

House Bill 3109

Sponsored by Representative J SMITH

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Sets limits on amounts that may be contributed to political candidates and political committees. Provides civil penalties.

Takes effect only if amendment to Oregon Constitution by House Joint Resolution 30 (2009) allowing regulation of campaign contributions is approved by people at next general election.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; amending ORS 260.005, 260.041, 260.044 and 260.737;
3 and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 4 of this 2009 Act are added to and made a part of ORS chapter**
6 **260.**

7 **SECTION 2. Notwithstanding any provision of chapter 3, Oregon Laws 2007:**

8 **(1) An individual may not contribute an aggregate amount exceeding:**

9 **(a) With respect to an election period, \$2,400 to any one candidate for nomination or**
10 **election to public office.**

11 **(b) With respect to an election cycle, \$5,000 to any one political committee, other than**
12 **a principal campaign committee or a political party committee.**

13 **(c) With respect to an election cycle, \$10,000 to all political party committees.**

14 **(2) A political party committee may not contribute an aggregate amount exceeding:**

15 **(a) With respect to an election period, \$5,000 to a candidate for nomination or election**
16 **to public office.**

17 **(b) With respect to an election cycle, \$5,000 to any one political committee, other than**
18 **a principal campaign committee or a political party committee.**

19 **(3) A political committee, other than a principal campaign committee or a political party**
20 **committee, may not contribute an aggregate amount exceeding:**

21 **(a) With respect to an election period, \$2,400 to a candidate for nomination or election**
22 **to public office.**

23 **(b) With respect to an election cycle, \$5,000 to another political committee that is not a**
24 **principal campaign committee or political party committee.**

25 **(4) A candidate, principal campaign committee of a candidate or political committee may**
26 **not accept a contribution in excess of the limits specified in this section.**

27 **(5) This section does not:**

28 **(a) Apply to contributions made to a political committee organized exclusively to support**
29 **or oppose a measure or a candidate for nomination or election to federal office;**

30 **(b) Apply to contributions made to or received by a candidate for nomination or election**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 to federal office or political party office; or

2 (c) Limit the amount a candidate may contribute from the candidate's personal funds to
3 the candidate.

4 (6) For purposes of this section, a contribution to a candidate includes a contribution to
5 the candidate's principal campaign committee.

6 (7) For each calendar year, the Secretary of State, by rule, shall adjust the amount of
7 the contribution limits described in this section to account for changes in consumer prices.
8 The secretary shall use an official indicator of consumer prices and round the adjusted
9 amount to the nearest whole dollar.

10 **SECTION 3.** Notwithstanding any provision of chapter 3, Oregon Laws 2007:

11 (1) A corporation, professional corporation, nonprofit corporation or labor organization
12 may not:

13 (a) Make a contribution or expenditure directly or indirectly from treasury funds to or
14 on behalf of any candidate or political committee.

15 (b) Make an independent expenditure directly or indirectly from treasury funds.

16 (2) Subsection (1) of this section does not apply to:

17 (a) Contributions from a corporation, professional corporation, nonprofit corporation or
18 labor organization to a political committee organized exclusively to support or oppose a
19 measure; or

20 (b) Communication made by a corporation, professional corporation or nonprofit corpo-
21 ration to its shareholders and executive or administrative personnel and their families or
22 made by a labor organization to members and their families.

23 (3) A candidate or a political committee may not accept a contribution prohibited by this
24 section.

25 **SECTION 4.** (1) Except as provided in subsection (2) of this section, the Secretary of
26 State or Attorney General may impose a civil penalty under ORS 260.995 for each violation
27 of section 2 or 3 of this 2009 Act.

28 (2) For a violation of section 2 of this 2009 Act, the Secretary of State or Attorney Gen-
29 eral may impose a civil penalty not to exceed the greater of \$1,000 or three times the amount
30 of the contribution made in excess of the applicable limit or prohibition.

31 (3) For a violation of section 3 of this 2009 Act, the Secretary of State or Attorney Gen-
32 eral may impose a civil penalty not to exceed the greater of \$1,000 or three times the amount
33 of the contribution or expenditure made.

