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CHARLES STERN
COUNTY CLERK
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87-049

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)
Establishing a Yamhill County)
Voters' Pamphlet For Certain) ORDINANCE NO. 440
County, City, and District)
Measures, and Declaring an)
Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 11th day of February, 1987, sat for the transaction of county business in special session, Commissioners David E. Bishop, Ted Lopuszynski, and Donald D. Porter being present.

WHEREAS, on January 29, 1986, the Board adopted Ordinance 425 which established the Yamhill County Voters' Pamphlet; and

WHEREAS, said ordinance was enacted on a trial basis to determine whether a Yamhill County Voters' Pamphlet was necessary or desirable to aid the electors in making informed decisions on local county issues; and

WHEREAS, the Board finds that the Yamhill County Voters' Pamphlet is an important device in informing voters of county measures and therefore finds the continuation of a county voters' pamphlet to be in the best interests of the citizens of Yamhill County; and

WHEREAS, the Board finds that the inclusion of a city or district measure in the county voters' pamphlet, at the option of the governing body of the city or district, is in the best interests of the citizens of Yamhill County who reside in the particular city or district; and

WHEREAS, the Board finds that the expense generated in publication of the county voters' pamphlet should be proportionately borne by a city or district which elects to be included in the voters' pamphlet; NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Definitions.

- 1.01 "Board" means the Yamhill County Board of Commissioners.
- 1.02 "Clerk" means the Yamhill County Clerk or the clerk's designee.
- 1.03 "County" means Yamhill County.
- 1.04 "District" has that meaning given by ORS 255.012 (1985 replacement part).
- 1.05 "Elector" means an individual qualified to vote under Article II, Section 2, of the Oregon Constitution.
- 1.06 "Measure" means any of the following submitted to the people for approval or rejection at an election.
 - (a) A proposed ordinance.

- (b) Legislation referred by the governing body.
- (c) A proposition or question placed on the ballot by the governing body.
- (d) A proposition or question placed on the ballot by referendum or initiative petition, which proposition or question directly affects the county, city, or district involved.
- (e) The term "measure" as utilized in this ordinance does not include the question of whether a person should be recalled from public office.

1.07 "Registered voter" means an elector duly registered with the Yamhill County Clerk to vote.

Section 2. Voters' Pamphlet.

2.01 Voters' Pamphlet for County Measures.

- (a) When one of the events in subsection (b) occurs, the clerk shall prepare and have printed a county voters' pamphlet for each election in Yamhill County involving a county measure, provided the election falls on a date specified in ORS 255.345(1) and provided that no statewide voters' pamphlet is published for the election.
- (b) Subject to the limitations set forth in subsection (a), the occurrence of any of the following events shall cause the clerk to publish a county voters' pamphlet:
 - (i) The enactment of a board order directing publication provided that the board order is enacted not later than 5 business days prior to the filing deadline for the measure; or
 - (ii) The tender to the clerk by a county elector of a non-refundable filing fee of \$300 to reserve space for an argument as described in Section 4, provided that the filing fee is received by the clerk not later than 5 business days prior to the filing deadline for the measure; or
 - (iii) The certification of the clerk that at least 100 county electors have signed a petition requesting a county measure to be included in the voters' pamphlet, provided that the petition and signatures are received by the clerk not later than 10 business days prior to the filing deadline for the measure.
- (c) The clerk shall mail the voters' pamphlet to all households of electors registered to vote in Yamhill County who are qualified to vote on the measure.

2.02 Voters' Pamphlet for City or District Measures:

- (a) When requested by the governing body of a city or district not later than 5 business days prior to the filing deadline for a city or district measure, the clerk shall prepare and have printed

a voters' pamphlet for each election in Yamhill County involving the measure, provided the election falls on a date specified in ORS 255.345(1).

- (b) The clerk shall mail the voters' pamphlet to all households of electors registered in the affected city or district who are qualified to vote on the measure.

2.03 Consolidation of measures; additional notice.

- (a) Nothing in this section requires the clerk to send out separate voters' pamphlets for each measure; rather all measures may be combined into one pamphlet and mailed to all affected voters.
- (b) The clerk may use such additional means of distribution as the clerk determines necessary to make pamphlets available to the voters.

