

March 13, 2024 2:50 P.M.



**Portland  
City Auditor**  
Elections

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

**WILLIAM B. AITCHISON,**

Petitioner,

vs.

**ROBERT TAYLOR, in his capacity as  
City Attorney for the City of Portland,**

Respondent.

Case No.

**PETITION FOR REVIEW OF DRAFT  
BALLOT TITLE (INITIATIVE NO.  
PDX24OL-03) PURSUANT TO ORS  
250.296**

**Expedited Consideration Requested  
Pursuant to ORS 250.296(3)**

Pursuant to ORS 250.296(1), Petitioner William B. Aitchison seeks review of the Portland City Attorney’s draft ballot title for City of Portland Initiative Petition No. PDX24OL-03, entitled “Strengthening Recruitment, Retention, Training, and Accountability for the Portland Police Bureau,” and referred to here as “IP-03.” Petitioner requests that this court “certify to the city elections officer a title for the measure which meets the requirements of ORS 250.035” pursuant to ORS 250.296(1).

**I. PETITION AND PARTIES**

Petitioner Aitchison is a City of Portland resident, an elector of this state, and a person dissatisfied with the ballot title prepared for the initiative at issue. Petitioner therefore has standing to seek review of that ballot title under ORS 250.296(1), and he requests that this court certify to the City Auditor the revised ballot title attached hereto as Exhibit 3. Respondent is the Portland City Attorney, whose office prepared the draft ballot title, and is named as respondent pursuant to ORS 250.195(1) (“The petition shall name as respondent the city attorney or city governing body, depending on who prepared the ballot title.”).

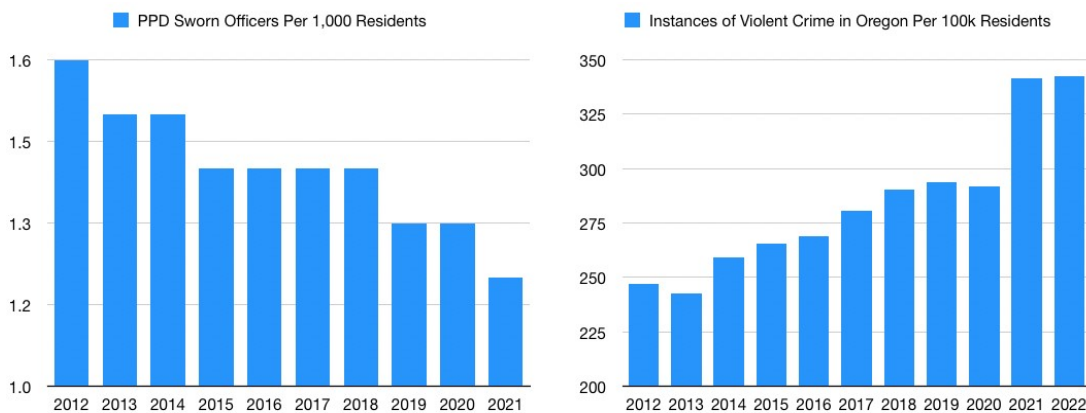
1 **II. THE BALLOT TITLE AT ISSUE**

2 On February 17, 2024, IP-03 was filed with the Portland City Auditor’s office,  
3 which is the city elections office for purposes of ORS 250.296. Copies of the prospective  
4 initiative petition were then forwarded to the City Attorney for preparation of a ballot title  
5 pursuant to ORS 250.285(2). The text of that petition is attached as Exhibit 1.

6 On March 1, 2024, the City Auditor’s office posted to its website the draft ballot  
7 title prepared by the City Attorney. That draft ballot title is attached as Exhibit 2, and it is  
8 the subject of this petition’s challenge. The governing statutes permit a petition  
9 challenging that ballot title no later than seven business days after the draft ballot title is  
10 filed. The seventh business day after Friday, March 1, 2024, is Tuesday, March 12, 2024,  
11 in light of two intervening weekends. This petition is therefore timely filed.

