

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 Clarifying)
Requirements for the County Voters' Pam-) ORDINANCE 568
phlet; Repealing Ordinance 498; Declaring)
an Emergency; Effective March 30, 1994.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in special session on March 30, 1994, commissioners Dennis L. Goecks, Ted Lopuszynski and Debi Owens being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. The Board first authorized a county voters' pamphlet by Ordinance 425, January 29, 1986. Changes to the county voters' pamphlet were made by Ordinances 429, 440, 459, 473, 474 and 498. Ordinance 498 is currently in effect.

B. At the time Ordinance 425 was adopted on January 29, 1986, no Oregon law contained standards for form, content, distribution or costs of county voters' pamphlets. Oregon law codified as ORS 251.305 to 251.440 and OAR 165-22-000 to 165-22-080 now governs county voters' pamphlets. ORS 251.315 establishes minimum standards but allows counties to allow inclusion of additional information.

C. OAR 165-22-040(2) limits the inclusion of an explanatory statement in a county voters' pamphlet for initiative or referendum measures by petition:

"For any initiative or referendum by petition, an impartial, simple and understandable statement explaining the measure and its effect shall be submitted by the governing body of the local government only if the local government has an ordinance requiring the submission of such a statement."

The Board interprets OAR 165-22-040(2) to mean that a governing body may choose by ordinance to make itself responsible for an explanatory statement for an initiative or referendum, and that the county clerk must publish the governing body's explanatory statement if such an ordinance has been adopted. Where a governing body has not adopted such an ordinance, the Board interprets OAR 165-22-040(2) to allow the county voters' pamphlet to include an explanatory statement submitted from another source. In determining the source of the explanatory statement, the Board finds it reasonable to look first to the official required to draft the ballot title for the initiative or referendum measure. If that source does not file an explanatory statement, the county clerk should prepare the statement. The intent of the Board is to provide the voter with an impartial, sufficient and clear explanation of each issue on the ballot.

D. ORS 203.035(1) allows a county to "by ordinance exercise authority within the county over matters of county concern to the fullest extent allowed" by law. The Board desires to adopt this ordinance to make certain that the Yamhill County voters' pamphlet is consistent with state law and allows inclusion of sufficient additional information to adequately inform voters. NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Definitions.

1.01 Except where a term is defined in Sections 1.02 to 1.05 of this ordinance, the definitions contained in ORS 251.005 and OAR 165-22-000 apply to this ordinance.

- 1.02 "Board" means the Yamhill County Board of Commissioners.
- 1.03 "City" means an incorporated city lying wholly or partially within Yamhill County.
- 1.04 "District" has that meaning given by ORS 255.012.
- 1.05 "Measure" means either of the following matters submitted to the people for approval or rejection at an election; except a "measure" does not include the question of whether a person should be recalled from office:
- (a) A proposed ordinance or other legislation referred by the governing body of a county, city or district.
 - (b) A proposed ordinance or other legislation placed on the ballot by an initiative or referendum petition.

Section 2. Voters' Pamphlet.

- 2.01 The county clerk may prepare, print and distribute a county voters' pamphlet for any election held in Yamhill County. The county clerk is granted the discretion to determine whether, under all the circumstances, the publication of a county voters' pamphlet for a given election is appropriate. This ordinance does not impose a legal duty on the county clerk to publish a voters' pamphlet for all elections held in Yamhill County.
- 2.02 When the county clerk determines that a county voters' pamphlet should be published, ORS 251.305 to 251.440 and Division 22 of OAR Chapter 165 shall govern the publication and distribution of the county voters' pamphlet except as otherwise specifically provided in this ordinance.

Section 3. Explanatory Statements.

- 3.01 Measures Referred by Governing Body. The governing body of the county, a city or a district that has referred a measure to the voters shall submit an explanatory statement to the county clerk within the time allowed by Oregon law. If the governing body does not submit an explanatory statement within the time allowed, the official responsible for drafting a ballot title for initiative measures for the governing body's electoral district shall submit an explanatory statement to the county clerk no later than 5 p.m. on the 3rd business day after the deadline for filing a notice of election. If the official does not submit an explanatory statement, the county clerk shall provide an explanatory statement.
- 3.02 Initiatives and Referendums By Petition; Effect of Ordinance adopted under OAR 165-22-040(2). When an initiative measure or referendum measure by petition is certified for election, an explanatory statement shall be included in the county voters' pamphlet as provided in this subsection.
- (a) County measure.