2.04 Time for mailing.

- (a) In a vote-by-mail election, the clerk shall mail the voters' pamphlet on or before the date on which the clerk mails the ballot to the voters.
- (b) In a poll election, the clerk shall mail the voters' pamphlet within the time specified by law for mailing notice of election.

2.05 Contents of the Voters' Pamphlet. The clerk shall include in the voters' pamphlet:

- (a) Requirements for a citizen to qualify as an elector.
- (b) Requirements for registration of an elector.
- (c) Instructions explaining how to obtain and use an absentee ballot.
- (d) Statement on the cover that the pamphlet may be used to assist the elector at the polls.
- (e) Instructions to electors including the rights of a registered voter to request a second ballot if the first ballot is spoiled; the right of a registered voter to take into the voting booth a cancelled ballot marked in advance; and the right of a physically disabled registered voter to seek the assistance of the election board clerk or someone of the voter's own choosing in marking the ballot.
- (f) The ballot title of the measure, explanatory statement and arguments relating to it, in accordance with the terms of this ordinance.
- (g) Notice to the registered voter as to the manner in which the election will be conducted, i.e., whether the election will be by mail or at the polls.

2.06 Ballot Title. The ballot title to be printed in the voters' pamphlet shall be as set forth in the notice of election filed with the clerk, unless the court certifies a different ballot title than that filed with the clerk. In such a case, the clerk shall print the ballot title as modified by the court.

Section 3. Explanatory Statements

- 3.01 Filing Deadline. Not later than the filing date for the measure, the governing body of the election authority whose measure is to appear in the voters' pamphlet may submit an impartial, simple, and understandable statement explaining the measure and its effect.
- 3.02 Contents of Explanatory Statement. The explanatory statement shall consist of words or numbers only, shall not exceed 325 words and shall be an impartial, simple, and understandable statement explaining the measure and its effects. The explanatory statement set forth in this ordinance shall be in addition to the ballot title requirement as set forth in state statute.
- 3.03 Availability of Proposed Explanatory Statement to the Public. The clerk shall keep available to the public in the clerk's office a full and complete copy of all explanatory statements filed pursuant to this ordinance.
- 3.04 Challenge and Review of Explanatory Statements.
- (a) Any Yamhill County resident who is an elector or registered voter within a jurisdiction whose measure is to appear in the voters' pamphlet may, not later than the 5th working day after the last day on which a notice of election may be filed, petition the clerk for an administrative review of an explanatory statement relating to that measure, filed for inclusion in the voters' pamphlet.
 - (b) The petition filed under this section shall contain a statement of reason why the explanatory statement is not impartial, is insufficient, or unclear.
 - (c) Upon receipt of a petition, the clerk or the clerk's designee shall schedule a hearing at the earliest possible date at which the petitioner and the filing body shall have opportunity to present evidence and argument on the question of impartiality, sufficiency, or clarity of the explanatory statement. At the conclusion of the hearing, the clerk may modify such explanatory statement to comply with the requirements of this section in a manner which reflects the drafter's intent as closely as possible. The modified explanatory statement, or the original explanatory statement if not modified by the clerk, shall be certified by the clerk and included in the voters' pamphlet.

Section 4. Arguments.

- 4.01 Who May File. Arguments filed pursuant to this section may be filed by an elector registered to vote in Yamhill County who is qualified to vote on the measure.
- 4.02 Filing Deadline. Arguments supporting or opposing the measure must be filed not later than the fifth business day after the last day on which the notice of election may have been filed.

4.03 Form of Argument.

- (a) The argument filed shall be in words and numbers only, shall be typewritten, and shall consist of no more than 325 words.
- (b) The clerk shall reject any argument which:
 - (i) Contains any obscene, profane, scandalous or defamatory language.
 - (ii) Incites, promotes, or advocates hatred, abuse, violence or hostility toward or which tends to cast ridicule or shame upon any person or group by reason of race, color, religion, or manner of worship;
 - (iii) Contains any language which may not legally be circulated in the mails.

4.04 Filing Fee. Each argument filed shall be accompanied by a fee in the amount of \$300. The clerk shall reject any argument tendered for filing unless accompanied by the required fee.