34 (4) If a candidate or candidate's principal campaign committee violates any provision of
35 section 2 of this 2009 Act, the candidate and the candidate's treasurer are personally liable
36 for the penalty imposed under this section. If a political committee, other than a principal
37 campaign committee, violates any provision of section 2 of this 2009 Act, the directors of the
38 political committee are jointly and severally liable for the penalty imposed under this section.

39 **SECTION 5.** ORS 260.005 is amended to read:

40 260.005. As used in this chapter:

41 (1)(a) "Candidate" means:

42 (A) An individual whose name is printed on a ballot, for whom a declaration of candidacy,
43 nominating petition or certificate of nomination to public office has been filed or whose name is
44 expected to be or has been presented, with the individual's consent, for nomination or election to
45 public office;

1 (B) An individual who has solicited or received and accepted a contribution, made an expendi-
 2 ture, or given consent to an individual, organization, political party or political committee to solicit
 3 or receive and accept a contribution or make an expenditure on the individual's behalf to secure
 4 nomination or election to any public office at any time, whether or not the office for which the in-
 5 dividual will seek nomination or election is known when the solicitation is made, the contribution
 6 is received and retained or the expenditure is made, and whether or not the name of the individual
 7 is printed on a ballot; or

8 (C) A public office holder against whom a recall petition has been completed and filed.

9 (b) For purposes of this section and ORS 260.035 to 260.156, "candidate" does not include a
 10 candidate for the office of precinct committeeperson.

11 (2) "Committee director" means any person who directly and substantially participates in
 12 decision-making on behalf of a political committee concerning the solicitation or expenditure of
 13 funds and the support of or opposition to candidates or measures. The officers of a political party
 14 shall be considered the directors of any political party committee of that party, unless otherwise
 15 provided in the party's bylaws.

16 (3)(a) Except as provided in ORS 260.007, "contribute" or "contribution" includes:

17 (A) The payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compen-
 18 sation or consideration, of money, services other than personal services for which no compensation
 19 is asked or given, supplies, equipment or any other thing of value:

20 (i) For the purpose of influencing an election for public office or an election on a measure, or
 21 of reducing the debt of a candidate for nomination or election to public office or the debt of a pol-
 22 itical committee; or

23 (ii) To or on behalf of a candidate, political committee or measure; and

24 (B) Any unfulfilled pledge, subscription, agreement or promise, whether or not legally enforcea-
 25 ble, to make a contribution.

26 (b) Regarding a contribution made for compensation or consideration of less than equivalent
 27 value, only the excess value of it shall be considered a contribution.

28 (4)(a) "Controlled committee" means a political committee that, in connection with the making
 29 of contributions or expenditures:

30 (A) Is controlled directly or indirectly by a candidate or a controlled committee; or

31 (B) Acts jointly with a candidate or controlled committee.

32 (b) For purposes of this subsection, a candidate controls a political committee if:

33 (A) The candidate, the candidate's agent, a member of the candidate's immediate family or any
 34 other political committee that the candidate controls has a significant influence on the actions or
 35 decisions of the political committee; or

36 (B) The candidate's principal campaign committee and the political committee both have the
 37 candidate or a member of the candidate's immediate family as a treasurer or director.

38 (5) "County clerk" means the county clerk or the county official in charge of elections.

39 (6) "Elector" means an individual qualified to vote under section 2, Article II of the Oregon
 40 Constitution.

41 (7) Except as provided in ORS 260.007, "expend" or "expenditure" includes the payment or fur-
 42 nishing of money or anything of value or the incurring or repayment of indebtedness or obligation
 43 by or on behalf of a candidate, political committee or person in consideration for any services,
 44 supplies, equipment or other thing of value performed or furnished for any reason, including support
 45 of or opposition to a candidate, political committee or measure, or for reducing the debt of a can-

1 didate for nomination or election to public office. “Expenditure” also includes contributions made
 2 by a candidate or political committee to or on behalf of any other candidate or political committee.

3 (8) “Filing officer” means:

4 (a) The Secretary of State:

5 (A) Regarding a candidate for public office;

6 (B) Regarding a statement required to be filed under ORS 260.118;

7 (C) Regarding any measure; or

8 (D) Regarding any political committee.

