

# Elections Policy

*POLICY 16-01 SD*

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Permanent Tax Rate Ballot Measure [ORS 280.070(6)]

One Year Local Option Tax [ORS 280.060(1)(b)]

Multiple- Year Local Option Tax Fixed Dollar Amount [ORS 280.060(1)(a)]

Provisions regarding election contests and recounts may be found in ORS 258.

Provisions regarding recall may be found in ORS 249 and OAR Chapter 165.

*Adopted : 8 January 2016*

As a board member or manager of a special district, it is necessary to understand the election requirements for special districts. Special districts must hold elections to select board members, ask for a new or increased tax rate, or bond measures.

Laws governing the conduct of local elections (ORS 255) are administered by the Oregon Secretary of State's Election Division. Clatsop County's elections officer (county clerk) is responsible for conducting and administering local elections.

Work closely with the county elections officer to assure that correct procedures are followed.

<http://sos.oregon.gov/elections/Documents/ReferralManual.pdf>

### **Election Dates**

Districts can hold elections on the following four dates:

- The second Tuesday in March.
- The third Tuesday in May Board of Director's elections in odd numbered years only.
- The third Tuesday in September.
- The first Tuesday after the first Monday in November ???

Districts may, in any year, submit a measure to vote at any one or more of the four dates listed above; or hold an election to request that voters approve permanent tax rate authority at any of the four dates listed above

A special election may be held on a date other than one of the above if the district board by resolution finds that an election sooner than the next available election date is required on a measure to finance repairs to property damaged by fire, vandalism, or a natural disaster.

### **FILLING VACANCIES ON THE DISTRICT BOARD**

When a vacancy becomes available on a district board between elections, the vacancy shall be filled by appointment of the remaining board members. If a majority of the board is vacant or if a majority cannot agree, the county court (Board of County Commissioners) shall fill the position.

The person appointed to fill a vacancy by the board or the county court will serve until June 30th following the next regular district election at which governing body members are elected (May in odd numbered years). The successor elected at the next regular election shall serve for the unexpired term.

### **Governing Body Election Notices**

When a district board member election is to be held, the elections officer (county clerk) publishes a notice that includes the following information:

- Date of the election.
- Governing body positions up for vote.
- The last date candidates may file for office.

- The newspaper(s) in which the notice is to be published. The newspaper must be of general circulation in the district not later than the 40th day before the last day for filing a petition for nomination or declaration of candidacy.

#### **Bond or Measure Election Notices**

Before a bond or measure election, the district must deliver notice 61 days before the election to the county clerk, which asks for:

- The date of the election.
- The ballot title.
- The purpose for which the bonds are to be used.
- The amount and term of the bonds.
- The kind of bonds proposed to be issued.

\*\* If the measure is to be held in November, and the district already submitted the same measure at the proceeding September election, then the measure must be filed 47 days before the election.

#### **Contests of Election, Recount, and Recall**

The procedures for election contests, recount, and recall for special districts are the same as for any other election in the state.

#### **RESTRICTIONS ON POLITICAL CAMPAIGNING**

While the following guidelines are offered, local officials are encouraged to consult with their attorney when specific questions arise. These guidelines apply to the expenditure of public funds, with a focus on the use of work time by public employees. Confusion about the use of funds may be avoided if interested citizens form a Political Action Committee (PAC), which can legally solicit contributions and produce/ distribute advocacy materials.

#### **General**

Public agencies are subject to the general rule prohibiting the use of public funds to advocate a position either in support of, or opposed to, a ballot measure. All information presented and paid for with tax dollars must be impartial. ORS 260.432 prohibits public employees from spending time "while on the job during working hours" to promote or oppose a ballot measure. While it does not apply to elected public officials, the definition of "public employees" includes not only paid staff, but also unpaid, appointed members of boards, commissions, and committees.

Issues relating to the use or misuse of public funds, equipment, materials, supplies, or space are likely to be dealt with under the provisions of ORS 294.100, which establishes personal liability for misappropriation of public funds.

### **Preparation and Distribution of Written Material**

Local officials, both elected and appointed, can develop and distribute impartial and factual information on the effects of a ballot measure and may use public funds to do so. Such material should be informational, provide the public with a fair presentation of relevant facts, and not advocate a particular position. For example, staff may spend time doing research and preparing information that fairly assesses the effects of the measure on the agency. Local officials can use such information in meeting with individuals and organizations, e.g., newspaper editors and reporters, legislators, local civic organizations, and special interest groups to explain objectively the measure's impact on the agency.