4.05 Limitation on Arguments. No more than six (6) arguments supporting a measure and six (6) arguments opposing a measure may be printed in the voters' pamphlet. The clerk shall reject for filing all arguments in support or in opposition after six (6) arguments have been filed on a measure on behalf of the respective position.

4.06 Requirement for Argument and Disclaimer. Each argument submitted shall be subscribed and sworn to before a notary or the clerk, and the subscription shall be in the following form:

"I HEREBY SUBSCRIBE AND SWEAR UNDER PENALTY OF LAW THAT THE ABOVE-SUBMITTED ARGUMENT IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF."

The argument shall also contain the name of the person submitting; the name of the organization the person represents, if any; whether the argument supports or opposes the measure; and a disclaimer in substantially the following form:

"THE PRINTING OF THIS ARGUMENT DOES NOT CONSTITUTE AN ENDORSEMENT BY YAMHILL COUNTY NOR DOES THE COUNTY WARRANT THE ACCURACY OR TRUTH OF ANY STATEMENTS MADE IN THE ARGUMENT."

4.07 The language referred to in Section 4.06 shall not be included in the 325 word limitation set forth in Section 4.03.

Section 5. Miscellaneous Matters.

5.01 Spacing and Type Size. The clerk shall have authority to determine type size and spacing to be used in the printing of explanatory statements and arguments. The clerk shall exercise this authority only for the purpose of ensuring that each explanatory statement or argument occupies no more than one page of the printed voters' pamphlet. A page for the purposes of this ordinance means 46 1/2 square inches.

- 5.02 Deadline Interpretation. A measure, explanatory statement, or argument, together with the required fee, must be filed with the county clerk not later than 5:00 p.m. of the day the document or fee is due. If the day the document or fee is due is a Saturday, Sunday, or holiday, the document or fee must be filed by 5:00 p.m. on the next business day. If a person is physically present in the county clerk's office and is in line waiting to deliver the document or fee, the person shall be considered as having begun the act of delivering the document or fee and shall be permitted to file it so long as that person does not leave the county clerk's office.

Section 6. Notice of Election.

- 6.01 The publication and distribution of the Yamhill County Voters' Pamphlet shall be accomplished under the authority of the Yamhill County Clerk and may provide the notice provided in ORS 255.215 (1985 replacement part).
- 6.02 (a) The publication of the voters' pamphlet shall be considered a cost of the election. The electoral district whose measure is included as provided in Section 2 shall be liable for the cost of the voters' pamphlet in the same manner as the electoral district is responsible for other costs of the election as calculated by administrative rule of the Secretary of State.
- (b) If the clerk elects pursuant to ORS 255.215 to transmit notice required by ORS 255.085 or 255.095 by mail, the cost of the mailing of such notice shall be charged to any affected district up to the maximum amount as could be charged had such notice been mailed without a voters' pamphlet.
- 6.03 Revenues derived pursuant to this ordinance shall be utilized to offset the cost of producing the Yamhill County Voters' Pamphlet. The amount to be charged pursuant to Section 6.02 of this ordinance shall be the net cost of producing and mailing the voters' pamphlet after subtraction of all argument fees and other revenues generated by this ordinance. Further, if the revenues generated pursuant to this ordinance as a result of argument fees exceeds the total cost of producing the voters' pamphlet, the balance shall not be transferred to the general fund of the county unless the total revenues generated exceed the entire cost of the election.

Section 7. Sunset Provision.

- 7.01 This ordinance shall expire at 11:59 p.m., January 20, 1988, unless, prior to that time, the Board extends the expiration date by ordinance.

Section 8. Short Title.

- 8.01 This ordinance may be referred to as the "Yamhill County Voters' Pamphlet Ordinance."

Section 9. Emergency Clause.

- 9.01 This ordinance being necessary for the preservation of the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall be effective upon passage hereof.

DONE at McMinnville, Oregon this 11th day of February, 1987.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

DAVE Bishop
Chairman DAVID E. BISHOP

By: *Elaine Pearcey*
Deputy ELAINE PEARCEY

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

APPROVED AS TO FORM BY:
John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Donald D. Porter
Commissioner DONALD D. PORTER