(B) of this section, if the Secretary of State estimates under subsection (2)(b) of this section that no language, other than English, is spoken by 100 or more individuals in a particular county, the Secretary of State shall ensure:

(a) Each state voters' pamphlet mailed to residents of the county is translated in the manner described in section 3 of this 2021 Act into the most commonly spoken language in that county, other than English, as listed by the Secretary of State under subsection (1)(b) of this section; and

(b) Each county voters' pamphlet mailed to residents of the county is translated in the manner described in section 3 of this 2021 Act into the most commonly spoken language in that county, other than English, as listed by the Secretary of State under subsection (1)(b) of this section.

(5) The Secretary of State:

(a) May adopt any rules necessary to implement this section; and

(b) Is responsible for all costs necessary to comply with this section.

**SECTION 3.** (1) The translation of a state voters' pamphlet or county voters' pamphlet required under section 2 of this 2021 Act shall be made in the manner described in this section.

(2) For each state voters' pamphlet and county voters' pamphlet mailed to residents of a county, the Secretary of State shall have the following portions of the voters' pamphlet professionally translated into each language for which a translation is required under section 2 of this 2021 Act:

(a) Any official statement or communication made by the Secretary of State, county clerk, filing office or other public elections official, including any information described in ORS 251.026 or 251.315 (1)(a) to (d) and (g) and any other information regarding services offered by elections offices, how to cast a ballot and key dates for the election;

(b) The ballot title for each measure;

(c) The explanatory statement for each measure;

(d) The financial estimate for each measure and any statement prepared for a measure under ORS 250.125;

(e) Any racial and ethnic impact statement prepared for a measure under ORS 137.685;

(f) Any statement submitted for a measure by a citizen panel under ORS 250.141; and

(g) Except an argument for a measure prepared by the Legislative Assembly under ORS 251.245, any other statement for a measure created by a public body as defined in ORS 174.109.

(3) In addition to the materials that the Secretary of State is required to have professionally translated under subsection (2) of this section, the Secretary of State shall allow to be included in the translated version of each state voters' pamphlet that is made available on the website of the Secretary of State or of a county under section 2 of this 2021 Act:

(a) Translations of a candidate statement submitted under ORS 251.065, provided that:

(A) The candidate is a candidate for federal or statewide office;

(B) The translation is filed by a candidate or the principal campaign committee of a candidate described in subparagraph (A) of this paragraph;

(C) Neither the translation nor the candidate statement submitted under ORS 251.065 is rejected under ORS 251.055;

(D) The candidate statement meets the requirements of a candidate statement set forth in this chapter; and

(E) Any translation filed under this paragraph is in one of the five most commonly spoken languages in this state, other than English, as listed by the Secretary of State under section 2 of this 2021 Act.

(b) Translations of an argument in support of or in opposition to a state measure filed under ORS 251.255, provided that:

(A) The translation is filed by the person who filed the argument in support of or in opposition to a state measure under ORS 251.255;

(B) Neither the translation nor the argument in support of or in opposition to a state measure filed under ORS 251.255 is rejected under ORS 251.055;

(C) The statement in support of or in opposition to a state measure meets the requirements of a statement in support of or in opposition to a state measure set forth in this chapter; and

(D) Any translation filed under this paragraph is in one of the five most commonly spoken languages in this state, other than English, as listed by the Secretary of State under section 2 of this 2021 Act.

(c) Translations of any argument for a measure prepared by the Legislative Assembly under ORS 251.245 submitted by the Legislative Assembly, provided that any translation filed under this paragraph is in one of the five most commonly spoken languages in this state, other than English, as listed by the Secretary of State under section 2 of this 2021 Act.

(4)(a) A translation that is permitted or required under this section is not required to be identical in words to the original version but must be consistent with the meaning of the original version.

(b) A translation is not subject to any limitations on the number of words allowed set forth in this chapter.

(5) A county may at its own expense make or accept for publication on the county's website, as part of a translated voters' pamphlet required under section 2 of this 2021 Act, any portion of a state or county voters' pamphlet that is not described in this section.

(6) The Secretary of State:

(a) May adopt any rules necessary to implement this section; and

(b) Except as provided in subsection (5) of this section, is responsible for all costs necessary to comply with this section.