Written material prepared or distributed by public employees must be impartial, neutral, unbiased, equitable, and dispassionate. A statement is advocacy if, when read in its entirety, is clearly intended to generate votes for or against the measure. Factors, which may be used to determine the line between information and campaign advocacy, may include the following:

- The timing of the material relative to an election date.
- The balance of factual information including pros and cons about the measure.
- The overall impression a reader may be left with. Have facts been presented neutrally so that the reader has to decide how to vote, i.e., it informs rather than persuades?
- The tone of the material. Is it dispassionate rather than enthusiastic for one side or the other of the measure? Do headings, words, and phrases lend a positive, negative, or neutral tone in favor of, or opposition to, the measure?
- The quotes used. Are they all favorable or unfavorable? Are they all from persons on one or the other side of the measure?
- Reference to contact with supporting or opposing PACs—such references may imply a connection between the agency and the campaign.
- The content of the document - it cannot explicitly urge a “yes” or “no” vote.

If you have difficulty making a distinction between legitimate research/information efforts and possible campaign advocacy in specific instances, the Secretary of State's Office is willing to review staff work before its printing and distribution.

Published material (written or broadcast) relating to a ballot measure requires identification as to its source. The words “authorized by” and the name and address of the person, agency, or political committee responsible for the material should be seen or heard. Governing bodies are exempt from this requirement when they publish impartial material for information purposes related to a measure they are referring to the ballot. Regularly published agency newsletters are

measure. This presentation can include a discussion about how the measure came into being (history) and its impacts, so long as it doesn't segue into advocacy. An elected official may follow a staff person's presentation and advocate in support of or opposition to the measure.

### **Political Action Committee (PAC)**

Formation of a PAC must occur before any funds are collected. PACs must be filed with the county elections officer. The forms and guidebooks necessary to form a political committee and report contributions and expenditures are available from the county elections officer.

As a general rule then, public employees may say, "Here are the facts, please vote." Elected officials may say, "Here are the facts, please vote for/against this measure," provided public funds are not used to advocate that position and no public employee time is used to assist in delivering that message.

### **Election of Board Officers**

The Board shall elect from its membership a President, a Vice-President, and a Treasurer. The Board shall also appoint a Secretary who need not be a member of the Board. The Officers shall be elected by a majority of the Directors voting at said election. The election of the Officers shall be conducted during the annual organization meeting, the first regular meeting of the fiscal year.

### **Terms of Office**

The term for each elected officer shall be for ~~two~~ fiscal years or until a replacement is elected. No member of the Board of Directors may hold more than two (2) consecutive terms in the same office (for a maximum of ~~four~~ <sup>two</sup> consecutive years. The Secretary shall serve under contract as approved by the Board until succeeded by another appointed individual.

### **Resources**

Campaign Finance Manual: <http://sos.oregon.gov/elections/Documents/campaign-finance.pdf>

Department of Revenue Property Tax Division Website: <http://www.oregon.gov/DOR/PTD>

County, City and District Referral Manual:  
<http://sos.oregon.gov/elections/Documents/ReferralManual.pdf>

Oregon Department of Revenue Tax Election Ballot Measures:  
<http://www.oregon.gov/DOR/PTD/docs/504-421.pdf>

Secretary of State Elections Division Website: <http://sos.oregon.gov/elections/Pages/default.aspx>

Special District Elections (ORS 255):  
[https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ors255.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors255.html)

also exempt from this requirement. (Special editions or one-time publications are not exempt.) In both cases though, it needs to be apparent that the governing body has prepared and is distributing the material.

### **The Governing Body**

A governing body of elected officials can take positions on ballot measures and staff can record votes and type resolutions of support or opposition if that is part of their normal work duties.

Staff can also do research to bring the measure to the governing body. This research can describe background information on the measure, its potential effects, and pros and cons of the measure.

The governing body may not make a mass distribution of their advocacy position on a ballot measure to the public; however, if copies are requested by the public, the agency may use office facilities to copy the resolution expressing their position.

### **Elected Officials**

Elected officials may spend their work time on ballot measures, whether the position they hold is paid or unpaid under ORS 260.432 (4) (a). The courts have recognized the right, if not the duty, of public officials to speak out on major issues, particularly on matters that affect the governmental body on which they serve. However, elected officials must be careful not to involve support staff in their advocacy campaign, e.g., staff persons cannot type advocacy statements or speeches for elected officials on agency time.