9 (b) Notwithstanding paragraph (a) of this subsection, in the case of an irrigation district formed
 10 under ORS chapter 545:

11 (A) The county clerk, regarding any candidate for office or any measure at an irrigation district
 12 formation election where the proposed district is situated wholly in one county;

13 (B) The county clerk of the county in which the office of the secretary of the proposed irrigation
 14 district will be located, regarding any candidate for office or any measure at an irrigation district
 15 formation election where the proposed district is situated in more than one county; or

16 (C) The secretary of the irrigation district for any election other than an irrigation district
 17 formation election.

18 (9) “Independent expenditure” means an expenditure by a person for a communication in support
 19 of or in opposition to a clearly identified candidate or measure that is not made with the cooper-
 20 ation or with the prior consent of, or in consultation with, or at the request or suggestion of, a
 21 candidate or any agent or authorized committee of the candidate, or any political committee or
 22 agent of a political committee supporting or opposing a measure. For purposes of this subsection:

23 (a) A communication is “in support of or in opposition to” a candidate or measure if:

24 (A) The communication, taken in its context, clearly and unambiguously urges the election or
 25 defeat of a clearly identified candidate for nomination or election to public office, or the passage
 26 or defeat of a clearly identified measure;

27 (B) The communication, as a whole, seeks action rather than simply conveying information; and

28 (C) It is clear what action the communication advocates.

29 (b) “Agent” means any person who has:

30 (A) Actual oral or written authority, either express or implied, to make or to authorize the
 31 making of expenditures on behalf of a candidate or on behalf of a political committee supporting or
 32 opposing a measure; or

33 (B) Been placed in a position within the campaign organization where it would reasonably ap-
 34 pear that in the ordinary course of campaign-related activities the person may authorize expen-
 35 ditures.

36 (c) “Clearly identified” means, with respect to candidates:

37 (A) The name of the candidate involved appears;

38 (B) A photograph or drawing of the candidate appears; or

39 (C) The identity of the candidate is apparent by unambiguous reference.

40 (d) “Clearly identified” means, with respect to measures:

41 (A) The ballot number of the measure appears;

42 (B) A description of the measure’s subject or effect appears; or

43 (C) The identity of the measure is apparent by unambiguous reference.

44 (e) “Made with the cooperation or with the prior consent of, or in consultation with, or at the
 45 request or suggestion of, a candidate or any agent or authorized committee of the candidate, or any

1 political committee or agent of a political committee supporting or opposing a measure”:

2 (A) Means any arrangement, coordination or direction by the candidate or the candidate’s agent,
 3 or by any political committee or agent of a political committee supporting or opposing a measure,
 4 prior to the publication, distribution, display or broadcast of the communication. An expenditure
 5 shall be presumed to be so made when it is:

6 (i) Based on information about the plans, projects or needs of the candidate, or of the political
 7 committee supporting or opposing a measure, and provided to the expending person by the candidate
 8 or by the candidate’s agent, or by any political committee or agent of a political committee sup-
 9 porting or opposing a measure, with a view toward having an expenditure made; or

10 (ii) Made by or through any person who is or has been authorized to raise or expend funds, who
 11 is or has been an officer of a political committee authorized by the candidate or by a political
 12 committee or agent of a political committee supporting or opposing a measure, or who is or has been
 13 receiving any form of compensation or reimbursement from the candidate, the candidate’s principal
 14 campaign committee or agent or from any political committee or agent of a political committee
 15 supporting or opposing a measure; and

16 (B) Does not include providing to the expending person upon request a copy of this chapter or
 17 any rules adopted by the Secretary of State relating to independent expenditures.

18 (10) “Initiative petition” means a petition to initiate a measure for which a prospective petition
 19 has been filed but that is not yet a measure.

20 (11) “Judge” means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon
 21 Tax Court.

22 **(12) “Labor organization” means any organization of any kind, or any agency or employee**
 23 **representation committee or plan, in which employees participate and that exists for the**
 24 **purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes,**
 25 **wages, rates of pay, hours of employment or conditions of work.**

26 [(12)] (13) “Mass mailing” means more than 200 substantially similar pieces of mail, but does
 27 not include a form letter or other mail that is sent in response to an unsolicited request, letter or
 28 other inquiry.