12 **III. THE INITIATIVE PETITION’S AIM**

13 The City of Portland faces a public safety crisis. Among the 50 largest cities in the  
14 U.S., Portland ranks 48<sup>th</sup> in its ratio of police officers to population.<sup>1</sup> Among cities of any  
15 size, Portland’s police force per capita is just over *half* the national average. At the same  
16 time, violent crime in Oregon is steadily increasing. The most recent data available from  
17 the FBI’s “Crime Data Explorer” service comparing those two trends is striking:



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<sup>1</sup> Lucas Manfield, “Portland Ranks 48<sup>th</sup> Among 50 Big Cities for Cops Per Capita,” *Willamette Week*, Sept 28, 2022.

1           The consequences, too, are measurable. People increasingly feel unsafe  
2 downtown, with more than one-third of residents reporting that they don't feel safe  
3 walking downtown even in the daytime, and nearly three-quarters reporting that they feel  
4 unsafe there at night.<sup>2</sup> Meanwhile, with increased crime but fewer officers, resources are  
5 stretched thin, causing emergency response times to steadily increase. For crimes like  
6 assault or robbery, that time can make the difference between preventing harm and  
7 merely observing its outcome.

8           Changing that trend in Portland will require attracting and retaining more officers.  
9 Maintaining a city in which people want to live requires having enough public safety  
10 resources to help those people when they are in need. Portland does not.

11           It is against that backdrop that IP-03 is proposed. In late 2023, the Portland Police  
12 Association commissioned a widely-discussed poll asking 500 Portlanders about their  
13 views of the city and its management and services. **Of those surveyed, fewer than one  
14 in four – only 23% – said they supported keeping the laws governing the  
15 Community Police Oversight Board in their current form.** In contrast, 57%—well  
16 over twice as many people, and a clear majority of those surveyed—said voters should  
17 have the chance to consider a revised version of those laws.<sup>3</sup>

18           IP-03 provides Portland with that opportunity. It proposes to improve the Police  
19 Oversight Board by focusing its efforts where there is particular need: on improvements  
20 to the recruitment, training, and retention of Portland's police officers. The measure does  
21 so chiefly through three directives:

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23 <sup>2</sup> See City of Portland Budget Office, "Portland Insights Survey" (published July 31, 2023),  
24 available at [https://www.portland.gov/cbo/documents/2022-portland-insights-survey-report-  
pdf/download](https://www.portland.gov/cbo/documents/2022-portland-insights-survey-report-pdf/download)

25 <sup>3</sup> See DHM Research, "Survey on Public Safety and the Portland Police Accountability  
26 Commission," Dec. 8, 2023, available at  
[https://mcusercontent.com/6f181d848ee8108cc7d023323/files/2c86e987-16ee-fabd-ac70-  
08ae891b54ba/12122023\\_PPA\\_Survey\\_DHM\\_Toplines\\_01249\\_December\\_2023.pdf](https://mcusercontent.com/6f181d848ee8108cc7d023323/files/2c86e987-16ee-fabd-ac70-08ae891b54ba/12122023_PPA_Survey_DHM_Toplines_01249_December_2023.pdf)

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- Expanding the Board’s substantive focus by requiring that, in addition to its work concerning officer complaints, it also must annually assess PPB’s recruitment, training, and retention programs and affirmatively determine how those programs should be improved;
- Changing the Board’s disciplinary function from one of direct discipline by the Board to one of recommendation by the Board to the Chief of Police, who has power to impose such discipline; and
- Improving the laws governing the Board’s membership to (a) avoid invasive inquiries into whether individual members have experienced mental illness, addiction, alcoholism, or have been subject to racism, and instead ensuring that the Board includes representation from diverse communities, various professional backgrounds, and different geographic areas; and to (b) no longer exclude members of law enforcement agencies from Board service, just as lawyers are not excluded from the bodies that oversee the practice of law, and medical professionals are not excluded from the bodies that oversee those who practice medicine.<sup>4</sup>

The question this action presents is: Does the City Attorney’s draft ballot title accurately inform voters of the changes IP-03 proposes to make? The answer is no.