If the initiative or referendum measure is a county measure, an explanatory statement shall be prepared and submitted by the official responsible for drafting a ballot title for initiative measures for the county. The explanatory statement shall be filed with the county clerk no later than 5 p.m. on the 3rd business day after the deadline for filing a notice of election had the measure been submitted by the governing body.

If the official does not file an explanatory statement, the county clerk shall provide an explanatory statement.

(b) City or district measures.

(i) If the city or district has adopted an ordinance in accordance with OAR 165-22-40(2) that requires its governing body to submit an explanatory statement, the governing body shall submit the explanatory statement. The explanatory statement shall be filed with the county clerk no later than 5 p.m. on the 3rd business day after the deadline for filing a notice of election had the measure been submitted by the governing body. If the governing body does not file an explanatory statement, the county clerk shall provide an explanatory statement.

(ii) If the city or district has not adopted an ordinance in accordance with OAR 165-22-40(2) that requires its governing body to submit an explanatory statement, an explanatory statement shall be prepared and submitted by the official responsible for drafting a ballot title for initiative measures for the city or district. The explanatory statement shall be filed with the county clerk no later than 5 p.m. on the 3rd business day after the deadline for filing a notice of election had the measure been submitted by the governing body. If the official does not file an explanatory statement, the county clerk shall provide an explanatory statement.

3.03 Availability of Proposed Explanatory Statement to the Public. The county clerk shall keep available to the public in the clerk's office a full and complete copy of all explanatory statements filed under this ordinance.

3.04 Challenge and Review of Explanatory Statements.

(a) Any Yamhill County elector who is eligible to vote on the measure and is dissatisfied with the explanatory statement submitted under this section may challenge the explanatory statement by filing a petition with the county clerk no later than 5 p.m. on the 5th day after the deadline for filing the explanatory statement. The petition shall request administrative review of the explanatory statement. The elector must include in the request the reasons why the explanatory statement is not impartial, is insufficient or is unclear.

(b) Upon receipt of the petition described above, the county clerk shall schedule a hearing to be conducted as follows:

(i) The hearing shall be conducted within 2 business days from the date the petition was filed.

(ii) The clerk shall provide notice of the time and place of the hearing to the following persons:

(A) If the statement explains a measure referred to the voters by the governing body, the clerk shall notify the petitioner, the governing body and the person who prepared the explanatory statement.

(B) If the statement explains a measure referred to the voters by initiative or referendum petition, the clerk shall notify the petitioner, the gov-

erning body affected by the measure, the chief petitioner of the initiative or referendum and the person who prepared the explanatory statement.

(iii) At the hearing, all persons entitled to notice from the clerk shall have the opportunity to present evidence and testimony on the question of impartiality, sufficiency or clarity of the explanatory statement.

(iv) The county clerk may leave the explanatory statement in its original form or may modify the explanatory statement. A final disposition shall be made by the county clerk within 24 hours of the conclusion of the hearing.

Section 4. Intergovernmental agreements.

4.01 The county clerk may enter into intergovernmental agreements with the Secretary of State pursuant to ORS 251.008 for the production and distribution of a county voters' pamphlet.

Section 5. Short title.

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

Section 6. Severability.

6.01 All sections, subsections and paragraphs of this ordinance are severable. If any section, subsection or paragraph is ruled invalid for any reason by the court of last resort, the other portions of this ordinance shall be unaffected.

Section 7. Repeal of Prior Ordinance.

7.01 Ordinance 498 is hereby repealed and of no further force or effect.

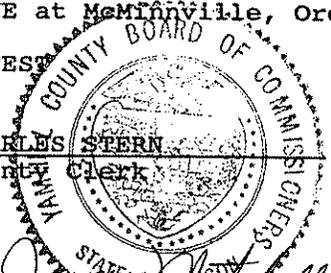
Section 8. Declaration of Emergency; Effective Date.

8.01 This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall be effective on passage.

DONE at McMinnville, Oregon this 30th day of March, 1994.

ATTEST

CHARLES STERN
County Clerk



By: Jaymie Mitchell
Deputy JAYMIE MITCHELL

YAMHILL COUNTY BOARD OF COMMISSIONERS

Dennis L. Goecks
Chairman DENNIS L. GOECKS

Ted Lopuszynski
Commissioner TED/LOPUSZYNSKI

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

(NOT AVAILABLE FOR SIGNATURE)
Commissioner DEBI OWENS