

House Bill 3404

Sponsored by Representative CANNON

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**.

Establishes Voter Owned Elections Fund to provide public financing to candidates for certain public offices. Requires candidates who receive public financing to comply with contribution and expenditure limitations. Establishes Voter Owned Elections Commission to administer fund. Continuously appropriates moneys in fund to commission to distribute to candidates.

A BILL FOR AN ACT

1
2 Relating to the public financing of campaigns for state public offices; and appropriating money.

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

4 **SECTION 1. Sections 1 to 14 of this 2009 Act are added to and made a part of ORS**
5 **chapter 260.**

6 **SECTION 2. As used in sections 1 to 14 of this 2009 Act:**

7 (1) "Certified candidate" means a candidate who has received public financing certifi-
8 cation under section 4 of this 2009 Act.

9 (2) "Election period" means the primary and general election periods during which can-
10 didates may receive public financing.

11 (3) "General election period" means the period of time between September 1 and the day
12 on which the general election is held.

13 (4) "Nonparticipating candidate" means a candidate who is not receiving public financing
14 under sections 3, 4, 5 and 6 of this 2009 Act.

15 (5) "Primary election period" means the period of time between the date established by
16 the Voter Owned Elections Commission under section 11 of this 2009 Act and the date on
17 which the primary election is held.

18 (6) "Same office" means:

19 (a) The office of the:

20 (A) Governor;

21 (B) Secretary of State;

22 (C) Attorney General;

23 (D) State Treasurer;

24 (E) Commissioner of the Bureau of Labor and Industries;

25 (F) Superintendent of Public Instruction; or

26 (G) Supreme Court Judge;

27 (b) The seat of the legislative district for which a candidate for:

28 (A) State Senator is campaigning; or

29 (B) State Representative is campaigning; or

30 (c) Any other individual statewide office that the commission designates as an office for

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 which candidates may receive public financing when they are campaigning for that office.

2 **SECTION 3.** (1) The Voter Owned Elections Commission shall draw funds from the Voter
 3 Owned Elections Fund and distribute those funds to candidates who have received public fi-
 4 nancing certification under section 4 of this 2009 Act.

5 (2) For a primary election period, the commission by rule shall determine the date on
 6 which it will distribute funds to certified candidates. For a general election period, the com-
 7 mission shall distribute funds to certified candidates on September 1.

8 (3) The commission shall distribute an equal amount of funds to each certified candidate
 9 running for the same office during the same election period. The commission by rule shall
 10 determine the amount of funds that it will distribute to certified candidates.

11 (4) During a calendar year, the commission may not draw from the fund an amount that
 12 exceeds \$5 times the number of Oregon personal income tax returns that were filed during
 13 the previous calendar year.

14 (5) The commission may use up to 10 percent of the amount described in subsection (4)
 15 of this section to administer the fund and enforce sections 4, 5 and 6 of this 2009 Act. Any
 16 portion of the 10 percent that the commission does not use for administrative or enforce-
 17 ment purposes must remain in the fund for the remainder of the calendar year.

18 (6) The commission may use up to five percent of the amount described in subsection (4)
 19 of this section to educate electors pursuant to section 11 of this 2009 Act. Any portion of the
 20 five percent that the commission does not use for educating electors must remain in the
 21 fund for the remainder of the calendar year.

22 **SECTION 4.** (1) Candidates for the following offices are eligible to receive public financing
 23 certification:

24 (a) State Representative, state Senator, Governor, Secretary of State, Attorney General,
 25 State Treasurer, Commissioner of the Bureau of Labor and Industries, Superintendent of
 26 Public Instruction and Supreme Court Judge; and

27 (b) A statewide office that the Voter Owned Elections Commission designates as an office
 28 for which candidates may receive public financing when they are campaigning for that office.

