

**SECRETARY OF STATE, ELECTIONS DIVISION'S  
ORS 260.432 CHECKLIST OF FACTORS TO ASSIST IN DETERMINING IMPARTIALITY**

The Secretary of State, Elections Division has reviewed your draft document(s) in consultation with our legal counsel from the Attorney General's office. This is a checklist of factors used to assist in determining impartiality, which we have referenced when we list any suggested changes to a draft document about a ballot measure.

Our goal is to provide any suggested changes to ensure the document is impartial towards the measure. We also direct your attention to the general considerations made in such reviews, explained in our cover letter under "general election law information."

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| <p><b>A. Must not contain any explicit language urging a yes or no vote for the measure.</b></p> <p>Some examples are provided in the detailed memorandum referenced above.</p> <p>For example, the material must not include phrases such as:</p> <p>"Vote Yes on Measure 99."</p> <p>"The County is <u>asking voters to approve</u> funding that will maintain services."</p> <p>"Support for Measure 99 is encouraged."</p> <p>"Why Should I Vote for Measure 99?"</p> <p>"At election time please support the home rule charter."</p>   | <p><b>C. Overall impression of the document: must be neutral, not persuasive or speculative, and as needed, backed up by citations of source of information.</b></p> <p>Impartial measure information must be neutral, not persuasive or speculative, and backed up as appropriate by citations of source of information or some substantiating information or citation to authority to which a voter might refer to confirm the statements. The material should not just be opinion and theoretical, but specific, descriptive and objective.</p>  |
| <p><b>B. Balance of factual information.</b></p> <p>The material should include cost to taxpayer with specific examples. It is especially important to include the cost per year and clarify it is an increase – such as an example of amount of increase in yearly taxes based on the average* price of a home in the community.</p> <p>*Average must be a realistic figure for that community.</p> <p>For example, "The amount of increase in property taxes would be not more than 50 cents per \$1,000 of assessed property value. For example, for a property with an assessed value of \$150,000, the additional taxes per year would be about \$75."</p> | <p><b>D. Tone of the publication must be dispassionate.</b></p> <p>The tone must be dispassionate rather than enthusiastic. The document should not include consequences of non-passage described in a way to elicit strong public response. The information should be a description of what the measure does, an unbiased statement of objective fact, not a justification of why the measure is needed.</p> <p>An example of such inadvisable language is, "The firehouse is falling apart and in desperate need of replacing."</p> <p>As another example, rather than saying "failure of the measure will destroy the X program," a more neutral statement would be, "the levy would allow the X program to continue."</p> |

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| <p><b>E. Should not have a positive (or negative) tone by use of headings, lead lines, words or phrases.</b></p> <p>This applies to usage of positive or negative connotations given by words or phrases. Some examples of inappropriate words and phrases are listed in referenced ORS 260.432 memorandum.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Advise replacing, “The Planning Division would be <u>forced to cut</u> staff positions,” with “The Planning Division may have to reduce staff positions.”</li> <li>• Advise omitting, “Thank you for your continued support of our seniors.” This sentence adds too positive a tone and implies a request for extended support, thus passage of the measure.</li> <li>• Advise changing, “Why is the school bond so important?” to “Why is the school bond referred?”</li> <li>• Advise changing, “The best way to relieve overcrowding is to build a new high school,” to “The measure would address overcrowding by building a new high school.”</li> </ul> | <p><b>G. Should not use the word "will."</b></p> <p>We advise against using the word “will” in describing the results of passage of the measure - the word "would" is a better alternative, as it suggests that voters have a choice and the issue is not yet decided.</p> <p>There may be other wording that should be changed for the same reason, such as “The measure produces a new source of income.” Suggest changing this to, “The measure would produce a new source of income.”</p> <p>The use of the word “will” is appropriate if what is discussed is not dependent on the measure’s passage, such as “The election will be held on May 18, 2004.”</p> |
| <p><b>F. Should not be personalized or use personalizing pronouns.</b></p> <p>Impartial measure information should not be personalized or use personalizing pronouns. It should not use a personalized letter format, such as “Dear Parents,” customized for each area, signed by a public official.</p> <p>Advise against using personal words such as, “patrons,” “our,” “we,” “I,” “us,” etc. These lend a tone of “we are in this together” to a document rather than the neutrality needed in impartial information. Can instead suggest using more neutral terms such as, “the,” “it,” “the district,” “the board,” “voters,” “taxpayers,” or “constituents.”</p>   | <p><b>H. Should not, in most contexts, use the word "need."</b></p> <p>Impartial measure information should not use the word "need(ed)" in describing the purpose of the measure. Impartial information should offer basic facts and let readers make their own assessment of what is "needed." Often times the word “need(s)” is emotionally charged and has an element of urgency not appropriate for a neutral fact document.</p> <p>Example: Advise changing, “The measure would generate funds to make <u>needed</u> road improvements” by omitting “needed.”</p>  |
|   | <p><b>I. Should not include quotes, even from an elected official, or lists of members of a PAC or other supporters or opponents.</b></p> <p>Impartial measure information should not include quotes, even from an elected official. Also, advise against including lists of members of a political committee or other supporters or opponents, as these indicate an endorsement similar to campaign advocacy material.</p>   |

