

ORDINANCE #159

1/024

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON
ORDINANCE NO. 159

An Ordinance relating to inclusion of Multnomah County measures in the state voters' pamphlet; and declaring an emergency.

Multnomah County ordains as follows:

Section 1. Purpose.

The Board of County Commissioners deems it to be in the interest of the people of Multnomah County for county measures, ballot titles and explanatory statements therefor and arguments relating thereto to be included in the state voters' pamphlet, in accordance with ORS 255.455 and the provisions of this ordinance.

Section 2. Qualification of Measures.

A county measure shall qualify for and be subject to the provisions of this ordinance and of ORS 255.455 only if:

(1) The measure is submitted to the electors at an election for which a state voters' pamphlet referred to in ORS 255.410 is printed;

(2) All procedures set forth in this ordinance relating to the preparation of the ballot title and of the explanatory statement for the measure, including final adjudication in any judicial review thereof, have been completed on or before the 80th day before the election at which the measure is to be submitted to the electors;

(3) In the case of a measure proposed by initiative or referendum petition, all chief petitioners indicate their decision to include such measure, the ballot title and explanatory statement therefor and arguments relating thereto in the state voters' pamphlet, by filing with the Director of the county's Division of Records and

Elections or his designee (hereinafter "Director") a statement of such decision, in such form as the Director shall prescribe, at the time the preliminary petition for such measure is filed with the Director;

(4) In the case of a measure proposed by initiative or referendum petition, a petition containing sufficient qualified signatures to require submission of the measure to the electors is filed with the Director on or before the 90th day preceding the election at which the measure is to be submitted to the electors; and

(5) In the case of a measure referred to the electors by the Board of County Commissioners, the Board indicates its decision to include the measure, the ballot title and explanatory statement therefor and arguments relating thereto in the state voters' pamphlet, by filing with the Director its order reflecting such decision on or before the 80th day preceding the election at which the measure is to be submitted to the electors.

Section 3. Preparation of Ballot Titles and Explanatory Statements.

(1) In the case of a measure proposed by initiative or referendum petition, which satisfies the applicable requirements of Section 2, upon the filing of the preliminary petition for such measure the Director shall forthwith convey two copies thereof to the District Attorney of Multnomah County, who shall, within five days after his receipt thereof, prepare a ballot title and explanatory statement for the measure and return a copy of the preliminary petition, together with the ballot title and explanatory statement, to the Director and to one of the chief petitioners.

(2) In the case of a measure referred to the electors by the Board of County Commissioners, which satisfies the applicable

requirements of Section 2, the Board shall file with the Director a ballot title and explanatory statement for the measure at the time it files the order described in Section 2(5).

(3) Ballot titles shall consist of a caption, not to exceed six words, by which the measure may be commonly referred to or spoken of, followed by a statement of the chief purpose of the measure, not to exceed 75 words. The caption and statement shall be impartial and not an argument for or against the measure.

(4) Explanatory statements shall be impartial, simple and understandable, explaining the measure and its effect, and shall not exceed 500 words.

Section 4. Judicial Review of Ballot Titles and Explanatory Statements.

Within five days after the ballot title and explanatory statement are received by the Director pursuant to Section 3(1) or 3(2), any elector dissatisfied with the ballot title or explanatory statement or both may petition the Circuit Court of the State of Oregon for the County of Multnomah for review of the title and/or statement, and shall set forth the reasons why the title and/or statement does not conform to the requirements of this ordinance or other applicable law. If the court finds that the ballot title and/or explanatory statement complies with the requirements of this ordinance and other applicable law, it shall enter an appropriate order to that effect. If the court determines that the ballot title and/or explanatory statement does not comply with the requirements of this ordinance or other applicable law, the court shall prepare an alternative ballot title and/or explanatory statement and shall include the text thereof in its order. In the event the court prepares an alternative ballot title and/or explanatory statement, the title and/or statement so prepared shall supersede and replace the District

Attorney's for purposes of this ordinance. The Circuit Court's Order shall not be appealable.

Section 5. Arguments Favoring or Opposing Measures.