29 (2) To receive public financing certification, a candidate, before the beginning of the
 30 election period for which the candidate seeks public financing, must:

31 (a) Obtain the number of qualifying contributions that the commission requires by rule
 32 pursuant to section 11 of this 2009 Act. A contribution is a qualifying contribution if:

33 (A) The contributor contributes an amount that does not exceed \$5;

34 (B) The contributor does not exchange the contribution for anything of value;

35 (C) The contributor does not make, during the same election period, more than one
 36 contribution to the campaign of the candidate who receives the contribution; and

37 (D)(i) The candidate is running for the office of state Representative or state Senator and
 38 the contributor is registered to vote in the electoral district of the office for which the can-
 39 didate is running at the time that the contributor makes the contribution; or

40 (ii) The candidate is running for a statewide office and the contributor is registered to
 41 vote in this state at the time that the contributor makes the contribution.

42 (b) Submit to the commission a list of persons who made a qualifying contribution to the
 43 candidate's campaign. The list must record:

44 (A) The name of each contributor;

45 (B) The phone number or electronic mail address of each contributor; and

1 (C) The county in which each contributor is registered to vote.

2 (c) File with the commission and the Secretary of State a statement of contributions and
3 expenditures as described in ORS 260.083.

4 (d) File a public financing application with the commission. In the application, the can-
5 didate shall certify under oath that the candidate agrees to the contribution and expenditure
6 limitations that are required by section 5 of this 2009 Act. The commission shall determine
7 the other contents of the application by rule.

8 (e) Meet any other requirement that the commission requires by rule.

9 **SECTION 5.** (1) After a candidate receives public financing certification under section 4
10 of this 2009 Act, a candidate:

11 (a) Shall accept only qualifying contributions, as described in section 4 of this 2009 Act,
12 during election periods.

13 (b) May not expend personal funds for the purpose of campaigning in an amount that
14 exceeds:

15 (A) \$500 if the candidate is running for the office of state Representative or state Sen-
16 ator; or

17 (B) \$1,000 if the candidate is running for a statewide office.

18 (c) May not expend an amount of funds during an election period that exceeds the
19 amount of funds that the Voter Owned Elections Commission distributes to the candidate
20 under section 3 of this 2009 Act, except that a candidate may expend in excess of that
21 amount:

22 (A) Any amount of qualifying contributions that the candidate receives pursuant to par-
23 agraph (a) of this subsection; and

24 (B) Personal funds pursuant to paragraph (b) of this subsection.

25 (d) Shall return all unspent public financing funds to the Voter Owned Elections Fund
26 no later than 30 days after an election period, except for funds that are necessary to pay the
27 unpaid bills for campaign expenditures that the candidate made during the election period.

28 (2) The commission by rule may require a candidate to submit to the commission doc-
29 umentation of campaign contributions and expenditures, including copies of campaign-related
30 receipts, books, records and accounts, to ensure that candidates who receive public financing
31 are in compliance with the requirements of this section.

32 (3) If the commission reasonably believes that a candidate is not in compliance with the
33 requirements of this section, the commission may conduct an audit of the candidate's
34 campaign-related receipts, books, records and accounts.

35 **SECTION 6.** (1) During an election period, if a statement of expenditures filed pursuant
36 to ORS chapter 260 establishes that a candidate who is not receiving public financing under
37 sections 3, 4, 5 and 6 of this 2009 Act is expending more funds than the Voter Owned
38 Elections Commission distributed to a candidate who received public financing certification,
39 and if the nonparticipating candidate and the certified candidate are running for the same
40 office, the commission, if the commission has sufficient funds, shall distribute additional
41 funds to each certified candidate running for that same office in an amount that equals the
42 difference between the expenditures of the nonparticipating candidate and the amount dis-
43 tributed to each of the certified candidates.

44 (2) During an election period, if two or more nonparticipating candidates are each ex-
45 pending more funds than the commission distributed to a certified candidate running for the

1 same office, the commission, if the commission has sufficient funds, shall distribute addi-
 2 tional funds to each certified candidate running for that same office in an amount that
 3 equals the difference between the expenditures of the nonparticipating candidate who is ex-
 4 pending the most funds and the amount distributed to each of the certified candidates.