29 [(13)] (14) “Measure” includes any of the following submitted to the people for their approval
 30 or rejection at an election:

- 31 (a) A proposed law.
- 32 (b) An Act or part of an Act of the Legislative Assembly.
- 33 (c) A revision of or amendment to the Oregon Constitution.
- 34 (d) Local, special or municipal legislation.
- 35 (e) A proposition or question.

36 [(14)] (15) “Occupation” means:

- 37 (a) The nature of an individual’s principal business; and
- 38 (b) If the individual is employed by another person, the business name and address, by city and
 39 state, of the employer.

40 [(15)] (16) “Person” means an individual, corporation, limited liability company, labor organiza-
 41 tion, association, firm, partnership, joint stock company, club, organization or other combination of
 42 individuals having collective capacity.

43 [(16)(a)] (17)(a) “Political committee” means a combination of two or more individuals, or a
 44 person other than an individual, that has:

- 45 (A) Received a contribution for the purpose of supporting or opposing a candidate, measure or

1 political party; or

2 (B) Made an expenditure for the purpose of supporting or opposing a candidate, measure or
3 political party.

4 (b) For purposes of paragraph (a)(B) of this subsection, an expenditure does not include:

5 (A) A contribution to a candidate or political committee that is required to report the contri-
6 bution on a statement filed under ORS 260.057, 260.076 or 260.102 or a certificate filed under ORS
7 260.112; or

8 (B) An independent expenditure for which a statement is required to be filed by a person under
9 ORS 260.044 [(1)].

10 **(18) “Political party committee” means a political committee established by a major or**
11 **minor political party as described in ORS 248.006 and 248.008.**

12 [(17)] **(19) “Public office” means any national, state, county, district, city office or position, ex-**
13 **cept a political party office, that is filled by the electors.**

14 [(18)] **(20) “Recall petition” means a petition to recall a public officer for which a prospective**
15 **petition has been filed but that is not yet a measure.**

16 [(19)] **(21) “Referendum petition” means a petition to refer a measure for which a prospective**
17 **petition has been filed but that is not yet a measure.**

18 [(20)] **(22) “Regular district election” means the regular district election described in ORS**
19 **255.335.**

20 [(21)] **(23) “Slate mailer” means a mass mailing that supports or opposes a total of three or more**
21 **candidates or measures.**

22 [(22)(a)] **(24)(a) “Slate mailer organization” means, except as provided in paragraph (b) of this**
23 **subsection, any person who directly or indirectly:**

24 (A) Is involved in the production of one or more slate mailers and exercises control over the
25 selection of the candidates and measures to be supported or opposed in the slate mailers; and

26 (B) Receives or is promised payment for producing one or more slate mailers or for endorsing
27 or opposing, or refraining from endorsing or opposing, a candidate or measure in one or more slate
28 mailers.

29 (b) Notwithstanding paragraph (a) of this subsection, “slate mailer organization” does not in-
30 clude:

31 (A) A political committee organized by a political party; or

32 (B) A political committee organized by the caucus of either the Senate or the House of Repre-
33 sentatives of the Legislative Assembly.

34 [(23)] **(25) “State office” means the office of Governor, Secretary of State, State Treasurer, At-**
35 **torney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public In-**
36 **struction, state Senator, state Representative, judge or district attorney.**

37 **(26) “With respect to an election cycle” means the time beginning one day after the date**
38 **of a general election and ending on the date of the next general election.**

39 **(27) “With respect to an election period” means, with respect to a contribution to a**
40 **candidate for public office, the time beginning on the date of a nominating, general or special**
41 **election for a public office and ending on the date of the next nominating, general or special**
42 **election for that public office.**

43 **SECTION 6.** ORS 260.041 is amended to read:

44 260.041. (1) Notwithstanding ORS 260.005 [(16)] (17) and except as provided in ORS 260.043, a
45 candidate shall designate a political committee as the candidate’s principal campaign committee. A

1 candidate may designate only one political committee as the candidate’s principal campaign com-
2 mittee.

