

SENATE AMENDMENTS TO HOUSE BILL 2433

By COMMITTEE ON RULES

June 13

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and insert
2 “creating new provisions; amending ORS 249.037, 251.065, 260.005, 260.035, 260.038, 260.044, 260.046,
3 260.056, 260.232 and 260.241; and repealing ORS 260.735 and 260.737.”.

4 On page 2, after line 11, insert:

5 “**SECTION 3.** ORS 260.005 is amended to read:

6 “260.005. As used in this chapter:

7 “(1)(a) ‘Candidate’ means:

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

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

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

20 “(b) For purposes of this section and ORS 260.035 to 260.156, ‘candidate’ does not include a
21 candidate for the office of precinct committeeperson.

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

27 “(3) Except as provided in ORS 260.007, ‘contribute’ or ‘contribution’ includes:

28 “(a) The payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent com-
29 pensation or consideration, of money, services other than personal services for which no compen-
30 sation is asked or given, supplies, equipment or any other thing of value:

31 “(A) For the purpose of influencing an election for public office or an election on a measure,
32 or of reducing the debt of a candidate for nomination or election to public office or the debt of a
33 political committee; or

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

35 “(b) Any unfulfilled pledge, subscription, agreement or promise, whether or not legally enforce-

1 able, to make a contribution; and

2 “(c) The excess value of a contribution made for compensation or consideration of less than
3 equivalent value.

4 “(4) ‘Controlled committee’ means a political committee that, in connection with the making of
5 contributions or expenditures:

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

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

8 “(5) ‘Controlled directly or indirectly by a candidate’ means:

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

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

14 “(6) ‘County clerk’ means the county clerk or the county official in charge of elections.

15 “(7) ‘Elector’ means an individual qualified to vote under section 2, Article II of the Oregon
16 Constitution.

17 “(8) Except as provided in ORS 260.007, ‘expend’ or ‘expenditure’ includes the payment or fur-
18 nishing of money or anything of value or the incurring or repayment of indebtedness or obligation
19 by or on behalf of a candidate, political committee or person in consideration for any services,
20 supplies, equipment or other thing of value performed or furnished for any reason, including support
21 of or opposition to a candidate, political committee or measure, or for reducing the debt of a candi-
22 date for nomination or election to public office. ‘Expenditure’ also includes contributions made by
23 a candidate or political committee to or on behalf of any other candidate or political committee.

24 “(9) ‘Filing officer’ means:

25 “(a) The Secretary of State:

26 “(A) Regarding a candidate for public office;

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

28 “(C) Regarding any measure; or

29 “(D) Regarding any political committee.

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

31 “(A) The county clerk, regarding any candidate for office or any measure at an irrigation dis-
32 trict formation election where the proposed district is situated wholly in one county;

33 “(B) The county clerk of the county in which the office of the secretary of the proposed irri-
34 gation district will be located, regarding any candidate for office or any measure at an irrigation
35 district formation election where the proposed district is situated in more than one county; or

36 “(C) The secretary of the irrigation district for any election other than an irrigation district
37 formation election.

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

43 “(a) ‘Agent’ means any person who has:

44 “(A) Actual oral or written authority, either express or implied, to make or to authorize the
45 making of expenditures on behalf of a candidate or on behalf of a political committee supporting or

1 opposing a measure; or

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

5 “(b)(A) ‘Clearly identified’ means, with respect to candidates:

6 “(i) The name of the candidate involved appears;

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

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

9 “(B) ‘Clearly identified’ means, with respect to measures:

10 “(i) The ballot number of the measure appears;

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

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

13 “(c) ‘Communication in support of or in opposition to a clearly identified candidate or measure’
14 means:

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

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

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

20 “(d) ‘Made with the cooperation or with the prior consent of, or in consultation with, or at the
21 request or suggestion of, a candidate or any agent or authorized committee of the candidate, or any
22 political committee or agent of a political committee supporting or opposing a measure’:

23 “(A) Means any arrangement, coordination or direction by the candidate or the candidate’s
24 agent, or by any political committee or agent of a political committee supporting or opposing a
25 measure, prior to the publication, distribution, display or broadcast of the communication. An ex-
26 penditure shall be presumed to be so made when it is:

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

31 “(ii) Made by or through any person who is or has been authorized to raise or expend funds,
32 who is or has been an officer of a political committee authorized by the candidate or by a political
33 committee or agent of a political committee supporting or opposing a measure, or who is or has been
34 receiving any form of compensation or reimbursement from the candidate, the candidate’s principal
35 campaign committee or agent or from any political committee or agent of a political committee
36 supporting or opposing a measure.