**IV. ARGUMENT AND AUTHORITIES**

Voters usually don’t read the full text of each proposed law. That is why Oregon law requires local elections authorities to write a short synopsis of each local measure (the “ballot title”), allowing voters to easily identify the subject matter, chief purpose, and major effects of each proposed law. ORS 250.035(1). Thus, for those who do not

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<sup>4</sup> PPA’s survey revealed that **only one-third** of Portlanders surveyed prefer prohibiting law enforcement to serve on the Board, while a clear majority (58%) instead prefer allowing “anyone who is deemed qualified and fair minded” to serve.

1 examine a proposed law’s text, the ballot title itself will “ensure that voters have accurate  
2 information about the subject and effect of a proposed measure.” *Livingston v. Kroger*,  
3 347 Or 307, 311, 220 P3d 418, 420 (2009).

4 Each of the ballot title’s three constituent parts serves that same aim. *Id.* The 10-  
5 word caption identifies the “subject” of the measure, the 20-word question presents its  
6 “chief purpose” as a yes-or-no question, and the summary, of no more than 175 words,  
7 provides a more detailed explanation of the measure’s “major effect.” ORS 250.035(1).

8 Here, the draft ballot title’s summary section presents the clearest problems under  
9 ORS 250.035—and so this petition begins with, and focuses on, that section.

10 **A. The Summary**

11 A measure’s ballot title must contain a “concise and impartial statement of not  
12 more than 175 words summarizing the measure and its major effect.” ORS 250.035(1).  
13 That summary section must “provide voters with enough information to understand what  
14 will happen if the measure is approved.” *Nearman v. Rosenblum*, 358 Or 818, 822, 371  
15 P3d 1186 (2016).

16 The City Attorney’s draft summary section reads as follows:

17 **SUMMARY (Existing):**

18 In 2020, voters added new community police oversight  
19 board to Charter to:

- 20 • Impose discipline, including termination, on police employees
  - 21 • Investigate certain misconduct complaints, other complaints as they see fit
  - 22 • Recommend police policies focused on community concerns
  - 23 • Include board members from diverse communities, particularly with systemic racism, mental illness, substance abuse experience
  - 24 • Prohibit board members who are current law enforcement employees and immediate family members, or former law enforcement employees
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- Operate with budget proportional to 5% of Police Bureau’s operating budget
- Exercise independent judgment in executing assigned duties

If measure approved, amended board will:

- Recommend discipline to Police Chief who makes all discipline decisions, subject only to City Administrator approval
- Investigate certain misconduct complaints, eliminate authority to investigate other complaints as they see fit
- Include board members from diverse communities, eliminate emphasis on certain experiences, remove prohibition on law enforcement employees, family members
- Eliminate 5% budget requirement, Council sets budget
- Eliminate language regarding independent judgment, noninterference
- Issue annual report:
  - Recommending recruiting, retention, training program improvements
  - Summarizing complaints, with anonymous complainants, subjects, witnesses

Other provisions.

The draft summary above does not satisfy the statutory requirements under ORS 250.035. The summary presents problems of three different kinds.

The first and most immediately apparent problem is that *more than half* of the summary’s text is devoted to describing the 2020 measure, rather than summarizing what IP-03 proposes to do, as required. That severely constrains the available space to communicate the substance of IP-03 to voters (from 175 words to only 88), meaning far less can be said about the changes it proposes to make.

Certainly, it is important that a ballot title inform voters about “the changes that the proposed measure would enact in the context of existing law,” *Wilhelms v. Rosenblum*, 370 Or 776, 780, 525 P3d 852 (2023), so voters understand not only what the

1 measure proposes but also how the proposed law would be different. But the City  
2 Attorney’s draft ballot title takes that principle to such an extreme that it ultimately  
3 *reduces* the information communicated to voters about IP-03’s substance, even though  
4 providing that information is the summary’s entire statutory function. For instance, there  
5 is nothing in the draft ballot title about IP-03’s directive that City Council set the Board’s  
6 funding at an amount that allows the Board to provide sufficient focus on what would be  
7 its mandated subjects—recruiting, retaining, training, and investigating complaints  
8 against police officers. Nor is anything said about newly requiring that the Board’s  
9 investigations must respect the legal rights of all complainants, subjects, and witnesses.  
10 Nothing is said about newly requiring that the Board’s Director and professional staff  
11 receive the same briefing received by the Board itself. And nothing is said about newly  
12 requiring that Board members either live or work in Portland so the Board is not simply  
13 run from afar. With half of the summary already consumed, there simply isn’t room for  
14 those things. (And the subjects that *are* discussed are, for the same reason, severely  
15 abbreviated rather than being presented in sufficient detail to be accurate, as discussed  
16 further below.)

