

Senate Bill 905

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**.

Establishes Voter Owned Elections Fund to provide public financing to candidates for certain public offices. Requires candidates who receive public financing to comply with contribution and expenditure limitations.

Establishes Voter Owned Elections Commission to administer fund. Continuously appropriates moneys in fund to commission to distribute to candidates.

A BILL FOR AN ACT

Relating to the public financing of candidates; and appropriating money.

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

SECTION 1. As used in sections 1 to 13 of this 2011 Act:

(1) **"Certified candidate" means a candidate who has received public financing certification under section 3 of this 2011 Act.**

(2) **"Election period" means the primary and general election periods during which candidates may receive public financing.**

(3) **"General election period" means the period of time between September 1 and the date of the general election.**

(4) **"Nonparticipating candidate" means a candidate who is not receiving public financing.**

(5) **"Primary election period" means the period of time between the date established by the Voter Owned Elections Commission and the date of the primary election.**

SECTION 2. (1) The Voter Owned Elections Commission shall draw funds from the Voter Owned Elections Fund and distribute those funds to candidates who have received public financing certification.

(2) **For a primary election period, the commission by rule shall determine the date on which it will distribute funds to certified candidates. For a general election period, the commission shall distribute funds to certified candidates on September 1 of the year of the general election.**

(3) **The commission shall distribute an equal amount of funds to each certified candidate for the same office during the same election period. The commission by rule shall determine the amount of funds that it will distribute to certified candidates.**

(4)(a) **During a calendar year, the commission may not draw from the fund an amount that exceeds \$5 times the number of Oregon personal income tax returns that were filed during the previous calendar year.**

(b) **The commission may use up to 10 percent of the amount described in this subsection to administer the fund and to enforce sections 1 to 13 of this 2011 Act. Any portion of the 10 percent that the commission does not use for administrative or enforcement purposes must remain in the fund for the remainder of the calendar year.**

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 (c) The commission may use up to five percent of the amount described in this subsection
 2 to educate electors. Any portion of the five percent that the commission does not use for
 3 educating electors must remain in the fund for the remainder of the calendar year.

4 **SECTION 3.** (1) Candidates for the following offices are eligible to receive public financing
 5 certification:

6 (a) State Representative, state Senator, Governor, Secretary of State, Attorney General,
 7 State Treasurer, Commissioner of the Bureau of Labor and Industries, Superintendent of
 8 Public Instruction and Supreme Court Judge; and

9 (b) Any statewide office that the Voter Owned Elections Commission designates as an
 10 office for which candidates may receive public financing.

11 (2) The commission shall certify a candidate to receive public financing if, not later than
 12 the first day of the election period for which the candidate seeks public financing, the can-
 13 didate:

14 (a) Obtains the number of qualifying contributions that the commission requires by rule;

15 (b) Submits to the commission a list of persons who made a qualifying contribution to
 16 the candidate's campaign that includes:

17 (A) The name of each person who made a contribution to the candidate;

18 (B) The phone number or electronic mail address of each person who made a contribution
 19 to the candidate; and

20 (C) The county in which the person who made a contribution is registered to vote, if any;

21 (c) Files all required statements under ORS chapter 260;

22 (d) Applies for public financing with the commission, certifying under oath that the
 23 candidate agrees to the contribution and expenditure limitations required by public financing
 24 laws; and

25 (e) Meets any other condition the commission may require by rule.

26 (3) A contribution is a qualifying contribution if:

27 (a) The contribution does not exceed \$5;

28 (b) The contribution is not exchanged for anything of value;

29 (c) The contributor does not make, during the same election period, more than one con-
 30 tribution to the candidate; and

31 (d) The contributor is an elector eligible to vote for the candidate at the time the con-
 32 tribution is made.

33 **SECTION 4.** (1) A certified candidate:

34 (a) Shall accept only qualifying contributions, as described in section 3 of this 2011 Act,
 35 during an election period.

36 (b) May not expend personal funds for campaign purposes in an amount exceeding:

37 (A) \$500, if a candidate for the office of state Representative or state Senator.

38 (B) \$1,000, if a candidate for a statewide office.

39 (c) May not expend an amount of funds during an election period that exceeds the
 40 amount of funds that the Voter Owned Elections Commission distributes to the candidate,
 41 except that a candidate may expend:

42 (A) Any amount of qualifying contributions the candidate receives; and

43 (B) Personal funds as described in this section.

