

# Senate Bill 272

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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**.

Modifies definition of campaign "contribution."

## A BILL FOR AN ACT

1  
2 Relating to elections; creating new provisions; and amending ORS 260.005.

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

4 **SECTION 1.** ORS 260.005 is amended to read:

5 260.005. As used in this chapter:

6 (1)(a) "Candidate" means:

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

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

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

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

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

26 (3) Except as provided in ORS 260.007, "contribute" or "contribution" includes:

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

30 (A) For the purpose of influencing an election for public office or an election on a measure, or  
31 of reducing the debt of a candidate for nomination or election to public office or the debt of a pol-

**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 itical committee; or

2 (B) To or on behalf of a candidate, political committee or measure; **and**

3 *[(b) Any unfulfilled pledge, subscription, agreement or promise, whether or not legally enforceable,*  
4 *to make a contribution; and]*

5 *[(c)]* (b) The excess value of a contribution made for compensation or consideration of less than  
6 equivalent value.

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

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

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

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

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

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

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

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

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

27 (9) “Filing officer” means:

28 (a) The Secretary of State:

29 (A) Regarding a candidate for public office;

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

31 (C) Regarding any measure; or

32 (D) Regarding any political committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (14) "Measure" includes any of the following submitted to the people for their approval or re-  
 5 jection at an election:

- 6 (a) A proposed law.
- 7 (b) An Act or part of an Act of the Legislative Assembly.
- 8 (c) A revision of or amendment to the Oregon Constitution.
- 9 (d) Local, special or municipal legislation.
- 10 (e) A proposition or question.

11 (15) "Occupation" means:

- 12 (a) The nature of an individual's principal business; and
- 13 (b) If the individual is employed by another person, the business name and address, by city and  
 14 state, of the employer.

15 (16) "Person" means an individual, corporation, limited liability company, labor organization,  
 16 association, firm, partnership, joint stock company, club, organization or other combination of indi-  
 17 viduals having collective capacity.

18 (17) "Petition committee" means an initiative, referendum or recall petition committee organized  
 19 under ORS 260.118.

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

- 22 (a) Received a contribution for the purpose of supporting or opposing a candidate, measure or  
 23 political party; or
- 24 (b) Made an expenditure for the purpose of supporting or opposing a candidate, measure or  
 25 political party. For purposes of this paragraph, an expenditure does not include:

26 (A) A contribution to a candidate or political committee that is required to report the contri-  
 27 bution on a statement filed under ORS 260.057, 260.076 or 260.102 or a certificate filed under ORS  
 28 260.112; or

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

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

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

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

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

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

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

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

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

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

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

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

5 (25) "State office" means the office of Governor, Secretary of State, State Treasurer, Attorney  
6 General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction,  
7 state Senator, state Representative, judge or district attorney.

8 **SECTION 2. The amendments to ORS 260.005 by section 1 of this 2011 Act apply to con-**  
9 **tributions made on or after the effective date of this 2011 Act.**

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