### **Agency Staff**

Agency staff must use their own personal time if they want to advocate a position on a measure. A public employer is required to post, in a conspicuous place, a notice that outlines legal restrictions on the political activity of their employees while on the job during working hours. Contents of the notice are contained in ORS 260.432 (3).

Employees may use breaks, lunch hours, and vacation time to advocate for or against a measure. Employees should keep notes on when they are using breaks, lunch, or vacation time for advocacy. If a public employee makes a presentation outside working hours which will include advocacy statements, it may still be advisable to announce to the audience that they are speaking not in their "official capacity" but as a private individual.

Subject to limited regulation by the employer to avoid disruption in the workplace or suggesting to the public that the employee's personal political views are endorsed by the public employer, public employees may express their personal opinion on the job, wear buttons, and do other things which are protected under their right to free speech.

A public employee may not be coerced to vote for a measure or work to advocate for or against it. For example, a manager representing the public agency may tell employees about the possible effects of a measure, such as possible layoffs, but must not threaten them with financial loss if they vote one way or another.

A public employee can make an impartial presentation of information relating to a ballot

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PERMANENT TAX RATE BALLOT MEASURE [ORS 280.070(6)]

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**Caption—10 words**

- a. Purpose is to identify the type of tax.
- b. Do not put district name or dollar amounts in the caption.

**Question—20 words**

- a. Include the name of the taxing district. The word “district” can be substituted for the full name if the full name is included in the summary.
- b. State the tax rate per \$1,000 of assessed value.
- c. State the first fiscal year the tax will be imposed.

**Summary—175 words**

- a. If the election is not in November of an even-numbered year, begin the summary with:  
“**This measure may be passed only at an election with at least 50 percent voter turnout.**”  
This statement is not counted in the 175-word limit.
- b. Explain the purpose in plain language. Do not advocate a yes or no answer.

**Sample**

**March 2014 Election**

**CAPTION:** Permanent Tax Rate Limit

**QUESTION:** Shall district be authorized to impose \$0.52 per \$1,000 of assessed value as a permanent rate limit beginning in 2014-2015?

**SUMMARY:** This measure may be passed only at an election with at least 50 percent voter turnout. The Sample Soil and Water Conservation District has operated for 25 years on the revenue from grants and user fees. Many grant programs are no longer available. This measure would establish a permanent tax rate limit for the district. The revenue from the new permanent rate would be used to help operate the district and help avoid future increases in user fees. In the first year of imposition the proposed rate will raise approximately \$750,200.

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**ONE YEAR LOCAL OPTION TAX [ORS 280.060(1)(B)]**

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**Caption—10 words**

- a. Purpose is to identify the type of tax.
- b. Do not put district name or dollar amounts in the caption.

**Question—20 words**

- a. Include the name of the taxing district. The word “district” may be substituted for the full name if the full name is included in the summary.
- b. State the tax rate per \$1,000 of assessed value.
- c. State whether the tax is for operating purposes or capital projects.
- d. State the fiscal year the tax will be imposed and the number of years the tax will be imposed.
- e. Include the following statement after the question: **“This measure may cause property taxes to increase more than three percent.”** This statement is not counted in the 20-word limit.

**Summary—175 words**

- a. This example is in November of an even-numbered year, so the double majority statement is not included.
- b. Explain the purpose in plain language. Do not advocate a yes or no answer.
- c. Give the amount of tax that is estimated to be raised in the fiscal year the tax is imposed.

**Sample**

**November 2014 Election**

**CAPTION:** One-year Local Option Tax for Operations

**QUESTION:** Shall Progressive City impose \$.18 per \$1,000 of assessed value for one year for operations in 2014-2015? This measure may cause property taxes to increase more than three percent.

**SUMMARY:** The tax revenue from this measure would allow Progressive City to operate the city office six days a week, Monday through Saturday, from 10:00 a.m. until 7:00 p.m. The office is currently open Monday through Wednesday from noon until 5:00 p.m. and on Saturday from 10:00 a.m. until 3:00 p.m. The requested rate will raise approximately \$130,000 in fiscal year 2014-2015.



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MULTIPLE-YEAR LOCAL OPTION TAX FIXED DOLLAR AMOUNT [ORS 280.060(1)(A)]

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**Caption—10 words**

- a. Purpose is to identify the type of tax.
- b. Do not put district name or dollar amounts in the caption.