Arguments favoring or opposing a measure which qualifies for and is subject to this ordinance may be filed with the Director on or before the 75th day preceding the election at which the measure is to be submitted to the electors by (1) any elector eligible to vote on the measure, or any organization eligible to file arguments under the laws of Oregon, upon payment to the Director of a fee of \$300 and the filing of a statement, in such form as the Director shall prescribe, which identifies the name of the person or persons who submitted the argument, the name of the organization the person or persons represent, if any, and whether the argument supports or opposes the measure; or (2) 1,000 or more electors eligible to vote on the measure whose representative files with their argument a petition for its inclusion in the state voters' pamphlet, in such form as the Director shall prescribe or provide, which contains the qualified signatures of at least 1,000 such electors. Prior to the circulation of said petition, a preliminary petition shall be filed with the Director, in such form as he shall prescribe or provide, which sets forth the text of the proposed argument and which identifies the name of the person or persons who submitted the argument, the name of the organization the person or persons represent, if any, and whether the argument supports or opposes the measure. A copy of the contents of the preliminary petition shall be attached to each signature sheet of the petition circulated among the electors. The procedures for circulation of said petition shall be the same as the applicable procedures for circulation of initiative or referendum petitions, and the Director shall verify the signatures on said petition in the same manner signatures are verified on referendum or initiative petitions. Arguments shall be typewritten, shall be prepared for printing on not

more than 29.8 square inches of the voters' pamphlet; and shall comply with all applicable laws, rules and regulations pertaining to arguments in voters' pamphlets.

Section 6. Filing of Measures, Ballot Titles, Explanatory Statements and Arguments with Secretary of State.

On or before the 70th day preceding the election at which any measure which qualifies for and is subject to this ordinance is to be submitted to the electors, the Director shall file with the Secretary of State the measure, ballot title, explanatory statement and any arguments which have been filed and completed in accordance with the requirements of this ordinance and of other applicable law. A copy of any preliminary petitions for such arguments and of statements filed with such arguments, pursuant to Section 5, shall also be transmitted by the Director to the Secretary of State. The county shall pay the Secretary of State the cost of including such material in the voters' pamphlet.

Section 7. Savings Clause.

Nothing in this ordinance shall be deemed to require the printing of a county voters' pamphlet. Nothing in this ordinance shall be deemed to supersede or repeal any other county legislation relating to elections or initiative and referendum procedures, except insofar as the provisions of this ordinance are in necessary conflict with such other legislation.

Section 8. Emergency Clause.

The Board of County Commissioners finds that it is necessary for this ordinance to take effect on or before March 14, 1978, to enable any measures, ballot titles, explanatory statements and arguments which qualify for and are subject to this ordinance to be included in the state voters' pamphlet for the May 23, 1978, statewide

primary election. An emergency is therefore declared to exist, and this ordinance shall take effect upon its adoption, pursuant to Section 5.50(2) of the Multnomah County Home Rule Charter.

ADOPTED this 23rd day of February, 1978, being the date of its first reading before the Board of County Commissioners of Multnomah County.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By *Donald S. Clark*
Chairman

APPROVED AS TO FORM:

JOHN B. LEAHY
County Counsel for
Multnomah County, Oregon

By *Martin B. Vidgoff*
Martin B. Vidgoff
Deputy County Counsel

1137 N.E. 192nd
Portland, Oregon 97230
July 23, 1978

To: John R. Faust, Jr., Chairman
Multnomah County Charter Review Committee
401 Wilcox Building
506 S.W. 6th Avenue
Portland, Oregon 97204

cc: Charter Review Committee Members
Board of County Commissioners

Re: Presentation of Proposed Charter Amendments to the Board of Commissioners

To my knowledge, the Charter Review Committee has not as yet decided on a date for its report to the Board of County Commissioners. By charter amendment, the Committee does have until 75 days before the November general election to do so. However, in light of the ability which counties now have of including county measures in the state voters' pamphlet, I would urge that the Committee give serious consideration to the provisions for so doing when deciding when to make its report.

The last Legislative Session passed S.B. 517 (ORS 255.455) which enables the inclusion of county measures in the state voters' pamphlet. On February 23, 1978, the Multnomah County Board of Commissioners passed Ordinance No. 159 providing the provisions by which Multnomah County measures may be included. I believe that it would certainly be in the best interests of the citizens of Multnomah County to have any proposed charter amendments included in the state voters' pamphlet for the election on November 7, 1978. In that regard, I would call your attention to several provisions in Ordinance No. 159 which would affect the date of the Committee's presentation to the Board.