17         The second problem is that the information the draft ballot title *does* communicate  
18 is not presented neutrally, as Oregon law requires.

19         If the job of the ballot title’s summary were to advocate in favor of keeping the  
20 Charter language as it exists today—and to discourage amending it as IP-03 proposes—  
21 then the above summary would be an ideal way to do it: First, devote a majority of the  
22 summary’s language to the perceived benefits of the existing law, using chiefly positive  
23 terms; then describe the ways IP-03 would curtail those benefits, using language that is  
24 largely negative and too brief to accurately communicate the measure’s substance.

25         But advocacy is not the ballot title’s job. ORS 250.035 explicitly requires that the  
26 summary be an “impartial” statement summarizing the measure and its major effect. The

1 ballot title must not, even implicitly, “take sides for or against a proposed measure.”  
2 *Kane v. Kulongoski*, 320 Or 273, 278, 882 P2d 588 (1994); *see also, e.g., Hand v.*  
3 *Roberts*, 309 Or 430, 433, 788 P2d 446 (1990) (“A [ballot title’s] summary should  
4 provide accurate and neutral information to the voters, not an additional opportunity for  
5 proponents or opponents to persuade.”).

6 The City Attorney’s summary falls far short of that standard. After devoting more  
7 than half of the summary’s text to describing the existing law, the summary proceeds to  
8 describe IP-03 by stating in almost uniformly negative terms the things the measure  
9 would *take away*: it would “eliminate authority to investigate” certain complaints;  
10 “eliminate emphasis on certain experiences”; “eliminate 5% budget requirement”;  
11 “eliminate language regarding independent judgment [and] noninterference,” and so on.

12 In contrast, the things IP-03 would newly give the Board direction and authority  
13 to do—for instance, to annually review PPB’s recruiting and retention programs and its  
14 training programs, then issue a report regarding those programs’ effectiveness and  
15 provide recommendations to further improve them—are given comparatively short shrift,  
16 treated as little more than a brief afterthought in the summary’s final bullet point.

17 The summary’s third problem is that, as to several subjects, it does not fully or  
18 accurately describe what IP-03 proposes.

19 For instance, the City Attorney’s draft summary says the “amended board will ...  
20 investigate certain misconduct complaints, eliminate authority to investigate other  
21 complaints as they see fit.” As a threshold matter, under IP-03 the *Board itself* will not  
22 “eliminate authority” to do anything, contrary to the summary’s language.<sup>5</sup> More to the  
23 point, the summary’s description is so threadbare as to be misleading.

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26 <sup>5</sup> The text of IP-03 does propose to remove Charter language that currently gives the Board  
limitless authority to investigate quite literally *any other complaints* it sees fit, about anything  
at all. That change is simply a matter of good government. An oversight body must be given a



1 In truth, the text of IP-03 expressly requires the Board to investigate complaints  
2 against PPB employees for:

- 3 “a. All deaths in custody and uses of deadly force;
- 4 b. Complaints of excessive force;
- 5 c. Complaints of discrimination against a protected class;
- 6 d. Complaints of violations of constitutional rights; and
- 7 e. Complaints of bias-based policing.”

8 IP-03, §7 (Proposed Charter Section 2-1005).

9 A voter reading the draft summary would not be informed of those things.  
10 Instead, they would be informed only that the Board will investigate “certain misconduct  
11 complaints” but not “other complaints.” That does not remotely do the job that ORS  
12 250.035 requires of a ballot title’s summary.

13 Similarly problematic is the summary’s description of IP-03’s funding provision.  
14 IP-03 would direct that the Board’s funding be set by City Council annually at an amount  
15 that allows the Board to provide sufficient focus on its mandated subjects under the  
16 measure—recruiting, retaining, training, and investigating complaints against police  
17 officers. Current law, in contrast, mandates that the Board receive a minimum of 5% of  
18 PPB’s operating budget regardless of whether the Board wants, uses, or needs that  
19 amount, and no matter what *other* needs there are within PPB at the time. In short, rather  
20 than setting funding according to a static and arbitrary measure, IP-03 would have the  
21 City Council set the Board’s funding according to its actual needs.