3 (2) A political committee may not be designated as the principal campaign committee of more
4 than one candidate.

5 **SECTION 7.** ORS 260.044 is amended to read:

6 260.044. (1) A person shall file a statement of independent expenditures if the person makes in-
7 dependent expenditures in a total amount of more than \$100 in a calendar year. The statement shall
8 be filed with the Secretary of State.

9 (2) A statement described in subsection (1) of this section shall be filed not later than seven
10 calendar days after the total amount of independent expenditures exceeds \$100 in a calendar year.
11 The accounting period for the statement required by subsection (1) of this section begins on the date
12 that an independent expenditure is made. The statement shall specify the candidate or measure
13 supported or opposed by the independent expenditure. The secretary by rule shall prescribe the form
14 of the statement.

15 (3) Notwithstanding ORS 260.005 [(16)] (17), a person who solicits and receives a contribution
16 or contributions is a political committee and shall file a statement of organization under ORS
17 260.042 and the statements required by ORS 260.057 or 260.076.

18 (4) For purposes of this section:

19 (a) An independent expenditure does not include a contribution to a candidate or political
20 committee that is required to report the contribution on a statement filed under ORS 260.057,
21 260.076 or 260.102 or a certificate filed under ORS 260.112;

22 (b) An independent expenditure does not include a contribution to a candidate who is not re-
23 quired to file a statement of organization under ORS 260.043; and

24 (c) A person is not a political committee under subsection (3) of this section if all contributions
25 received by the person are:

26 (A) Designated to an identified candidate or political committee;

27 (B) Delivered by the person to the designated candidate or political committee not later than
28 seven business days after the contribution is received; and

29 (C) Required to be reported as contributions by a candidate or political committee on a state-
30 ment filed under ORS 260.057, 260.076 or 260.102 or a certificate filed under ORS 260.112.

31 **SECTION 8.** ORS 260.737 is amended to read:

32 260.737. (1) A slate mailer organization may not send a slate mailer unless all of the following
33 are satisfied:

34 (a) The name and address of the slate mailer organization shall be shown on the outside of each
35 piece of the slate mailer in a legible size and type.

36 (b) The following notice shall appear in a legible size and type at the top or bottom of the front
37 side of the slate mailer:

38
39
40 NOTICE TO VOTERS

41
42 THIS DOCUMENT WAS NOT PREPARED BY A POLITICAL PARTY COMMITTEE OR PARTY
43 CAUCUS COMMITTEE.

44
45 CANDIDATES AND MEASURES MARKED WITH AN * PAID FOR APPEARANCE IN THIS

1 DOCUMENT.
2 _____
3

4 (c) Each candidate that has paid to appear in the slate mailer and each measure on whose behalf
5 payment has been received to appear in the slate mailer shall be designated by an asterisk of legible
6 size immediately following the name of the candidate or the name or number of the measure in each
7 instance where the name of the candidate or the name or number of the measure appears in the
8 slate mailer.

9 (2) The Secretary of State by rule shall define “legible size” and “legible size and type” as used
10 in this section.

11 (3) For purposes of ORS 260.735 and this section, “address” means the address of a residence,
12 office, headquarters or similar location where the slate mailer organization or a responsible officer
13 of the slate mailer organization may be conveniently located. If the slate mailer organization is a
14 political committee, the address shall be the address of the political committee included in the
15 statement of organization under ORS 260.039 or 260.042.

16 (4) The Secretary of State by rule may define the term “payment” as used in this section and
17 ORS 260.005 [(22)] (24) and 260.735.

18 **SECTION 9. Sections 2 to 4 of this 2009 Act and the amendments to ORS 260.005, 260.041,**
19 **260.044 and 260.737 by sections 5 to 8 of this 2009 Act apply to contributions and expenditures**
20 **made on or after the effective date of this 2009 Act.**

21 **SECTION 10. This 2009 Act does not take effect unless the amendment to Article II of**
22 **the Oregon Constitution proposed by House Joint Resolution 30 (2009) is approved by the**
23 **people at the next regular general election held throughout this state. This 2009 Act takes**
24 **effect on the effective date of that constitutional amendment.**
25 _____