

# Senate Bill 267

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## 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 chief petitioner of initiative or referendum petition to disclose system of bonuses, incentives or payment or minimum expectation of signatures to be obtained. Prohibits system of bonuses, incentives or payment with effect of paying person per signature obtained.

Modifies liability of contractors or subcontractors of chief petitioner with knowledge of violation of law or rule related to circulation of initiative or referendum petition.

Provides confidential reporting of certain violations of election law or rule.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to elections; creating new provisions; amending ORS 260.262, 260.563 and 260.995; and de-  
3 claring an emergency.

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

5 **SECTION 1.** ORS 260.262 is amended to read:

6 260.262. (1) As used in this section, "accounts" means:

7 (a) Any contract entered into by a chief petitioner of an initiative or referendum petition and  
8 any person for purposes of obtaining signatures on the initiative or referendum petition or on a  
9 prospective petition for a state measure to be initiated;

10 (b) Any employment manual or training materials provided to persons who obtain signatures on  
11 the petition or prospective petition;

12 (c) Payroll records for each employee obtaining signatures on the petition or prospective peti-  
13 tion showing hours worked, number of signatures collected and amounts paid;

14 (d) Records identifying the amount and purpose of each payment made by the chief petitioner  
15 or any contractor, as defined in ORS 260.563, to any subcontractor, as defined in ORS 260.563, ob-  
16 taining signatures on the petition or prospective petition; and

17 (e) Copies of signature sheets circulated by persons who are being paid to obtain signatures on  
18 the petition or prospective petition.

19 **(f) A record of any system of bonuses, incentives or payment or any minimum expecta-**  
20 **tion of signatures to be obtained on a petition.**

21 (2) For purposes of enforcing section 1b, Article IV of the Oregon Constitution, a chief petitioner  
22 of an initiative or referendum petition who pays any person money or other valuable consideration  
23 to obtain signatures on the petition or prospective petition shall:

24 (a) Keep detailed accounts. The accounts shall be current as of not later than the seventh cal-  
25 endar day after the date a payment is made to a person for obtaining signatures on the petition or  
26 prospective petition.

27 **(b) Disclose any system of bonuses, incentives or payment or any minimum expectation**

**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 **of signatures to be obtained on a petition not later than the date the chief petitioner files a**  
 2 **prospective petition under ORS 250.045 for the measure for which persons will be paid money**  
 3 **or other valuable consideration to obtain signatures.**

4 (3) The Secretary of State shall review the accounts of each chief petitioner described in sub-  
 5 section (2) of this section in the manner and according to a regular schedule adopted by the secre-  
 6 tary by rule.

7 (4) In addition to the review conducted under subsection (3) of this section, the secretary, At-  
 8 torney General or Commissioner of the Bureau of Labor and Industries may inspect the accounts  
 9 of a chief petitioner described in subsection (2) of this section under reasonable circumstances at  
 10 any time before the deadline for filing signatures on the petition or during the period specified for  
 11 retention of the accounts under subsection (5) of this section. The right of inspection may be en-  
 12 forced by writ of mandamus issued by any court of competent jurisdiction.

13 (5) A chief petitioner must preserve the accounts pertaining to an initiative or referendum pe-  
 14 tition or a prospective petition for a state measure to be initiated for at least two years after the  
 15 deadline for filing the petition for verification of signatures or at least two years after the date the  
 16 last statement is filed under ORS 260.118, whichever is later.

17 (6) If a chief petitioner does not produce accounts under subsection (3) or (4) of this section:

18 (a) There is a rebuttable presumption that a violation of section 1b, Article IV of the Oregon  
 19 Constitution, has occurred; and

20 (b) The chief petitioner may not obtain additional signatures on the petition or prospective pe-  
 21 tition until the chief petitioner is able to supply the accounts to the secretary, Attorney General  
 22 or commissioner.

23 (7) Accounts are not subject to disclosure under ORS 192.410 to 192.505.

24 **SECTION 2.** ORS 260.563 is amended to read:

25 260.563. (1) As used in this section:

26 (a) "Contractor" means a person who contracts on predetermined terms with a chief petitioner,  
 27 or a person acting on behalf of a chief petitioner, of an initiative or referendum petition or a pro-  
 28 spective petition for a state measure to be initiated for the purpose of obtaining signatures on the  
 29 petition or prospective petition.

30 (b) "Subcontractor" means a person who contracts on predetermined terms with a contractor for  
 31 the purpose of obtaining signatures on an initiative or referendum petition or a prospective petition  
 32 for a state measure to be initiated and who has no direct contractual relationship with a chief  
 33 petitioner or other person acting on behalf of a chief petitioner.

34 **(2)(a) If a contractor or subcontractor of a statewide initiative or referendum petition**  
 35 **has knowledge of a violation of any provision of Oregon Revised Statutes, of any rule adopted**  
 36 **by the Secretary of State under ORS chapters 246 to 260 related to the circulation of a**  
 37 **statewide initiative or referendum petition or of section 1b, Article IV of the Oregon Con-**  
 38 **stitution, committed by a person obtaining signatures on the chief petitioner's petition or**  
 39 **prospective petition, the violation by the person obtaining signatures is conclusively consid-**  
 40 **ered a violation by the contractor or subcontractor.**

41 [(2)] (b) If a contractor has knowledge or should have had knowledge of a violation of ORS  
 42 250.048, 260.555, 260.558, 260.567, 260.575, 260.665 or 260.715 (1) or section 1b, Article IV of the  
 43 Oregon Constitution, or any rule adopted by the Secretary of State related to section 1b, Article IV  
 44 of the Oregon Constitution, petition sheets or circulator training, registration or certification, by a  
 45 subcontractor, the violation by the subcontractor is conclusively considered a violation by the con-

1 tractor.

