



**DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION**

**MEMORANDUM**

**THIS MEMORANDUM HAS BEEN PREPARED FOR PUBLIC RELEASE. TO THE EXTENT THAT RELEASE OF THIS MEMORANDUM IS A WAIVER OF ATTORNEY-CLIENT PRIVILEGE, THE WAIVER IS LIMITED ONLY TO THE CONTENTS OF THIS MEMORANDUM.**

DATE: August 1, 2023

TO: LaVonne Griffin-Valade, Secretary of State  
Cheryl Myers, Deputy Secretary of State  
Oregon Secretary of State Office

FROM: Renee R. Stineman, Chief Counsel  
General Counsel Division

SUBJECT: Ballot Measure 113  
DOJ File No. 165001-GA0055-23

In response to legislative walkouts that brought the business of the legislature to a halt, the voters, exercising their initiative power, adopted Ballot Measure 113 in 2022. Measure 113 amended Article IV, section 15, of the Oregon Constitution to disqualify a state senator or representative who fails without permission or excuse to attend ten or more floor sessions from holding legislative office for a term after the member's current term is complete.

You ask if the Secretary may reject a declaration of candidacy filed by a person disqualified from holding the office they seek under Article IV, section 15, and, if so, whether the disqualified member may hold office for the next term after their current term. For the reasons described below, we conclude that Measure 113 bars legislators who have had ten or more unexcused absences from the floor in a single legislative session, as determined by their chambers, from running for election for the next term of legislative office and that the Secretary has authority to reject their declaration of candidacy for that office.

First, the Secretary has the statutory authority to reject declarations of candidacy filed by people who will not be qualified to hold the office if elected and, as a result, to withhold their name from the ballot. Persons to whom Measure 113 applies are disqualified from holding office under the terms of the Measure. Thus, once a chamber has determined that a member has the requisite number of unexcused absences during a legislative session, the provision operates to disqualify that member from the following term of office. Accordingly, the Secretary may use her preexisting statutory authority to reject candidacy filings from those persons.

LaVonne Griffin-Valade  
Cheryl Myers  
August 1, 2023  
Page 2

Second, Measure 113 bars legislators who accumulate too many unexcused absences from holding office in the immediately following term. The Measure states that unexcused absences “shall disqualify the member from holding office as a Senator or Representative for the term following the election after the member’s current term is completed.” In interpreting that text, courts must give effect to the intent of the people who adopted it. In context, and considering the legislative history, it is clear that the final phrase of the Measure simply clarifies that legislators may complete their current term, even though the election occurs before it is over. We found no suggestion prior to enactment that the Measure was understood or intended to allow absent legislators to serve an additional term after accumulating too many absences, and then be disqualified the term after that. Indeed, to the contrary, copious material in the legislative history suggests that legislators would not be able to hold office in the immediate next term. We are persuaded that this is the correct interpretation to give effect to the intent of the voters. This interpretation is amply supported by all evidence, law, and common sense.

KG9:pjn/nog/890348093