Section 2(2) provides that a county measure shall qualify for inclusion only if:

"All procedures set forth in this ordinance relating to the preparation of the ballot title and of the explanatory statement for the measure, including final adjudication in any judicial review thereof, have been completed on or before the 80th day before the election at which the measure is to be submitted to the electors;"

The 80th day would fall on August 19th. However, note that the "final adjudication in any judicial review" in Section 2(2) refers to Section 4 which concerns challenges to ballot titles and explanatory statements.

Since the charter amendments which the Charter Review Committee proposes will be put on the ballot by the Board of County Commissioners, it is the Board's responsibility to prepare the ballot titles and explanatory statements. Once these are filed with the Director of Elections, any elector may challenge them within five days by petitioning the Circuit Court for review. Thus, in order for the judicial review to be completed by the 80th day before the election, at least five days and preferably more should be allowed for the challenge process.

With the above considerations in mind, I would propose the following timetable to ensure that the proposed amendments may be included in the state voters' pamphlet:

- August 3, 1978 - Formal presentation by the Charter Review Committee to the Board of Commissioners of proposed charter amendments, together with drafts of ballot titles and explanatory statements.
- August 4-8 (approx.) - Preparation by the Board of Commissioners of the ballot titles and explanatory statements.
- August 9 (approx.) - Board files ballot titles and explanatory statements with Director of Elections, together with its order to include the measures in the state voters' pamphlet.
- August 10-17 (approx.) - Allowance of time for challenges to ballot titles and explanatory statements, and their final adjudication.
- August 18 - All applicable provisions of Ordinance No. 159 completed by 80th day prior to election.

In order to meet the provisions of Ordinance No. 159, it is important that the Committee's presentation to the Board of Commissioners be made as soon as its schedule will allow. By copy of this letter to the Board of Commissioners, I am urging their cooperation with the committee to assure that the proposed charter amendments are included in the state voters' pamphlet.

Sincerely,



Dave Sylvan

1137 N.E. 192nd
Portland, Oregon 97230
July 23, 1978

To: Multnomah County Board of Commissioners
Donald Clark, Chairman
Alice Corbett
Dan Mosee
Dennis Buchanan
Barbara Roberts

Re: Presentation of Proposed Charter Amendments by the Charter Review Committee
to the Board of Commissioners

Attached please find a copy of my letter to the Charter Review Committee regarding the above referenced presentation, and the need to meet certain provisions of Ordinance No. 159 in order that the proposed amendments may be included in the state voters' pamphlet for the November general election. Since the expressed purpose of Ordinance No. 159 is that the Board of County Commissioners deems it to be in the interest of the people of Multnomah County for county measures to be included in the state voters' pamphlet, I would assume your full cooperation with the Charter Review Committee in order that this may be done for their proposed charter amendments.

Incidentally, Ordinance No. 159 should probably be amended to correct an apparent conflict. Section 2(2) provides that in order for inclusion in the state voters' pamphlet all procedures relating to ballot titles and explanatory statements, including final adjudication in any judicial review thereof, must be completed on or before the 80th day before the election. However, for measures submitted by the Board of Commissioners where the Board prepares the ballot titles and explanatory statements, these do not have to be filed with the Director of Elections until the 80th day before the election per Section 3(2). Since Section 4 provides for a five day period during which ballot titles and statements may be challenged in Circuit Court, if the ballot titles and explanatory statements were not filed until the 80th day before the election, any challenge would automatically mean that the final adjudication called for in Section 2(2) could not be met and therefore, the measure would be disqualified for inclusion in the state voters' pamphlet. These conditions could effectively limit the right to challenge by someone who wanted the measure included in the voters' pamphlet, or provide a method whereby the measure could be effectively disqualified by someone who did not want it included.

It would seem that by changing Section 2(2) from the 80th to the 75th day before the election, and Section 2(5) from the 80th to the 85th day before the election, it would correct this apparent conflict and provide for the proper use of the challenge process.

Sincerely,


Dave Sylvan