

House Bill 2239

Sponsored by Representatives MATTHEWS, J SMITH; Representatives BARKER, BUCKLEY, DOHERTY, GELSER, GREENLICK (Pre-session filed.)

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 candidates and political committees.

Becomes operative if amendment to Oregon Constitution by House Joint Resolution 3 (2011) is approved by people at next regular general election.

A BILL FOR AN ACT

1
2 Relating to campaign finance; creating new provisions; amending ORS 260.005; and repealing chapter
3 3, Oregon Laws 2007.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 260.**

6 **SECTION 2. (1) Except as provided in subsection (2) of this section, with respect to a
7 single election, an individual, candidate, political committee or person other than an indi-
8 vidual may not contribute an aggregate amount exceeding:**

9 (a) \$5,000 to any one political committee other than a principal campaign committee.

10 (b) \$1,500 to a candidate.

11 (c) \$5,000 to a political committee or candidate if all of the contributions to the commit-
12 tee or candidate are in-kind contributions.

13 (2) **With respect to a single election:**

14 (a) A political party committee may contribute an unlimited amount to a candidate who
15 is a member of that political party.

16 (b) A small donor committee may not contribute an aggregate amount exceeding \$3,000
17 to a candidate.

18 (3)(a) A political committee or person, other than an individual, may not make a contri-
19 bution to a small donor committee.

20 (b) A small donor committee may not accept contributions from any political committee
21 or person, other than an individual.

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

24 (5) For purposes of this section, a contribution to or on behalf of a candidate includes a
25 contribution to or on behalf of the candidate's principal campaign committee.

26 (6) **This section does not apply to:**

27 (a) Contributions made to or received by candidates for nomination or election to na-
28 tional or political party office.

29 (b) A political committee organized exclusively to support or oppose a measure.

30 **SECTION 3. ORS 260.005 is amended to read:**

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.

1 260.005. As used in this chapter:

2 (1)(a) “Candidate” means:

3 (A) An individual whose name is printed on a ballot, for whom a declaration of candidacy,
4 nominating petition or certificate of nomination to public office has been filed or whose name is
5 expected to be or has been presented, with the individual’s consent, for nomination or election to
6 public office;

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

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

15 (b) For purposes of this section and ORS 260.035 to 260.156, “candidate” does not include a
16 candidate for the office of precinct committeeperson.

17 (2) “Committee director” means any person who directly and substantially participates in
18 decision-making on behalf of a political committee concerning the solicitation or expenditure of
19 funds and the support of or opposition to candidates or measures. The officers of a political party
20 shall be considered the directors of any political party committee of that party, unless otherwise
21 provided in the party’s bylaws.

22 (3) Except as provided in ORS 260.007, “contribute” or “contribution” includes:

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

26 (A) For the purpose of influencing an election for public office or an election on a measure, or
27 of reducing the debt of a candidate for nomination or election to public office or the debt of a pol-
28 itical committee; or

29 (B) To or on behalf of a candidate, political committee or measure;

30 (b) Any unfulfilled pledge, subscription, agreement or promise, whether or not legally enforcea-
31 ble, to make a contribution; and

32 (c) The excess value of a contribution made for compensation or consideration of less than
33 equivalent value.

34 (4) “Controlled committee” means a political committee that, in connection with the making of
35 contributions or expenditures:

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

37 (b) Acts jointly with a candidate or controlled committee.

38 (5) “Controlled directly or indirectly by a candidate” means:

39 (a) The candidate, the candidate’s agent, a member of the candidate’s immediate family or any
40 other political committee that the candidate controls has a significant influence on the actions or
41 decisions of the political committee; or

42 (b) The candidate’s principal campaign committee and the political committee both have the
43 candidate or a member of the candidate’s immediate family as a treasurer or director.

44 (6) “County clerk” means the county clerk or the county official in charge of elections.

45 (7) “Elector” means an individual qualified to vote under section 2, Article II of the Oregon

1 Constitution.

2 (8) Except as provided in ORS 260.007, “expend” or “expenditure” includes the payment or fur-
 3 nishing of money or anything of value or the incurring or repayment of indebtedness or obligation
 4 by or on behalf of a candidate, political committee or person in consideration for any services,
 5 supplies, equipment or other thing of value performed or furnished for any reason, including support
 6 of or opposition to a candidate, political committee or measure, or for reducing the debt of a can-
 7 didate for nomination or election to public office. “Expenditure” also includes contributions made
 8 by a candidate or political committee to or on behalf of any other candidate or political committee.

9 (9) “Filing officer” means:

10 (a) The Secretary of State:

11 (A) Regarding a candidate for public office;

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

13 (C) Regarding any measure; or

14 (D) Regarding any political committee.

15 (b) In the case of an irrigation district formed under ORS chapter 545, “filing officer” means:

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

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

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

23 (10) “Independent expenditure” means an expenditure by a person for a communication in sup-
 24 port of or in opposition to a clearly identified candidate or measure that is not made with the co-
 25 operation or with the prior consent of, or in consultation with, or at the request or suggestion of,
 26 a candidate or any agent or authorized committee of the candidate, or any political committee or
 27 agent of a political committee supporting or opposing a measure. For purposes of this subsection:

28 (a) “Agent” means any person who has:

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

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

35 (b)(A) “Clearly identified” means, with respect to candidates:

36 (i) The name of the candidate involved appears;

37 (ii) A photograph or drawing of the candidate appears; or

38 (iii) The identity of the candidate is apparent by unambiguous reference.

39 (B) “Clearly identified” means, with respect to measures:

40 (i) The ballot number of the measure appears;

41 (ii) A description of the measure’s subject or effect appears; or

42 (iii) The identity of the measure is apparent by unambiguous reference.