22 But a voter reading the draft summary would not learn those things. They would  
23 be informed only that the “amended Board will ... eliminate 5% budget requirement,

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25 defined scope of inquiry. To give such a body no subject-matter constraints at all is a recipe  
26 for delay and misuse of resources.

1 Council sets budget.”<sup>6</sup> That curt and confusing description deprives voters of the single  
2 most important aspect of IP-03’s funding provision: that the Council’s budget for the  
3 Board *would be determined by what the Board needs in order to perform its functions*.  
4 The draft ballot title omits that information.<sup>7</sup>

5 Presumably, the City Attorney would counter that there isn’t room to say those  
6 things. But that’s precisely the problem created by the City Attorney’s decision to  
7 swallow half the summary’s allowed text with overlong descriptions of the existing law.

8 To communicate the measure’s proposed changes accurately, petitioners propose  
9 the following summary, which contains 173 words:

10 SUMMARY (Proposed):

11 Measure amends Charter provisions governing community  
12 police oversight board. If approved, board will:

- 13 • Annually assess Police Bureau’s recruitment,  
14 training, and retention programs, and recommend  
15 improvements;
- 16 • Investigate complaints of excessive force,  
17 discrimination, constitutional violations, bias, and  
investigate deaths and use of deadly force; and
- Make disciplinary recommendations to Police  
Chief, rather than imposing discipline directly.

18 Requires board’s membership to represent diverse  
19 communities, various professional backgrounds, and  
20 different geographic areas; removes requirement that board  
include those with mental illness, addiction, alcoholism,  
systemic racism experience.

21 Requires City Council to fund board to provide sufficient  
22 focus on recruiting, retaining, training, and investigating

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23 <sup>6</sup> Again, the *Board itself* will not “eliminate” anything at all, contrary to the summary’s language.

24 <sup>7</sup> Moreover, IP-03 does not necessarily entail a funding reduction as the summary implies. Under  
25 IP-03, in any given year the Board could receive *more* than 5% of PPB’s budget. The point is  
26 simply to direct City Council to fund the Board according to what the Board needs, just as it  
would for any other part of the Bureau’s budget.

1 complaints; removes requirement that board receive 5% of  
Police Bureau's operating budget.

2 Removes provision prohibiting law enforcement and their  
3 family members from board participation. Removes  
4 provision requiring Board's judgment to be independent of  
Police Bureau and other City departments. Requires board  
members to live or work in Portland.

5 Requires board investigations to respect all parties' legal  
6 rights. Removes authority to investigate unspecified "other  
complaints."

7 Requires board's director and staff to receive board  
8 briefings.

9 Other provisions.

10 The above summary reflects every significant aspect of IP-03 in clear and  
11 straightforward language. It includes not only every item of information about IP-03  
12 contained in the City Attorney's draft, but also those items the City Attorney's draft  
13 omitted. And it does so in an impartial manner, neither advocating for nor opposing what  
14 IP-03 proposes to do. The City Attorney's draft summary does not meet the statutory  
15 requirements of ORS 250.035; the proposed summary above does. This court should  
16 certify the proposed summary above.

17 **B. The Caption**

18 The ballot title's caption must communicate the "subject" of the proposed  
19 measure. ORS 250.035(1). As the Oregon Supreme Court has explained, in order "[t]o  
20 determine the subject matter of a proposed measure," the court must "examine its words  
21 and the changes, if any, that the proposed measure would enact in the context of existing  
22 law." Thus, to communicate the measure's subject, the caption must "give notice to the  
23 voters of the principal substantive choice or choices that the measure presents." *Rogers*  
24 *v. Myers*, 344 Or 219, 224, 179 P3d 627 (2008) (italics added).