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| <p><b>J. Graphics, checkmarks and photographs should not be persuasive.</b></p> <p>The graphics and photographs used must not express advocacy and checkmarks should not be used at all. This is because checkmarks are often used as an indicator of what someone should do and they have a positive implication.</p> <p>Positive graphics may also be a problem (such as a hand placing a ballot in a ballot box).</p> <p>Along the same lines, photographs should not be overly emotional.</p>   | <p><b>M. Should not include the reporting of an elected official's position on a ballot measure or an elected official's article advocating a position on a measure.</b></p> <p>This type of information should not be included in impartial ballot measure information. For example, the statement, "4J school board position on Measure 23: Oppose," should not be included in impartial material.</p> <p>Such inclusion implies "I/we support/oppose this measure and so should you..." The only time this would be acceptable would be in a regularly published format in which all resolutions and action items occurring at board meetings are reported.</p>  |
| <p><b>K. Should not include phrases similar to campaign slogans.</b></p> <p>Impartial measure information should not include phrases similar to campaign slogans, if they imply advocacy. These do not serve to present factual information, but rather are a sort of motto, logo or catch phrase; in a way a "rallying cry." Such phrases should be omitted.</p> <p>Examples of inadvisable phrases:</p> <p>"Help plan for the future,"</p> <p>"Preserve Our Heritage, Guide Our Future,"</p> <p>"Planning for Our Future, Improving the Community."</p> | <p><b>N. Information about the "50% voter turnout requirement" must be impartial.</b></p> <p>Information about the "50% voter turnout requirement" needs to be correct and impartially worded. If a measure includes new or additional property tax levies at an election other than the biennial general election, it is subject to the 50% voter turnout requirement. It is not considered advocacy to include strictly neutral, factual information about this requirement. Encouraging people to vote is an accepted practice of election officials and other public officials; however, that is different than encouraging passage of a measure. The information must not be persuasive towards encouraging voting for the measure.</p> <p>Inadvisable language includes, "Local Option Levy <u>requires</u> 50% turnout."</p> <p>If the measure does not pass, then the turnout requirement does not apply, but the election still "counts." Only in the case of a majority yes vote does the turnout matter.</p> <p>An example of advisable language is, "For the measure to be enacted, it must receive a majority of the votes cast and voter turnout must exceed 50% of the registered voters in the district."</p> |
| <p><b>L. If there is information about how to contact supporting or opposing political committees, must include both sides.</b></p> <p>Information about how to contact supporting or opposing political committees should not be included unless both sides are listed. Otherwise it implies a connection between the governing body and the petitioners or supporters of the measure.</p> <p>If all applicable political committees are listed however, both supporting and opposing, it may lend to the balance of the document.</p>                   |   |

**Additional Information Relevant to Certain Types of Ballot Measure Information:**

**O. If this document is a draft ballot title**, the following applies:

ORS 250.035 (1) (c) states that the ballot title summary must be, "A concise and impartial statement of not more than 175 words summarizing the measure and its major effect." (Emphasis added.) Under state law, the appropriate way to challenge a ballot title filed with the city elections officer by the city attorney or the city governing body is to file a petition in the circuit court. ORS 250.296.

The Secretary of State's review of a governing body's ballot title for a measure (caption, question and summary) is limited to whether the content is sufficiently impartial in accordance with the standards used in reviewing for possible violations of the election law ORS 260.432. The other standards a city ballot statement must meet as stated in ORS 250.035, that the statement must be concise, not more than 175 words and summarize the measure and its major effect are not within the purview of this office. The City's legal counsel is responsible for such advice. Additionally, we note that this office does not evaluate the substance of proposed measures.

**P. If this document is a draft explanatory statement for inclusion in a Voters' Pamphlet**, the following applies:

ORS 251.345 states that the governing body for any electoral district that has referred a measure to the voters shall submit "an impartial, simple and understandable statement explaining the measure and its effect." (Emphasis added.) It is noted that the Secretary of State's review of these draft explanatory statements is limited to whether the contents are sufficiently impartial in accordance with the standards used in reviewing for possible violations of the election law ORS 260.432.

The Secretary of State does not provide a service of reviewing local governing body's draft explanatory statements for the other standards they must meet as stated in ORS 251.345 - that the statement must be simple and understandable and explain the measure's effect. The local governing body and its' legal counsel are responsible for meeting these standards, because they require a comprehensive knowledge of the measure and its surrounding facts and circumstances not available to this office without sufficient research.