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

39 “(11) ‘Initiative petition’ means a petition to initiate a measure for which a prospective petition
40 has been filed but that is not yet a measure.

41 “(12) ‘Judge’ means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon
42 Tax Court.

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

1 “(14) ‘Measure’ includes any of the following submitted to the people for their approval or re-
2 jection at an election:
3 “(a) A proposed law.
4 “(b) An Act or part of an Act of the Legislative Assembly.
5 “(c) A revision of or amendment to the Oregon Constitution.
6 “(d) Local, special or municipal legislation.
7 “(e) A proposition or question.
8 “(15) ‘Occupation’ means:
9 “(a) The nature of an individual’s principal business; and
10 “(b) If the individual is employed by another person, the business name and address, by city and
11 state, of the employer.
12 “(16) ‘Person’ means an individual, corporation, limited liability company, labor organization,
13 association, firm, partnership, joint stock company, club, organization or other combination of indi-
14 viduals having collective capacity.
15 “(17) ‘Petition committee’ means an initiative, referendum or recall petition committee organized
16 under ORS 260.118.
17 “(18) ‘Political committee’ means a combination of two or more individuals, or a person other
18 than an individual, that has:
19 “(a) Received a contribution for the purpose of supporting or opposing a candidate, measure or
20 political party; or
21 “(b) Made an expenditure for the purpose of supporting or opposing a candidate, measure or
22 political party. For purposes of this paragraph, an expenditure does not include:
23 “(A) A contribution to a candidate or political committee that is required to report the contri-
24 bution on a statement filed under ORS 260.057, 260.076 or 260.102 or a certificate filed under ORS
25 260.112; or
26 “(B) An independent expenditure for which a statement is required to be filed by a person under
27 ORS 260.044.
28 “(19) ‘Public office’ means any national, state, county, district, city office or position, except a
29 political party office, that is filled by the electors.
30 “(20) ‘Recall petition’ means a petition to recall a public officer for which a prospective petition
31 has been filed but that is not yet a measure.
32 “(21) ‘Referendum petition’ means a petition to refer a measure for which a prospective petition
33 has been filed but that is not yet a measure.
34 “(22) ‘Regular district election’ means the regular district election described in ORS 255.335.
35 “[23] ‘Slate mailer’ means a mass mailing that supports or opposes a total of three or more can-
36 didates or measures.]
37 “[24)(a) ‘Slate mailer organization’ means any person who directly or indirectly:]
38 “[A] Is involved in the production of one or more slate mailers and exercises control over the se-
39 lection of the candidates and measures to be supported or opposed in the slate mailers; and]
40 “[B] Receives or is promised payment for producing one or more slate mailers or for endorsing
41 or opposing, or refraining from endorsing or opposing, a candidate or measure in one or more slate
42 mailers.]
43 “[b] ‘Slate mailer organization’ does not include:]
44 “[A] A political committee organized by a political party; or]
45 “[B] A political committee organized by the caucus of either the Senate or the House of Repre-

1 *sentatives of the Legislative Assembly.]*

2 “[25] (23) ‘State office’ means the office of Governor, Secretary of State, State Treasurer, At-
3 torney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public In-
4 struction, state Senator, state Representative, judge or district attorney.

5 “**SECTION 4.** ORS 260.035 is amended to read:

6 “260.035. (1) Not later than the third business day after a political committee first receives a
7 contribution or makes an expenditure, the political committee shall:

8 “(a) Appoint a treasurer who shall be an elector of this state;

9 “(b) Certify the name and address of the treasurer to the filing officer; and

10 “(c) File a statement of organization under ORS 260.039 or 260.042.

11 “**(2) A candidate may serve as the candidate’s own treasurer or may appoint and certify**
12 **to the filing officer the name and address of a treasurer. A candidate’s treasurer shall per-**
13 **form all the duties prescribed for the candidate under ORS 260.035 to 260.156.**

14 “[2] (3) Contributions shall be received and expenditures made by or through the treasurer of
15 the political committee **or the candidate or the treasurer of a principal campaign committee.**

16 “[3] (4) Any change in information required under this section shall be indicated in an amended
17 certification filed not later than the 10th day after the change in information.

18 “**SECTION 5.** ORS 260.038 is amended to read:

19 “260.038. (1) An individual may be appointed and serve as treasurer of a candidate, [*and*] a
20 political committee **or petition committee** or of two or more candidates, [*or*] political committees
21 **or petition committees.**

22 “(2) A candidate, [*or*] political committee **or petition committee** may remove a treasurer.