5 (3) For purposes of this section, the commission shall consider:

6 (a) An independent expenditure made in support of a nonparticipating candidate as an
 7 expenditure of the nonparticipating candidate.

8 (b) An independent expenditure made in opposition to a nonparticipating candidate as
 9 part of the amount that the commission initially distributed to a certified candidate.

10 (c) An independent expenditure made in support of a certified candidate as part of the
 11 amount that the commission initially distributed to the certified candidate.

12 (d) An independent expenditure made in opposition to a certified candidate as an ex-
 13 penditure of a nonparticipating candidate.

14 **SECTION 7.** (1) The Voter Owned Elections Fund is established in the State Treasury,
 15 separate and distinct from the General Fund. Interest earned by the Voter Owned Elections
 16 Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to
 17 the Voter Owned Elections Commission for the purpose of administering sections 1 to 15 of
 18 this 2009 Act.

19 (2) The fund consists of moneys appropriated to the fund by the Legislative Assembly and
 20 moneys that the Voter Owned Elections Commission collects pursuant to the imposition of
 21 civil penalties under section 14 of this 2009 Act.

22 (3) To facilitate the financing of the fund, the commission shall:

23 (a) Estimate the expenses that it will incur during a biennium in carrying out its duties;

24 (b) Determine the amount of public financing funds that certified candidates will need to
 25 conduct competitive campaigns for each election period that occurs during a biennium; and

26 (c) Report its findings annually to the Governor and to the Legislative Assembly.

27 **SECTION 8.** (1) There is established a Voter Owned Elections Commission consisting of
 28 five members appointed by the Governor.

29 (2) The term of office of a member is four years, but a member serves at the pleasure
 30 of the Governor. Before the expiration of the term of a member, the Governor shall appoint
 31 a successor whose term shall begin on January 1. A member is not eligible for reappoint-
 32 ment. If there is a vacancy for any cause, the Governor shall make an appointment to be-
 33 come immediately effective for the unexpired term.

34 (3) The appointment of a member to the commission is subject to confirmation by the
 35 Senate in the manner prescribed in ORS 171.562 and 171.565.

36 (4) Members of the commission must be registered to vote in this state and must never
 37 have been appointed or elected to, or a candidate for, a public office. The commission may
 38 not have more than two members who belong to the same political party.

39 (5) A member of the commission is entitled to compensation and expenses as provided in
 40 ORS 292.495.

41 **SECTION 9.** Notwithstanding the term of office specified by section 9 of this 2009 Act,
 42 of the members first appointed to the Voter Owned Elections Commission:

43 (1) Two members shall serve for terms ending January 1, 2014.

44 (2) One member shall serve for a term ending January 1, 2013.

45 (3) One member shall serve for a term ending January 1, 2012.

1 (4) One member shall serve for a term ending January 1, 2011.

2 **SECTION 10.** (1) The Voter Owned Elections Commission shall select one of its members
3 as chairperson and another as vice chairperson for an annual term. The commission by rule
4 shall determine the duties and powers of the chairperson and the vice chairperson.

5 (2) A majority of the members of the commission constitutes a quorum for the trans-
6 action of business.

7 (3) The commission shall meet at least once every month at a place, day and hour de-
8 termined by the commission. The commission may also meet at other times and places
9 specified by the call of the chairperson or of a majority of the members of the commission.

10 **SECTION 11.** (1) The Voter Owned Elections Commission shall establish by rule:

11 (a) The required number of qualifying contributions, as described in section 4 of this 2009
12 Act, for the primary and general election periods for each type of office for which candidates
13 may receive public financing when they campaign for that office. If the commission deter-
14 mines that requiring qualifying contributions will inhibit the general election campaigns of
15 candidates who received public financing certification for the primary election period, the
16 commission may waive the qualifying contributions requirement for the general election pe-
17 riod.

18 (b) The date on which the primary election period begins.

19 (c) Bookkeeping and reporting requirements to ensure that candidates who receive or
20 who seek to receive public financing comply with sections 4, 5 and 6 of this 2009 Act.