(7) As used in this section, "statewide office" means Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, or judge on the Oregon Supreme Court, the Oregon Court of Appeals or the Oregon Tax Court.

**SECTION 4.** ORS 251.026 is amended to read:

251.026. (1) The Secretary of State shall prepare and have printed in the voters' pamphlet for the state primary election, the general election and any special election described in ORS 251.022 a statement containing, if applicable:

(a) Requirements for a citizen to qualify as an elector.

(b) When an elector is required to register or update a registration.

(c) In the voters' pamphlet for the primary election, a statement of the duties and responsibilities of a precinct committeeperson to be elected at the primary election.

(d) Any other information the Secretary of State considers relevant to the conduct of the election.

(2) The Secretary of State, **in cooperation with the county clerks**, shall include:

(a) A statement on the cover of the voters' pamphlet that the pamphlet may be used to assist electors in voting[.]; **and**

(b)(A) **Statements in the information section of the voters' pamphlet on the pages immediately following the page containing the Secretary of State letter, to the extent reasonably practicable, that, for residents of each county to which the voters' pamphlet is distributed:**

(i) **Are written in English and the five additional common languages for the county listed by the Secretary of State under section 2 of this 2021 Act;**

(ii) **Explain that an electronic copy of portions of the voters' pamphlet is publicly available in that language; and**

(iii) **Provide the website address to the translated voters' pamphlet.**

**(B) The statements required under subparagraph (A) of this paragraph must be written so as to be clearly readable.**

**(C) The Secretary of State may adopt rules necessary to implement this paragraph.**

(3) The Secretary of State may include in the voters' pamphlet the following information:

(a) Maps showing the boundaries of senatorial and representative districts.

(b) Voter registration forms.

(c) Elector instructions, including the right of an elector to request a second ballot if the first ballot is spoiled and the right of an elector to seek assistance in marking the ballot.

(4)(a) The name of the county clerk or other filing officer may not appear in the voters' pamphlet in the county clerk's or filing officer's official capacity if the county clerk or filing officer is a candidate in the election for which the voters' pamphlet is printed.

(b) As used in this subsection, "filing officer" has the meaning given that term in ORS 254.165.

**SECTION 5.** ORS 251.055 is amended to read:

251.055. (1) The Secretary of State shall reject any statement, argument, **translation** or other matter offered for filing and [*printing*] **publishing** in a voters' pamphlet [*which*] **that:**

(a) Contains any obscene, profane or defamatory language;

(b) Incites or advocates hatred, abuse or violence toward any person or group; or

(c) Contains any language which may not legally be circulated through the mails.

(2) Nothing in this chapter shall make the author of any statement, [*or*] argument **or translation** exempt from any civil or criminal action because of any defamatory statements offered for [*printing*] **publishing** or contained in the voters' pamphlet. The persons writing, signing or offering a statement, [*or*] argument **or translation** for filing shall be deemed its authors and publishers.

(3) The Secretary of State by rule shall establish a procedure to notify a person who offered a statement, argument, **translation** or other matter that was rejected pursuant to this section. Subject to voters' pamphlet deadlines, the procedure shall require the Secretary of State to:

(a) Make reasonable attempts to notify the person of the rejection; and

(b) Allow the person, if notified pursuant to paragraph (a) of this subsection, to revise the statement, **argument or translation** so that it does not violate the provisions of this section.

**SECTION 6.** ORS 251.315 is amended to read:

251.315. (1) If a county produces a county voters' pamphlet, the county voters' pamphlet shall include, when applicable, at least the following information:

(a) Requirements for a citizen to qualify as an elector.

(b) Requirements for registration and updates of registration.

(c) Elector instructions, including the right of an elector to request a second ballot if the first ballot is spoiled and the right of an elector to seek assistance in marking the ballot.

(d) The hours and locations of places designated under ORS 254.470 for deposit of official ballots.

(e) Any portraits and statements relating to candidates submitted in accordance with the provisions of ORS 251.305 to 251.435.

(f) Any ballot titles, explanatory statements and arguments submitted in accordance with the provisions of ORS 251.305 to 251.435.

