

## CHAPTER 5

### BALLOT MEASURES

#### ADMINISTRATION

##### 5.005 Purpose.

The purpose of BCC Chapter 5 is to describe the process for initiative and referendum petitions, referral measures and the creation of ballot titles to be placed on the ballot in accordance with the County Charter, Code and applicable state law.

[Ord. 17, adopted March 8, 1978; Ord. 85-0002; Ord. 2019-0291; Ord. 24-0323]

##### 5.010 Application.

A county measure may be submitted for inclusion on the ballot by qualifying petition, referral by the Benton County Commissioners or referral by the governing body of a local government in Benton County if:

- (1) The measure is submitted in accordance with state and local laws applicable to the election for which the measure is to appear on the ballot; and
- (2) All procedures set forth in BCC Chapter 5 relating to the preparation of the ballot title and to the explanatory statement for the measure shall be completed on or before the 70<sup>th</sup> day before the election at which the measure is to be submitted to the electors; and
- (3) One or more of the following persons decides to include a measure on the ballot in the following manner:
  - (a) In the case of a measure proposed by initiative or referendum petition:
    - (A) All chief petitioners agree to include the measure, its ballot title and explanatory statement on the ballot, by filing with the Benton County Elections Office a statement of that decision, in such form as the County Clerk shall prescribe, at the time the prospective petition for the measure is filed with the Elections Office; and
    - (B) A petition containing sufficient numbers of qualified signatures to require submission of the measure to the electors shall be filed with the Elections Office on or before the 90<sup>th</sup> day preceding the election at

which the measure is to be submitted to the electors; or

(b) In the case of a measure referred to the electors by a local government body:

(A) The local government submits the measure, its ballot title and explanatory statement to its voters by filing a notice of measure election on the form prescribed, with the Elections Office on or before the 81st day preceding the election at which the measure will be submitted to the electors.

[Ord. 17, adopted March 8, 1978; Ord. 85-0002; Ord. 2019-0291; Ord. 24-0323]

## **BALLOT TITLES AND EXPLANATORY STATEMENTS**

### **5.105 Preparation of Ballot Titles and Explanatory Statements.**

(1) When a prospective petition is filed regarding a measure proposed by initiative or referendum petition, the Benton County Clerk shall convey two copies of the prospective petition to the County Counsel, who shall, within five (5) business days after receiving it, prepare a ballot title and explanatory statement for the measure and return a copy of the prospective petition, together with the ballot title and explanatory statement, to the Elections Office and to one of the chief petitioners.

(2) In the case of a measure referred to the electors by the Board of County Commissioners, the Board shall file with the Elections Office a ballot title and explanatory statement for the measure at the time it files the form described in BCC 5.010(3)(b).

(3) Ballot titles shall consist of:

(a) A caption of not more than 10 words which reasonably identifies the subject of the measure; and

(b) A question of not more than 20 words which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(c) A concise and impartial statement of not more than 175 words summarizing the measure and its major effect.

(4) Explanatory statements shall comply with and be subject to the requirements

set forth in BCC 6.205.

[Ord. 17, adopted March 8, 1978; Ord. 85-0002; Ord. 2019-0291; Ord. 24-0323]

### **5.110 Judicial Review of Ballot Titles.**

Within seven (7) business days after the ballot title is received by the Elections Office under subsection (1) or (2) of BCC 5.105, any elector dissatisfied with the ballot title may petition the Benton County Circuit Court for review of the title and shall set forth the reasons why the title does not conform to the requirements of BCC Chapter 5 or other applicable law. If the court finds that the ballot title complies with the requirements of BCC Chapter 5 and other applicable law, it shall enter an appropriate order to that effect. If the court determines that the ballot title does not comply with the requirements of BCC Chapter 5 or other applicable law, the court shall prepare an alternative ballot title. The title so prepared shall replace that of the County Counsel for purposes of BCC Chapter 5. The order of the Circuit Court shall not be appealable.

[Ord. 17, adopted March 8, 1978; Ord. 85-0002; Ord. 2019-0291; Ord. 24-0323]

## **ADVISORY MEASURES**

### **5.301 Definitions.**

(1) **“Advisory Measure”** means a ballot measure created by a local government for the purpose of gauging support or opposition to specific issues or ideas. Advisory measures do not mandate changes to the state constitution, state law or regulations or local government charters, local laws or ordinances or policies.