21 (d) Procedures for enforcing sections 4, 5 and 6 of this 2009 Act, including procedures for:

22 (A) Reporting certified candidates who violated or are suspected of violating the contri-
23 bution and expenditure limitations specified in section 5 of this 2009 Act; and

24 (B) Notifying those candidates that they have been accused of violating a contribution
25 or expenditure limitation.

26 (e) Any other rule necessary to administer sections 1 to 14 of this 2009 Act.

27 (2) If the commission reasonably believes on the basis of all available evidence, including
28 statements of contributions and expenditures and information obtained during an audit, that
29 a candidate has violated a contribution or expenditure limitation, the commission shall pro-
30 vide for the candidate a contested case hearing as described in ORS chapter 183. If the
31 commission determines after the hearing that the candidate violated a contribution or ex-
32 penditure limitation, the commission may impose a civil penalty against the candidate as
33 described in section 14 of this 2009 Act.

34 (3) To educate electors about public financing the commission shall:

35 (a) File statements with the Secretary of State for publication in the voters' pamphlet.

36 (b) Publish and distribute information about the commission, its use of the Voter Owned
37 Elections Fund to publicly finance political campaigns and the candidates who receive public
38 financing.

39 (c) Sponsor debates between candidates, including debates between candidates who are
40 not receiving public financing and certified candidates.

41 (4) The commission by rule shall prescribe forms for reports, statements and other doc-
42 uments required by sections 1 to 14 of this 2009 Act.

43 **SECTION 12.** The Voter Owned Elections Commission and its authorized representatives
44 may administer oaths, take depositions and issue subpoenas to compel the attendance of
45 witnesses and the production of documents or other written information that are necessary

1 to carry out the provisions of sections 1 to 14 of this 2009 Act. If a person fails to comply
 2 with a subpoena that the commission issues under this section or refuses to testify on mat-
 3 ters on which the person lawfully may be interrogated, the commission shall follow the pro-
 4 cedure set out in ORS 183.440 to compel obedience.

5 **SECTION 13.** (1) The Voter Owned Elections Commission may establish such advisory
 6 and technical committees as it considers necessary to aid and advise the commission in the
 7 performance of its functions. These committees may be continuing or temporary commit-
 8 tees. The commission shall determine the representation, membership, terms and organiza-
 9 tion of the committees and shall appoint their members.

10 (2) Members of the committees are not entitled to compensation, but at the discretion
 11 of the commission may be reimbursed from funds available to the commission for actual and
 12 necessary travel and other expenses incurred by them in the performance of their official
 13 duties, in the manner and amount provided in ORS 292.495.

14 **SECTION 14.** (1) If a candidate who has received public financing certification or a person
 15 acting on behalf of a certified candidate violates a contribution or expenditure limitation, as
 16 described in section 5 of this 2009 Act, the Voter Owned Elections Commission may impose
 17 a civil penalty against the candidate that is 10 times the amount by which the contribution
 18 or expenditure exceeds the applicable limit.

19 (2)(a) In addition to any other penalty imposed by law, if a certified candidate violates a
 20 reporting requirement imposed by the commission pursuant to sections 1 to 14 of this 2009
 21 Act, the commission may impose a civil penalty of \$100 per day against a candidate for the
 22 office of state Representative or state Senator and a civil penalty of \$300 per day against a
 23 candidate for a statewide office.

24 (b) The commission may increase the penalty imposed by this subsection if the amount
 25 that the candidate did not report for an election period exceeds 10 percent of the amount
 26 that the commission distributed to a certified candidate for that election period.

27 (c) The commission may not impose a civil penalty pursuant to this subsection that ex-
 28 ceeds twice the amount of contributions or expenditures that the candidate did not report.

29 (d) The commission may recover a civil penalty imposed under this subsection from ei-
 30 ther the candidate or the campaign account of the candidate.

31 (3) The commission shall deposit all civil penalties collected pursuant to this section into
 32 the Voter Owned Elections Fund.
 33