**Question—20 words**

- a. Include the name of the taxing district. The word “district” may be substituted for the full name if the full name is included in the summary.
- b. State the amount of tax to be imposed each year in dollars.
- c. State whether the tax is for operating purposes or capital projects.
- d. State the first fiscal year the tax will be imposed and the number of years the tax will be imposed.
- e. Include the following statement after the question: **“This measure may cause property taxes to increase more than three percent.”** This statement is not counted in the 20-word limit.

**Summary—175 words**

- a. Explain the purpose in plain language. Do not advocate a yes or no answer.
- b. This example is not in November of an even-numbered year, so begin the summary with:  
**“This measure may be passed only at an election with at least 50 percent voter turnout.”**  
This statement is not counted in the 175-word limit.
- c. Include the total amount of tax to be raised by the measure.
- d. If an estimated rate per \$1,000 is given, include the statement: **“The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of the estimate.”** This statement is not counted in the 175-word limit.

**Sample**

**May 2014 Election**

**CAPTION:** Six-year Capital Projects Local Option Tax

**QUESTION:** Shall Sample District impose \$20,830 each year for six years for capital projects beginning in 2014-2015? This measure may cause property taxes to increase more than three percent.

**SUMMARY:** This measure may be passed only at an election with at least 50 percent voter turnout. The taxes needed for six years total \$124,980, which will be imposed in equal amounts of \$20,830 each year. The taxes will be used to purchase office furniture and equipment for the district headquarters building. It is estimated that the proposed tax will result in a rate of \$.01 per \$1,000 of assessed value in the first year. The estimated tax

cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of the estimate.

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### OUTSIDE CONSTITUTIONAL LIMITATIONS

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1. Caption limited to 10 words
  - a. Purpose is to identify the type of tax.
  - b. Dollar figures should not appear in the caption.
  - c. Example: "General Obligation Bonds for Capital Construction."
  
2. Question limited to 20 words
  - a. Name of the district.
  - b. The purpose of the bonds.
  - c. The kind of bonds to be used.
  - d. Include the following statement after the question: "If the bonds are approved, they will be payable from taxes on property or property ownership that is not subject to the limits of Sections 11 and 11b, Article XI of the Oregon Constitution.
  - e. Example: "Shall The Water District issue \$3,000,000 in general obligation bonds for the purpose of constructing a water treatment plant?"
  
3. Summary limited to 175 words
  - a. Explain the purpose in plain language.
  - b. Do not advocate a yes or no answer.
  - c. The purpose of the bond that includes a reasonably detailed, simple, understandable description of the use of proceeds.
  - d. The term and amount of the bond.
  - e. The type of bond.

#### Sample

**Caption:** "General Obligation Bonds for Capital Construction"

**Question:** "Shall The Water District issue \$3,000,000 in general obligation bonds for the purpose of constructing a water treatment plant?"

**Summary:** This measure would allow The Water District to issue general obligation bonds to construct a water treatment plant to comply with the Safe Drinking Water Act. Currently, The Water District does not have a water filtration system and uses the chlorination process to disinfect the water system. The Water District has recently completed a master plan and seeks to implement recommendations of that plan. The \$3,000,000 general obligation bond term will not exceed 20 years. If the bonds are approved, they will be payable from taxes on property ownership that is not subjected to the limits of Sections 11 and 11b, Article XI of the Oregon Constitution.

### Calculate Measure 5 Limit "Gap"

Real Market Value of district in Tax Code Area 1 \$100,000

Taxable Assessed Value of district in Tax Code Area 1 \$ 80,000

Existing tax rates already being imposed in general government category:

District	Existing Rate
County	\$2.5600
City	4.8664
Park & Rec Dist.	.8406
Health Dist.	<u>3.9330</u>
Total existing rate	<b>\$12.2000</b>

1. Calculate the Measure 5 limit:  $\$10.00 \times (100,000 \text{ RMV} \div 1,000) = \$1,000$

2. Divide M5 limit by TAV and multiply by 1,000 to convert it to a Measure 50 limit:  
 $\$1,000 \div \$80,000 \text{ TAV} = .00125 \times 1,000 = 12.5000$

3. Subtract total existing general government category rate to get "gap".

M-50 Limit	\$12.5000
Existing M-50 gen. gov. rates	<u>12.2000</u>

**Measure 50 "gap" in Tax Code Area 1    \$ .3000**

4. Repeat for every tax code area in the district. The lowest "gap" rate in all of the tax code areas is the rate that can be fully imposed (on average) without compression loss.