43 (c) “Communication in support of or in opposition to a clearly identified candidate or measure”
 44 means:

45 (A) The communication, taken in its context, clearly and unambiguously urges the election or

1 defeat of a clearly identified candidate for nomination or election to public office, or the passage
 2 or defeat of a clearly identified measure;

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

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

5 (d) “Made with the cooperation or with the prior consent of, or in consultation with, or at the
 6 request or suggestion of, a candidate or any agent or authorized committee of the candidate, or any
 7 political committee or agent of a political committee supporting or opposing a measure”:

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

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

16 (ii) Made by or through any person who is or has been authorized to raise or expend funds, who
 17 is or has been an officer of a political committee authorized by the candidate or by a political
 18 committee or agent of a political committee supporting or opposing a measure, or who is or has been
 19 receiving any form of compensation or reimbursement from the candidate, the candidate’s principal
 20 campaign committee or agent or from any political committee or agent of a political committee
 21 supporting or opposing a measure.

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

24 (11) “Initiative petition” means a petition to initiate a measure for which a prospective petition
 25 has been filed but that is not yet a measure.

26 (12) “Judge” means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon
 27 Tax Court.

28 (13) “Mass mailing” means more than 200 substantially similar pieces of mail, but does not in-
 29 clude a form letter or other mail that is sent in response to an unsolicited request, letter or other
 30 inquiry.

31 (14) “Measure” includes any of the following submitted to the people for their approval or re-
 32 jection at an election:

33 (a) A proposed law.

34 (b) An Act or part of an Act of the Legislative Assembly.

35 (c) A revision of or amendment to the Oregon Constitution.

36 (d) Local, special or municipal legislation.

37 (e) A proposition or question.

38 (15) “Occupation” means:

39 (a) The nature of an individual’s principal business; and

40 (b) If the individual is employed by another person, the business name and address, by city and
 41 state, of the employer.

42 (16) “Person” means an individual, corporation, limited liability company, labor organization,
 43 association, firm, partnership, joint stock company, club, organization or other combination of indi-
 44 viduals having collective capacity.

45 (17) “Petition committee” means an initiative, referendum or recall petition committee organized

1 under ORS 260.118.

2 (18) "Political committee" means a combination of two or more individuals, or a person other
3 than an individual, that has:

4 (a) Received a contribution for the purpose of supporting or opposing a candidate, measure or
5 political party; or

6 (b) Made an expenditure for the purpose of supporting or opposing a candidate, measure or
7 political party. For purposes of this paragraph, an expenditure does not include:

8 (A) A contribution to a candidate or political committee that is required to report the contri-
9 bution on a statement filed under ORS 260.057, 260.076 or 260.102 or a certificate filed under ORS
10 260.112; or

11 (B) An independent expenditure for which a statement is required to be filed by a person under
12 ORS 260.044.

13 (19) "Public office" means any national, state, county, district, city office or position, except a
14 political party office, that is filled by the electors.

15 (20) "Recall petition" means a petition to recall a public officer for which a prospective petition
16 has been filed but that is not yet a measure.

17 (21) "Referendum petition" means a petition to refer a measure for which a prospective petition
18 has been filed but that is not yet a measure.

19 (22) "Regular district election" means the regular district election described in ORS 255.335.

20 (23) "Slate mailer" means a mass mailing that supports or opposes a total of three or more
21 candidates or measures.

22 (24)(a) "Slate mailer organization" means any person who directly or indirectly:

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

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

28 (b) "Slate mailer organization" does not include:

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

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

32 **(25) "Small donor committee" means a political committee that:**

33 **(a) Accepts contributions only from individuals;**

34 **(b) Does not accept contributions from individuals that exceed \$150 with respect to a**
35 **single election;**

36 **(c) Does not make expenditures to support or oppose measures; and**

37 **(d) Does not make contributions to political committees organized exclusively to support**
38 **or oppose a measure.**

39 [(25)] **(26) "State office" means the office of Governor, Secretary of State, State Treasurer, At-**
40 **torney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public In-**
41 **struction, state Senator, state Representative, judge or district attorney.**

42 **(27) "With respect to a single election" means, in the case of a contribution to a candi-**
43 **date:**

44 **(a) The next election for nomination or election to a public office, other than national**
45 **or political party office, after the contribution is made; or**

1 **(b) In the case of a contribution made after an election and designated in writing by the**
2 **contributor for a previous election, the election so designated. A contribution may be desig-**
3 **ned for a previous election under this subsection if the contribution does not exceed the**
4 **expenditure deficit of the candidate or principal campaign committee of the candidate re-**
5 **ceiving the contribution.**

6 **SECTION 4. Chapter 3, Oregon Laws 2007, is repealed.**

7 **SECTION 5. Sections 1 and 2 of this 2011 Act and the amendments to ORS 260.005 by**
8 **section 3 of this 2011 Act and the repeal of chapter 3, Oregon Laws 2007, by section 4 of this**
9 **2011 Act apply to contributions made on or after the operative date of this 2011 Act.**

10 **SECTION 6. Sections 1 and 2 of this 2011 Act, the amendments to ORS 260.005 by section**
11 **3 of this 2011 Act and the repeal of chapter 3, Oregon Laws 2007, by section 4 of this 2011**
12 **Act do not become operative unless the amendment to the Oregon Constitution proposed by**
13 **House Joint Resolution 3 (2011) is approved by the people at the regular general election held**
14 **in November 2012. If House Joint Resolution 3 (2011) is approved by the people, sections 1 and**
15 **2 of this 2011 Act, the amendments to ORS 260.005 by section 3 of this 2011 Act and the repeal**
16 **of chapter 3, Oregon Laws 2007, by section 4 of this 2011 Act become operative on January**
17 **1, 2013.**