1 Petitioner’s proposed changes to the caption are set forth below.

2 CAPTION (Existing):

3 Amends Charter: Changes authority, membership and  
4 budget for community police oversight board.

5 CAPTION (Proposed):

6 Amends Charter: Changes police oversight board’s powers,  
7 duties; changes membership/budget requirements.

8 The City Attorney’s draft caption is not as problematic as the summary section.  
9 But two key problems remain.

10 First, although IP-03 would reduce the Board’s powers in some respects  
11 (particularly as to directly imposing discipline), it also proposes to *add* duties concerning  
12 recruitment, training, and retention. Those are two sides of the same coin. Such change is  
13 more accurately conveyed by informing voters that the measure would change the  
14 Board’s powers *and* its duties, rather than simply “changes authority.”

15 Second, the City Attorney’s draft caption states that the measure would change  
16 the Board’s membership and budget. But the measure would not necessarily change  
17 either of those things; the Board’s membership and its budget could be precisely the same  
18 both before and after IP-03. Rather, the measure would change the *requirements that*  
19 *govern* the Board’s membership and budget. That is more accurately conveyed by the  
20 language “changes membership/budget requirements.”

21 **C. The Question**

22 The “question” portion of the ballot title must “plainly phrase[] the chief purpose”  
23 of the measure in such a way that “an affirmative response to the question corresponds to  
24 an affirmative vote” on the measure. ORS 250.035(1)(b). For ballot titles, the “chief  
25 purpose” is “the most significant aim or end which a measure is designed to bring about.”  
26 *Reed v. Roberts*, 304 Or 649, 654, 748 P2d 542 (1988).

1           Importantly, the question section is not simply an exercise in rephrasing a short  
2 summary of the bill in question form. Rather, the point is to select the “*most significant*”  
3 changes from among those the measure would make, and to ask voters whether those  
4 things in particular should happen. *See id.* It is that “chief purpose” of the measure that  
5 the question must concern. ORS 250.035(1)(b).

6           Petitioner’s proposed changes to the ballot title’s question are below:

7                   QUESTION (Existing):

8                   Should Portland change police oversight board authority to  
9 recommend but not impose discipline; amend investigatory  
10 authority; revise membership, budget requirements?

11                   QUESTION (Proposed):

12                   Should police oversight board have duty to assess officer  
13 recruitment, training, retention, and have authority to  
14 recommend, not impose, discipline?

14           Among all of the changes IP-03 proposes, the most significant are the measure’s  
15 changes to the Board’s powers and duties, as described in the proposed question above.  
16 Certainly, the measure proposes other changes to the laws governing Board membership,  
17 its budget, its investigations, and other subjects. Communicating those things is why the  
18 ballot title must include the most detailed “summary” section. But the purpose of a ballot  
19 title’s question section is to select the *most significant* among those things, and ask  
20 whether it should occur. The City Attorney’s draft question attempts to encompass a  
21 broader description of the measure’s proposed changes, but the more one tries to pack  
22 into the question section, the less that section can serve its statutory function. That  
23 function is to accurately and clearly convey the measure’s most significant proposed  
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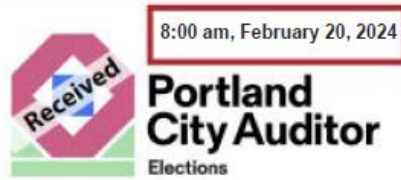
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change. The City Attorney’s draft question does not do so, but the proposed question above does. This court should certify the proposed question above.

DATED this 12<sup>th</sup> day of March, 2024.

HARRANG LONG P.C.

By:           s/J. Aaron Landau            
J. Aaron Landau, OSB #094135  
aaron.landau@harrang.com  
497 Oakway Road, Suite 380  
Eugene, OR 97401  
Telephone: (541) 485-0220  
Facsimile: (541) 686-6564  
Of Attorneys for Petitioner



AN ACT

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORTLAND

The City Charter of the City of Portland is amended as follows (additions in underlined bold text; deletions in strikethrough):

1. Amend Chapter 2, Article 10 by amending Section 2-1001 to read as follows:

**Section 2-1001. City of Portland Community Police Oversight Board.** A Board is hereby authorized and shall be established upon compliance with any legal obligations the City may have under the Public Employees Collective Bargaining Act, other state and federal laws, and upon adoption by City Council of an implementing Ordinance. The mission of the City of Portland Community Police Oversight Board (Board) is to review and recommend improvements to recruiting, retaining, and training efforts by the Portland Police Bureau, and to independently receive, investigate, and make disciplinary recommendations about certain complaints against Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, ~~to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns.~~ The final name of this Board will be established by City Code.