2 (3) A contractor is not liable under subsection (2) of this section if the contractor notifies the  
 3 Secretary of State in writing not later than one business day after the contractor obtains knowledge  
 4 of a potential violation. The notice shall state:

- 5 (a) That a potential violation has occurred;
- 6 (b) The nature of the potential violation; and
- 7 (c) All specific information known to the contractor regarding the potential violation.

8 (4) A contractor may not be held criminally liable under this section solely based on a violation  
 9 committed by a subcontractor.

10 **SECTION 3. (1) Any person may report a violation of an election law or rule adopted by**  
 11 **the Secretary of State under ORS chapters 246 to 260 by a chief petitioner of an initiative,**  
 12 **referendum or recall petition, a contractor or subcontractor as defined in ORS 260.563, or**  
 13 **any person registered to pay or receive money or other valuable consideration for obtaining**  
 14 **signatures of electors on an initiative, a referendum or a recall petition or on a prospective**  
 15 **petition for a state measure.**

16 (2) Notwithstanding any other provision of law, the identity of any person making a re-  
 17 port under this section is confidential. Upon receiving a complaint under this section, the  
 18 secretary may proceed as if the secretary received a complaint under ORS 260.345 or take  
 19 any other action the secretary determines may be appropriate.

20 **SECTION 4. For purposes of enforcing section 1b, Article IV of the Oregon Constitution,**  
 21 **a chief petitioner may not use a quota system or any other system of providing bonuses,**  
 22 **incentives or payment that has the effect of paying money or other thing of value based on**  
 23 **the number of signatures obtained on an initiative or referendum petition.**

24 **SECTION 5.** ORS 260.995, as amended by section 10, chapter 9, Oregon Laws 2010, and section  
 25 2, chapter 35, Oregon Laws 2010, is amended to read:

26 260.995. (1) Except as provided in subsection (2) of this section, following an investigation under  
 27 ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed  
 28 \$250 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any  
 29 election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter  
 30 preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

- 31 (2) The secretary or the Attorney General may impose a civil penalty not to exceed:
- 32 (a) \$1,000 for each violation of ORS 251.049 (3) or 251.405 (3);
- 33 (b) \$1,000 plus the amount converted to personal use for each violation of ORS 260.407; or
- 34 (c) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1) or 260.715 (1) **or sec-**  
 35 **tion 4 of this 2011 Act** or section 1b, Article IV of the Oregon Constitution.

36 (3) Except as otherwise provided by this section, civil penalties under this section shall be im-  
 37 posed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall  
 38 include:

- 39 (a) A statement of the authority and jurisdiction under which the hearing is to be held; and
- 40 (b) If the person is an agency, corporation or an unincorporated association, a statement that  
 41 such person must be represented by an attorney licensed in Oregon, unless the person is a political  
 42 committee which may be represented by any officer identified in the most recent statement of or-  
 43 ganization filed with the filing officer.

44 (4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation  
 45 shall be held by the secretary or Attorney General:

1 (a) Upon request of the person against whom the penalty may be assessed, if the request is made  
 2 not later than the 20th day after the date the person received notice sent under subsection (3) of  
 3 this section; or

4 (b) Upon the secretary’s or Attorney General’s own motion.

5 (5) The person against whom a penalty may be assessed need not appear in person at a hearing  
 6 held under this section, but instead may submit written testimony or other evidence, sworn to before  
 7 a notary public, to the secretary or Attorney General for entry in the hearing record. The testimony  
 8 or other evidence must be received by the secretary or Attorney General not later than three  
 9 business days before the day of the hearing.

10 (6) All hearings under this section shall be held not later than 45 days after the deadline for the  
 11 person against whom the penalty may be assessed to request a hearing. However, if requested by  
 12 the person against whom the penalty may be assessed, a hearing under subsection (4) of this section  
 13 shall be held not later than 60 days after the deadline for the person against whom the penalty may  
 14 be assessed to request a hearing.

15 (7) The secretary or Attorney General shall issue an order not later than 90 days after a hearing  
 16 or after the deadline for requesting a hearing if no hearing is held.

17 (8) All penalties recovered under this section shall be paid into the State Treasury and credited  
 18 to the General Fund.

19 (9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the  
 20 person against whom the penalty is assessed:

21 (a) Is personally responsible for the payment of the civil penalty;

22 (b) Shall pay the civil penalty from personal funds of the person; and

23 (c) May not pay the civil penalty from contributions received by a candidate, a candidate’s  
 24 principal campaign committee, a political committee or a petition committee.

25 **SECTION 6. (1) The amendments to ORS 260.262 by section 1 of this 2011 Act apply to:**

26 (a) Initiative and referendum petitions for which a prospective petition is filed on or after  
 27 the effective date of this 2011 Act;

28 (b) Prospective petitions that are filed on or after the effective date of this 2011 Act; and

29 (c) Initiative and referendum petitions for which a prospective petition is filed prior to  
 30 the effective date of this 2011 Act and that, if filed with the required number of signatures  
 31 of electors, will be submitted to the people at an election held on or after the effective date  
 32 of this 2011 Act. A chief petitioner of a petition described in this paragraph shall maintain  
 33 accounts under ORS 260.262, as amended by section 1 of this 2011 Act, for activities that  
 34 occur on or after the effective date of this 2011 Act.

35 (2) The amendments to ORS 260.563 and 260.995 by sections 2 and 5 of this 2011 Act apply  
 36 to violations that occur on or after the effective date of this 2011 Act.

37 **SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**  
 38 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
 39 **on its passage.**

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