44 (d) Shall return all unspent funds to the Voter Owned Elections Fund no later than 30
 45 days after the election. This paragraph does not apply to funds necessary to pay any unpaid

1 bills for campaign expenditures that the candidate made during the election period.

2 (2) The commission by rule may require a candidate to submit to the commission a re-
 3 cord of campaign contributions and expenditures, including copies of receipts, books, records
 4 and accounts.

5 (3) If the commission reasonably believes that a candidate is not in compliance with the
 6 requirements of this section, the commission may audit the candidate's receipts, books, re-
 7 cords and accounts.

8 **SECTION 5.** (1) If, during an election period, a nonparticipating candidate for the same
 9 office as a certified candidate expends more funds than the Voter Owned Elections Com-
 10 mission distributed to the certified candidate, the commission, if funds are sufficient, shall
 11 distribute additional funds to each certified candidate for the office in an amount not to ex-
 12 ceed the difference between the expenditures of the nonparticipating candidate and the
 13 amount distributed to the certified candidates.

14 (2) If, during an election period, two or more nonparticipating candidates are each ex-
 15 pending more funds than the commission distributed to a certified candidate for the same
 16 office, the commission, if funds are sufficient, shall distribute additional funds to each cer-
 17 tified candidate for the office in an amount not to exceed the difference between the expen-
 18 ditures of the nonparticipating candidate who is expending the most funds and the amount
 19 distributed to each of the certified candidates.

20 (3) For purposes of this section:

21 (a) An independent expenditure made in support of a nonparticipating candidate shall be
 22 considered an expenditure of the nonparticipating candidate.

23 (b) An independent expenditure made in opposition to a nonparticipating candidate shall
 24 be considered part of the amount that the commission initially distributed to the certified
 25 candidate.

26 (c) An independent expenditure made in support of a certified candidate shall be consid-
 27 ered part of the amount that the commission initially distributed to the certified candidate.

28 (d) An independent expenditure made in opposition to a certified candidate shall be con-
 29 sidered an expenditure of the nonparticipating candidate.

30 **SECTION 6.** (1) The Voter Owned Elections Fund is established in the State Treasury,
 31 separate and distinct from the General Fund. Interest earned by the Voter Owned Elections
 32 Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to
 33 the Voter Owned Elections Commission for the purpose of administering sections 1 to 13 of
 34 this 2011 Act.

35 (2) The fund consists of moneys appropriated to the fund by the Legislative Assembly and
 36 moneys that the Voter Owned Elections Commission collects from civil penalties imposed
 37 under section 13 of this 2011 Act.

38 (3) To facilitate the financing of the fund, the commission shall:

39 (a) Estimate the expenses that it will incur during a biennium in carrying out its duties;

40 (b) Determine the amount of public financing funds that certified candidates will need to
 41 conduct competitive campaigns for each election period that occurs during a biennium; and

42 (c) Report its findings annually to the Governor and to the Legislative Assembly.

43 **SECTION 7.** (1) The Voter Owned Elections Commission is established, consisting of five
 44 members appointed by the Governor.

45 (2) The term of office of a member is four years, beginning on January 1, but a member

1 serves at the pleasure of the Governor. A member is not eligible for reappointment. In the
 2 event of a vacancy, the Governor shall make an appointment to become immediately effec-
 3 tive for the remainder of the unexpired term.

4 (3) The appointment of a member to the commission is subject to confirmation by the
 5 Senate in the manner prescribed in ORS 171.562 and 171.565.

6 (4) A person is eligible to serve as a member of the commission if the person is a quali-
 7 fied elector who has not been appointed or elected to, or a candidate for, public office. No
 8 more than two members of the commission may be members of the same political party.

9 (5) A member of the commission is entitled to compensation and expenses as provided in
 10 ORS 292.495.

11 **SECTION 8.** Notwithstanding section 7 of this 2011 Act, of the members first appointed
 12 to the Voter Owned Elections Commission:

13 (1) Two members shall serve for terms ending January 1, 2016.

14 (2) One member shall serve for a term ending January 1, 2015.

15 (3) One member shall serve for a term ending January 1, 2014.

16 (4) One member shall serve for a term ending January 1, 2013.

17 **SECTION 9.** (1) The Voter Owned Elections Commission shall select one of its members
 18 as chairperson and another as vice chairperson for an annual term. By rule, the commission
 19 shall determine the duties and powers of the chairperson and the vice chairperson.

20 (2) A majority of the members of the commission constitutes a quorum for the trans-
 21 action of business.

22 (3) The commission shall meet at least once every month in a manner determined by the
 23 commission.