23 “(3) In event of the death, resignation or removal of a treasurer before compliance with all ob-
24 ligations of a treasurer under ORS [*260.005 and*] 260.035 to 260.156, [*a candidate may and a political*
25 *committee*] **no later than 14 days after the death, resignation or removal of the treasurer:**

26 “(a) **A candidate shall appoint a successor and certify the name and address of the suc-**
27 **cessor in the manner of an original appointment or certify to the filing officer that the**
28 **candidate serves as the candidate’s own treasurer.**

29 “(b) **A committee director** shall appoint a successor and certify the name and address of the
30 successor in the manner of an original appointment.

31 “(c) **A chief petitioner shall appoint a successor and certify the name and address of the**
32 **successor in the manner of an original appointment.**

33 “**SECTION 6.** ORS 260.044 is amended to read:

34 “260.044. (1) A person shall file a statement of independent expenditures if the person makes
35 independent expenditures in a total amount of more than [*\$100*] **\$750** in a calendar year. The state-
36 ment shall be filed with the Secretary of State.

37 “(2) A statement described in subsection (1) of this section shall be filed not later than seven
38 calendar days after the total amount of independent expenditures exceeds [*\$100*] **\$750** in a calendar
39 year. The accounting period for the statement required by subsection (1) of this section begins on
40 the date that an independent expenditure is made. The statement shall specify the candidate or
41 measure supported or opposed by the independent expenditure. The secretary by rule shall prescribe
42 the form of the statement.

43 “(3) Notwithstanding ORS 260.005 (18), a person who solicits and receives a contribution or
44 contributions is a political committee and shall file a statement of organization under ORS 260.042
45 and the statements required by ORS 260.057 or 260.076.

1 “(4) For purposes of this section:

2 “(a) An independent expenditure does not include a contribution to a candidate or political
3 committee that is required to report the contribution on a statement filed under ORS 260.057,
4 260.076 or 260.102 or a certificate filed under ORS 260.112;

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

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

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

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

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

14 “**SECTION 7.** ORS 260.046 is amended to read:

15 “260.046. (1) A filing officer, in accordance with rules adopted by the Secretary of State, may
16 discontinue the statement of organization of a candidate, principal campaign committee, [or] political
17 committee **or petition committee** if the candidate[, *principal campaign committee or political*] **or**
18 committee has not filed a statement of contributions received or expenditures made under this
19 chapter.

20 “(2) The Secretary of State shall adopt rules prescribing conditions and procedures under which
21 a filing officer may discontinue a statement of organization under this section.

22 “(3) If a filing officer discontinues a statement of organization under this section, the filing of-
23 ficer shall provide written notice to the candidate, principal campaign committee, [or] political
24 committee **or petition committee** that the statement has been discontinued.

25 “**SECTION 8.** ORS 260.056 is amended to read:

26 “260.056. (1) A loan made by or to a candidate, political committee or petition committee must
27 be by written agreement.

28 “(2) A candidate, political committee or petition committee shall keep a copy of any written loan
29 agreement with the detailed accounts of the candidate or committee required under ORS 260.055.

30 “(3) Notwithstanding ORS 260.055, a candidate, political committee or petition committee shall
31 preserve a written loan agreement **for at least two years after the statement of the loan is filed**
32 **under ORS 260.057 or** until the loan is repaid, **whichever is later.**

33 “**SECTION 9.** ORS 260.232 is amended to read:

34 “260.232. (1) The Secretary of State may impose a civil penalty as provided in this section, in
35 addition to any other penalty that may be imposed, for:

36 “(a) Failure to file a statement or certificate required to be filed under ORS 260.044, 260.057,
37 260.076, 260.078, 260.083, 260.102, 260.112 or 260.118.

38 “(b) Failure to include in a statement filed under ORS 260.057, 260.076, 260.078, 260.083, 260.102,
39 260.112 or 260.118 the information required under ORS 260.057, 260.076, 260.083, 260.102 or 260.118.

40 “(2)(a) If a person required to file has not filed a statement or certificate complying with appli-
41 cable provisions of ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.085, 260.102, 260.112 or
42 260.118 within the time specified in ORS 260.044, 260.057, 260.076, 260.078 or 260.118, the Secretary
43 of State by [*certified*] **first class** mail shall notify the person that a penalty may be imposed and that
44 the person has 20 days **from the service date on the notice** to request a hearing before the Sec-
45 retary of State.

1 “(b) If the person required to file is a candidate or the principal campaign committee of a can-
2 didate, the Secretary of State shall send the notice described in paragraph (a) of this subsection by
3 [certified] **first class** mail to the [individual who is the] candidate and [by first class mail] to the
4 candidate’s treasurer or the treasurer of the candidate’s principal campaign committee. The notice
5 sent [by certified mail] to the [individual who is a] candidate shall be used for purposes of deter-
6 mining the deadline for requesting a hearing under subsection (3) of this section. The Secretary of
7 State is not required to send two notices if the candidate serves as the treasurer of the candidate’s
8 principal campaign committee.