2. Amend Chapter 2, Article 10 by amending Section 2-1002 to read as follows:

**Section 2-1002 Nature of the Board.** Board members shall be appointed by approval of Council to a term of years established in City Code. Members may not be removed from the Board prior to the completion of their term except for cause. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term. The Board shall make provisions to ensure its membership includes representation from diverse communities, ~~including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism~~ various professional backgrounds, and from different geographic areas within the City. Board members must live or work in the City. Board members shall receive briefing on best practices surrounding recruiting, retaining, and training police officers and investigating complaints against police officers.

3. Delete Chapter 2, Article 10, Section 2-1003:

~~**Section 2-1003 Restrictions on Board Membership.** People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the Board. People who were formerly employed by a law enforcement agency are not eligible for service on the Board.~~

4. Amend Chapter 2, Article 10, Section 2-1004 to read as follows:

**Section 2-1004~~3~~ Budget of the Board.** Funding for the Board shall be proportional to be no less than 5 percent of the Police Bureau's Annual Operational Budget **set by Council so that the Board will provide sufficient focus on recruiting, retaining, training, and investigating complaints against police officers.**

5. Amend Chapter 2, Article 10, Section 2-1005 to read as follows:

**Section 2-1005~~4~~ Professional Staff of the Board.** The Board shall hire a Director to manage the professional ~~administrative~~ staff and ~~professional~~ investigators, and to make operational and administrative decisions. The Director is a "Bureau Director" for purposes of Charter section 4-301 and shall be appointed by, and serve at the will and pleasure of, the Board. Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director as classified employees. **The Director and Professional staff will receive the same briefing as Board members.**

6. Delete Chapter 2, Article 10, Section 2-1006:

**Section 2-1006 Independent Authority.** ~~The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment. The physical office of the Board shall be located outside of a Portland Police Bureau facility.~~

7. Amend Chapter 2, Article 10, Section 2-1007 to read as follows:

**Section 2-1007~~5~~ Powers of the Board.**

(a) **Recruiting and Retaining Police Officers. Annually, the Board shall review and issue a report regarding the effectiveness of, and provide recommendations to further improve, the recruiting and retention programs for sworn police officers of the Police Bureau.**

(b) **Training Police Officers. Annually, the Board shall review and issue a report regarding the effectiveness of, and provide recommendations to further improve, training programs for sworn police officers of the Police Bureau.**

(c) **Investigating and Disciplining Police Officers.**

(1) The Board, **by and through its Director and Professional Staff,** shall have the power to the full extent allowed by law to receive and investigate complaints including the power to subpoena and compel documents, and to issue disciplinary action up to and including termination for **against** all sworn members and the supervisors thereof within **employees of the Portland Police Bureau for:-**



- a. **All deaths in custody and uses of deadly force;**
- b. **Complaints of excessive force;**
- c. **Complaints of discrimination against a protected class;**
- d. **Complaints of violations of constitutional rights; and**
- e. **Complaints of bias-based policing.**

(b) The Board shall have the authority to make policy and directive recommendations to the Portland Police Bureau and City Council. The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the Board. If the Portland Police Bureau rejects a policy or directive recommendation, then at the request of the Board, City Council must consider and vote to accept or reject the policy recommendations received from the Board. Council's decision will be binding on the Portland Police Bureau.