24 **SECTION 10.** (1) The Voter Owned Elections Commission shall establish by rule:

25 (a) The required number of qualifying contributions for each office for which candidates
 26 may receive public financing in an election period. If, for a general election period, the
 27 commission determines that requiring qualifying contributions will inhibit the campaign of
 28 a candidate who received public financing for the primary election period, the commission
 29 may waive the qualifying contributions requirement for the general election period.

30 (b) The date on which the primary election period begins.

31 (c) Bookkeeping and reporting requirements to ensure that candidates who receive or
 32 who seek to receive public financing comply with applicable law.

33 (d) Procedures for enforcing laws applicable to the distribution and use of public financ-
 34 ing funds.

35 (e) Any other rule necessary to administer public financing laws.

36 (2) If the commission has reason to believe that a candidate has violated a public fi-
 37 nancing law or rule adopted by the commission, the commission shall provide for the candi-
 38 date a contested case hearing as described in ORS chapter 183. If the commission determines
 39 after the hearing that the candidate violated a contribution or expenditure limitation, the
 40 commission may impose a civil penalty against the candidate under section 13 of this 2011
 41 Act.

42 (3) To educate electors about public financing, the commission shall:

43 (a) File statements with the Secretary of State for publication in the voters' pamphlet.

44 (b) Publish and distribute information about the commission, its use of the Voter Owned
 45 Elections Fund to publicly finance political campaigns and the candidates who receive public

1 **financing.**

2 (c) **Sponsor debates between candidates, including debates between candidates who are**
 3 **not receiving public financing and certified candidates.**

4 (4) **The commission by rule shall prescribe forms for reports, statements and other doc-**
 5 **uments required by sections 1 to 13 of this 2011 Act.**

6 **SECTION 11. (1) The Voter Owned Elections Commission and its authorized represen-**
 7 **tatives may administer oaths, take depositions and issue subpoenas to compel the attendance**
 8 **of witnesses and the production of documents or other written information necessary to**
 9 **carry out the provisions of sections 1 to 13 of this 2011 Act.**

10 (2) **If a person fails to comply with a subpoena that the commission issues under this**
 11 **section or refuses to testify on matters on which the person lawfully may be interrogated,**
 12 **the commission shall follow the procedure set out in ORS 183.440 to compel obedience.**

13 **SECTION 12. (1) The Voter Owned Elections Commission may establish one or more ad-**
 14 **visory or technical committees it considers necessary to aid or advise the commission in the**
 15 **performance of its functions.**

16 (2) **A committee established by the commission may be a continuing or temporary com-**
 17 **mittee. The commission shall determine the representation, membership, terms and organ-**
 18 **ization of the committee and shall appoint members.**

19 (3) **Members of a committee established under this section are not entitled to compen-**
 20 **sation. The commission, in its discretion, may reimburse members from funds available to**
 21 **the commission for actual and necessary travel and other expenses incurred by the members**
 22 **in the performance of their official duties, in the manner and amount provided in ORS**
 23 **292.495.**

24 **SECTION 13. (1) If the Voter Owned Elections Commission determines that a certified**
 25 **candidate or a person acting on behalf of a certified candidate has violated a provision of**
 26 **section 4 of this 2011 Act, the commission may impose a civil penalty for each violation, not**
 27 **to exceed an amount equal to 10 times the amount by which the contribution or expenditure**
 28 **exceeded the applicable limit.**

29 (2)(a) **In addition to any other penalty imposed by law, if the commission determines that**
 30 **a certified candidate violated a reporting requirement imposed by the commission, the com-**
 31 **mission may impose a civil penalty not to exceed:**

32 (A) **\$100 per day for a violation by a candidate for the office of state Representative or**
 33 **state Senator; or**

34 (B) **\$300 per day for a violation by a candidate for a statewide office.**

35 (b) **The commission may increase any penalty in this subsection if the amount that the**
 36 **candidate failed to report for an election period exceeds 10 percent of the amount that the**
 37 **commission distributed to the candidate for that election period.**

38 (c) **The commission may not impose a civil penalty under this subsection that exceeds**
 39 **twice the amount of contributions or expenditures that the candidate failed to report.**

40 (d) **Notwithstanding ORS 260.407, the commission may recover a civil penalty imposed**
 41 **under this subsection from either the candidate's personal funds or the candidate's campaign**
 42 **account.**

43 (3) **The commission shall deposit all civil penalties collected under this section into the**
 44 **Voter Owned Elections Fund.**