**(g)(A) Statements in the information section of the voters' pamphlet on the pages immediately following the page containing the Secretary of State letter, to the extent reasonably practicable, that:**

(i) Are written in English and the five additional common languages for the county listed by the Secretary of State under section 2 of this 2021 Act;

(ii) Explain that an electronic copy of portions of the voters' pamphlet is publicly available in that language; and

(iii) Provide the website address to the translated voters' pamphlet.

(B) The statements required under subparagraph (A) of this paragraph must be written so as to be clearly readable.

(C) The Secretary of State may adopt rules necessary to implement this paragraph.

[(g)] (h) Such other information as the county clerk considers to be appropriate or necessary to inform the voters.

(2) The county clerk shall mail or otherwise distribute the county voters' pamphlet not later than the last day for mailing ballots to electors as provided in ORS 254.470.

(3)(a) The name of the county clerk or other filing officer may not appear in the county voters' pamphlet in the county clerk's or filing officer's official capacity if the county clerk or filing officer is a candidate in the election for which the voters' pamphlet is printed.

(b) As used in this subsection, "filing officer" has the meaning given that term in ORS 254.165.

**SECTION 7. (1)(a) The Translation Advisory Council is established. The council shall consist of five at-large members and at least one translator member for each of the five most commonly spoken languages in this state, other than English, and for each language in each county that the Secretary of State reasonably anticipates a voters' pamphlet at the next election will be required to be translated into under section 2 of this 2021 Act. The secretary may appoint more than one translator member for languages that are more commonly spoken throughout this state. Members shall be appointed by and serve at the pleasure of the secretary.**

(b) The term of a member of the council is two years. A member may be reappointed twice and may not serve more than a total of six years. Before the expiration of the term of a member, the Secretary of State shall appoint a successor or reappoint the member. If there is a vacancy for any cause, the secretary shall make an appointment to be immediately effective.

(c) The Secretary of State shall ensure, to the extent practicable, that members appointed to the council are geographically diverse and reside in counties throughout this state. Prior to appointing each translator member, the secretary shall confer with, and seek recommendations from, the board of county commissioners for each county in which the secretary reasonably anticipates a voters' pamphlet will be required to be translated into the language for which the translator member is appointed.

(d) To qualify to be appointed as a translator member, a translator member must be proficient in reading and writing in English and in the translated language for which the translator member is appointed. A translator member may demonstrate proficiency by providing:

(A) Proof of being certified as an interpreter by a public body of this state for the translated language;

(B) Proof of holding a bachelor's degree or higher in the translated language;

(C) At least one example of a written translation of the translated language that the translator member conducted as part of the translator member's job duties or contracted services; or

(D) Proof of volunteer experience in translating the translated language with a nonprofit organization, educational institution, social service agency or public body.

(2)(a) Members of the council shall elect at least one chairperson of the council but may elect two co-chairpersons of the council.

(b) A majority of the members of the council constitutes a quorum for the transaction of business.

(c) The council shall meet at least once every calendar year. To the extent practicable, the council shall meet by telephone or video conference but may meet in person.

(d) The members of the council are entitled to compensation and expenses in the manner and amounts provided for in ORS 292.495.

(e) The Secretary of State shall provide clerical and other necessary support services to the council.

(3) The Secretary of State shall consult with the council and to the maximum extent practicable implement recommendations for ensuring that a translation of a voters' pamphlet required under section 2 of this 2021 is:

(a) Conducted with professionalism and by a clear process with review;

(b) Culturally responsive and based in the context of a particular community being served by the translation;

(c) As accurate in context and sentence structure as the original version; and

(d) Held to the same standards as, but not subject to a higher scrutiny than, the original version.

**SECTION 8.** Notwithstanding the term of office specified by section 7 of this 2021 Act, of the members first appointed to the Translation Advisory Council:

(1) Two of the at-large members shall serve an initial term of three years.

(2) Every other translator member that is appointed shall serve an initial term of three years.

**SECTION 9.** In addition to and not in lieu of any other appropriations, there is appropriated to the Secretary of State, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$683,603 for the purpose of carrying out the provisions of sections 2 to 8 of this 2021 Act.

**SECTION 10.** Sections 2, 3 and 7 of this 2021 Act and the amendments to ORS 251.026, 251.055 and 251.315 by sections 4 to 6 of this 2021 Act apply to all voters' pamphlets distributed on or after June 30, 2022.

**SECTION 11.** This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 17, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 23, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State