9 “(3) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
10 shall be held by the Secretary of State:

11 “(a) Upon request of the person against whom the penalty may be assessed, if the request is
12 made not later than the 20th day after the person received the notice sent under subsection (2) of
13 this section;

14 “(b) Upon request of the filing officer with whom a statement or certificate was required to be
15 filed but was not filed; or

16 “(c) Upon the Secretary of State’s own motion.

17 “(4) A hearing under subsection (3) of this section shall be held not later than 45 days after the
18 deadline for the person against whom the penalty may be assessed to request a hearing. However,
19 if requested by the person against whom the penalty may be assessed, a hearing under subsection
20 (3) of this section shall be held not later than 60 days after the deadline for the person against whom
21 the penalty may be assessed to request a hearing.

22 “(5) The Secretary of State shall issue an order not later than 90 days after a hearing or after
23 the deadline for requesting a hearing if no hearing is held.

24 “(6) The person against whom a penalty may be assessed need not appear in person at a hearing
25 held under this section, but instead may submit written testimony and other evidence, subject to the
26 penalty for false swearing, to the Secretary of State for entry in the hearing record. The testimony
27 and other evidence must be received by the secretary not later than three business days before the
28 day of the hearing **and may be submitted electronically.**

29 “(7) A civil penalty imposed under this section may not be more than the following:

30 “(a) For failure to file a statement or certificate required to be filed under ORS 260.044, 260.057,
31 260.076, 260.078, 260.083, 260.102, 260.112 or 260.118, 10 percent of the total amount of the contri-
32 bution or expenditure required to be included in the statement or certificate; or

33 “(b) For each failure to include in a statement filed under ORS 260.057, 260.076, 260.078, 260.083,
34 260.102, 260.112 or 260.118 the information required under ORS 260.057, 260.076, 260.083, 260.102 or
35 260.118, 10 percent of the total amount of the contribution or expenditure required to be included
36 in the statement.

37 “(8) The Secretary of State, upon a showing of mitigating circumstances, may reduce the amount
38 of the penalty described in subsection (7) of this section.

39 “(9) Except as otherwise provided by this section, civil penalties under this section shall be
40 imposed as provided in ORS 183.745.

41 “**SECTION 10.** ORS 260.241 is amended to read:

42 “260.241. (1) Despite delay in the filing of statements relating to a candidate’s nomination re-
43 quired to be filed under ORS 260.057, or in the filing of a certificate described in ORS 260.112 in lieu
44 of a statement required under ORS 260.057, prior to the nominating election, the candidate’s name
45 shall appear on the general election ballot if those statements or the certificate is filed before the

1 61st day before the general election.

2 “(2) A candidate’s name [*shall*] **may** not be placed on the general election ballot if the state-
3 ments or certificate referred to in subsection (1) of this section is not filed before the 61st day before
4 the general election.

5 “(3) If the statements or certificate referred to in subsection (1) of this section is not filed by
6 the 68th day before the general election, the filing officer by mail shall notify the **candidate** [*person*
7 *required to file the statements or certificate*] that the candidate’s name may not be placed on the
8 general election ballot. The filing officer shall send the notice described in this subsection by [*cer-*
9 *tified*] **first class** mail to the [*individual who is the*] candidate and [*by first class mail to*] the
10 candidate’s treasurer or the treasurer of the candidate’s principal campaign committee. The filing
11 officer is not required to send two notices if the candidate serves as the treasurer of the candidate’s
12 principal campaign committee.

13 **“SECTION 11. ORS 260.735 and 260.737 are repealed.**

14 **“SECTION 12. (1) The amendments to ORS 260.038 by section 5 of this 2011 Act apply to**
15 **an appointment made in the event of the death, resignation or removal of a treasurer that**
16 **occurs on or after the effective date of this 2011 Act.**

17 **“(2) The amendments to ORS 260.044 by section 6 of this 2011 Act apply to calendar years**
18 **beginning on or after the effective date of this 2011 Act.**

19 **“(3) The amendments to ORS 260.056 by section 8 of this 2011 Act apply to written loan**
20 **agreements for loans that have not been repaid as of the effective date of this 2011 Act.**

21 **“(4) The amendments to ORS 260.232 and 260.241 by sections 9 and 10 of this 2011 Act**
22 **apply to notifications sent on or after the effective date of this 2011 Act.”.**

23