(2) **“Local government”** has the meaning set forth in ORS 174.116.

[Ord. 2019-0291; Ord. 24-0323]

### **5.305 Advisory Measures.**

A local government, located wholly within the boundaries of Benton County, may refer no more than one advisory measure to the electorate of the district in any election in accordance with BCC sections 5.301 thru 5.375. A local government that submits an advisory measure to the district electorate in Yes/No format, need not be located wholly within Benton County.

[Ord. 2019-0291; Ord. 24-0323]

### **5.315 Filing Requirements.**

(1) A local government may file with the Benton County Elections Office an order calling for a local advisory measure. The order shall include the ballot title of the advisory measure, the method of voting to be utilized (Yes/No or Ranked Choice Options) and the election date on which the measure shall appear on the ballot.

(2) In the case of a Yes/No advisory measure referred to the electors by a local government, it shall file with the Elections Office a ballot title and explanatory statement in accordance with BCC 5.105(3) & (4).

(3) In the case of a Ranked Choice Option advisory measure referred to the electors by a local government, it shall file with the Elections Office a ballot title and explanatory statement in accordance with the following:

(a) A caption of not more than 10 words which reasonably identifies the subject of the measure; and

(b) The question shall provide 3 to 5 Options for voters to rank. Each ranked choice option shall not exceed 8 words or 40-character spaces whichever is less, to plainly identify each option on the ballot, to meet this requirement abbreviations may be utilized. Options will be identified as Option A, Option B, Option C, etc., and shall not be included in the word/character count; and

(c) A concise and impartial statement of not more than 150 words summarizing each measure option.

(4) Explanatory statements shall explain each advisory measure option in an impartial, simple, and understandable manner. Advisory measure statements with three ranking options shall be limited to 400 words, four options shall be limited to 500 words and five options shall be limited to 600 words or less.

[Ord. 2019-0291; Ord. 24-0323]

### **5.325 Advisory Measure Filing Deadlines.**

A local government shall file its order for an advisory measure with the Benton County Elections Office, on or before the 81st day preceding the election at which the measure is to appear on the ballot.

[Ord.2019-0291; Ord. 24-0323]

### **5.335 Advisory Measure Ballot Title & Explanatory Statement Review.**

(1) Petition for Review.

(a) Any elector registered and qualified to vote on the subject advisory measure may file a petition with the Elections Office, for an administrative review of the advisory measure ballot title and/or explanatory statement, not later than the 5th day after the last day on which a notice of election can be filed.

(b) A petition filed under this section shall contain a statement of reasons why the ballot title and/or explanatory statement is not impartial, is insufficient, or unclear.

(c) Upon receipt of a petition, the County Clerk or their designee, shall schedule a hearing at the earliest possible date. At said hearing the petitioner and the local government shall have an opportunity to present evidence and argue the question of impartiality, sufficiency, or clarity of the ballot title and/or explanatory statement. At the conclusion of the hearing, the County Clerk may modify the ballot title and/or explanatory statement to comply with the requirements of this section. The reviewed ballot title and/or explanatory statement, modified or not modified by the County Clerk, shall be certified for use in the election.

(2) The Clerk's review of the advisory measure ballot title and explanatory statement shall be the first and final review in order to ensure the timely availability of voters' pamphlets and ballots for the election.

[Ord. 2019-0192; Ord. 24-0323]

### **5.345 Printing Advisory Measures on the Ballot.**

Ballots shall be printed in accordance with ORS Chapter 254 and in a manner that will provide each qualified elector with the opportunity to rank advisory measure options in the order of preference.

[Ord. 2019-0291; Ord. 24-0323]

### **5.375 Cost and Election Date for Advisory Measures**

Local governments that refer an advisory measure to their voters shall pay the full apportioned cost for the advisory measure submission. The election date on which an advisory measure may appear on the ballot shall be limited to election dates other than those set for even year Primary and General Elections in ORS 203.085.

[Ord. 2019-0291; Ord. 24-0323]