

Senate Bill 774

Sponsored by COMMITTEE ON RULES

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**.

Requires filing officer to resolve investigations of certain alleged violations of election law or rule within certain time period.

A BILL FOR AN ACT

1
2 Relating to election violations; creating new provisions; and amending ORS 260.345.

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

4 **SECTION 1.** ORS 260.345 is amended to read:

5 260.345. (1) Any elector may file with any filing officer a written complaint alleging that a vio-
6 lation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260
7 has occurred and stating the reason for believing that the violation occurred and any evidence re-
8 lating to it. A complaint alleging a violation involving the Secretary of State, a candidate for the
9 office of Secretary of State, or any political committee or person supporting the Secretary of State
10 or a candidate for the office of Secretary of State may be filed with the Attorney General. The
11 Secretary of State or Attorney General shall not accept an anonymous complaint.

12 (2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed
13 with any person other than the Secretary of State. If the complaint concerns the Secretary of State,
14 any candidate for the office of the Secretary of State, or any political committee or person sup-
15 porting the candidacy of the Secretary of State or of another person for the office of Secretary of
16 State, the complaint and any additional information relating to the complaint shall be sent to the
17 Attorney General.

18 (3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State
19 or Attorney General immediately shall examine the complaint to determine whether a violation of
20 an election law or rule has occurred and shall make any investigation the Secretary of State or
21 Attorney General considers necessary. Except as provided in this subsection, within 48 hours of
22 receiving a complaint under subsection (1) or (2) of this section, the Secretary of State or Attorney
23 General shall notify the person who is the subject of the complaint that a complaint has been re-
24 ceived. If the Secretary of State or Attorney General receives a complaint or complaints involving
25 25 or more individuals or political committees in any 24-hour period, the Secretary of State or At-
26 torney General need not notify the persons who are the subjects of those complaints within 48 hours
27 of receiving the complaints but shall notify those persons not later than 10 business days after re-
28 ceiving the complaint or complaints.

29 (4) If the Secretary of State believes after an investigation under subsection (3) of this section
30 that a violation of an election law or rule has occurred, the secretary:

31 (a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall

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 report the findings to the Attorney General and request prosecution. If the violation involves the
 2 Attorney General, a candidate for that office or a political committee or person supporting or op-
 3 posing the Attorney General or a candidate for that office, the Secretary of State shall appoint an-
 4 other prosecutor for that purpose; or

5 (b) In the case of a violation not subject to a penalty under ORS 260.993, may impose a civil
 6 penalty under ORS 260.995.

7 (5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section involving
 8 an alleged violation subject to a penalty under ORS 260.993, the Attorney General or other
 9 prosecutor immediately shall examine the complaint or report to determine whether a violation of
 10 an election law has occurred. If the Attorney General or prosecutor determines that a violation
 11 has occurred, the Attorney General or prosecutor immediately shall begin prosecution in the name
 12 of the state. The Attorney General or other prosecutor shall have the same powers in any county
 13 of this state as the district attorney for the county.

14 (6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged
 15 violation of an election law or rule not subject to a penalty under ORS 260.993, the Attorney Gen-
 16 eral shall examine the complaint to determine whether a violation of an election law or rule has
 17 occurred and shall make any investigation the Attorney General considers necessary. If the Attor-
 18 ney General believes after an investigation that a violation of an election law or rule has occurred,
 19 the Attorney General may impose a civil penalty under ORS 260.995.

20 (7) In the case of an alleged violation subject to a civil penalty under ORS 260.995, a complaint
 21 shall be filed by an elector under this section no later than 90 days following the election at which
 22 a violation of an election law or rule is alleged to have occurred, or 90 days following the date the
 23 violation of an election law or rule is alleged to have occurred, whichever is later.

24 (8)(a) **Except as provided in paragraph (b) of this subsection**, a filing officer having reason
 25 to believe that a violation of an election law or rule has occurred shall proceed promptly as though
 26 the officer had received a complaint[. *A filing officer shall proceed under this subsection no*] **and**,
 27 **not** later than two years following the election at which a violation of an election law or rule is
 28 alleged to have occurred[,] or two years following the date the violation of an election law or rule
 29 is alleged to have occurred, whichever is later, **shall**:

30 (A) **Determine whether a violation of an election law or rule has occurred;**

31 (B) **Notify the person who is the subject of the investigation; and**

32 (C) **Impose any civil penalties under ORS 260.995 or, in the case of a violation that is**
 33 **subject to a penalty under ORS 260.993, report any findings to the Attorney General under**
 34 **subsection (4) of this section.**

35 (b) If a filing officer has not proceeded **under paragraph (a) of this subsection** within two
 36 years because of fraud, deceit[,] **or** misleading representation or **because** the filing officer could not
 37 have reasonably discovered the alleged violation, the filing officer shall proceed [*no*] **under para-**
 38 **graph (a) of this subsection not** later than five years following the election at which a violation
 39 of an election law or rule is alleged to have occurred[,] or five years following the date the violation
 40 of an election law or rule is alleged to have occurred, whichever is later.

41 **SECTION 2. The amendments to ORS 260.345 by section 1 of this 2009 Act apply to vio-**
 42 **lations that occur on or after the effective date of this 2009 Act.**