**(2) (c) For cases within its jurisdiction, the** The Board, **by and through its Director and Professional Staff,** shall have the authority and ability, **to the extent allowed by federal and state law and collective bargaining agreements,** to gather and ~~compel~~ all evidence; ~~to access all police records; to the extent allowed by federal and state law,~~ and the ability to ~~compel~~ **seek** statements from **complainants, subjects, and** witnesses, including officers; **and subpoena documents and witnesses. Such investigations must respect the legal rights of all complainants, subjects, and witnesses, including officers.**

**(3) The Board, by and through its Director and Professional Staff, shall provide to the Chief of Police full, fair, and objective investigation reports and recommended levels of discipline, if any, for complaints within its jurisdiction. The Chief of Police shall have final and sole authority to impose discipline against Portland Police Bureau sworn employees, subject only to the approval of the City Administrator, and consistent with applicable law and collective bargaining agreements.**

**(4) Annually, the** The Board shall make provisions for regular and open meetings, public transparency, and **issue a public** reporting on the Board's activities **surrounding its receipt, investigation, and disciplinary recommendations for complaints against Police Bureau sworn employees within its jurisdiction, while taking all reasonable and necessary steps to anonymize the identities of complainants, subjects, and witnesses.** One of the goals of the Board will be to remove barriers for Board members to fully participate in the work of the Board.

(d) The Board shall have the power to ~~compel~~ sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to ~~completely and truthfully answer all questions.~~ Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.

8. Delete Chapter 2, Article 10, Section 2-1008:

**Section 2-1008 Duties of the Board.** The board shall have the authority to investigate certain Police actions, including but not limited to;

(a) All deaths in custody and uses of deadly force.

(b) All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.

(c) The Board may investigate other complaints or incidents of misconduct as they see fit or as mandated by City Code.

9. Amend Chapter 2, Article 10, Section 2-1009 to read as follows:

**Section 2-1009 Severability.** For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.



## Ballot Title

### CAPTION

Amends Charter: Changes authority, membership and budget for community police oversight board.

### QUESTION

Should Portland change police oversight board authority to recommend but not impose discipline; amend investigatory authority; revise membership, budget requirements?

### SUMMARY

In 2020, voters added new community police oversight board to Charter to:

- Impose discipline, including termination, on police employees
- Investigate certain misconduct complaints, other complaints as they see fit
- Recommend police policies, focused on community concerns
- Include board members from diverse communities, particularly with systemic racism, mental illness, substance abuse experience
- Prohibit board members who are current law enforcement employees and immediate family members, or former law enforcement employees
- Operate with budget proportional to 5% of Police Bureau's operating budget
- Exercise independent judgment in executing assigned duties

If measure approved, amended board will:

- Recommend discipline to Police Chief who makes all discipline decisions, subject only to City Administrator approval
- Investigate certain misconduct complaints, eliminate authority to investigate other complaints as they see fit
- Include board members from diverse communities, eliminate emphasis on certain experiences, remove prohibition on law enforcement employees, family members
- Eliminate 5% budget requirement, Council sets budget
- Eliminate language regarding independent judgment, noninterference
- Issue annual report:
  - Recommending recruiting, retention, training program improvements
  - Summarizing complaints, with anonymous complainants, subjects, witnesses

Other provisions.

## **Aitchison v. Portland City Attorney – Petitioner’s Proposed Ballot Title**

### **CAPTION (10 words)**

Amends Charter: Changes police oversight board’s powers, duties; changes membership/budget requirements.

### **QUESTION (20 words)**

Should police oversight board have duty to assess officer recruitment, training, retention, and have authority to recommend, not impose, discipline?

### **SUMMARY (173 words)**

Measure amends Charter provisions governing community police oversight board. If approved, board will:

- Annually assess Police Bureau’s recruitment, training, and retention programs, and recommend improvements;
- Investigate complaints of excessive force, discrimination, constitutional violations, bias, and investigate deaths and use of deadly force; and
- Make disciplinary recommendations to Police Chief, rather than imposing discipline directly.

Requires board’s membership to represent diverse communities, various professional backgrounds, and different geographic areas; removes requirement that board include those with mental illness, addiction, alcoholism, systemic racism experience.

Requires City Council to fund board to provide sufficient focus on recruiting, retaining, training, and investigating complaints; removes requirement that board receive 5% of Police Bureau’s operating budget.

Removes provision prohibiting law enforcement and their family members from board participation. Removes provision requiring Board’s judgment to be independent of Police Bureau and other City departments. Requires board members to live or work in Portland.

Requires board investigations to respect all parties’ legal rights. Removes authority to investigate unspecified “other complaints.”

Requires board’s director and staff to receive board briefings.

Other provisions.