

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3523 - A

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Kim To
Reviewed by: Steve Bender
Date: 6/3/2013

Measure Description:

Requires statements of independent expenditures to be filed with Secretary of State using electronic filing system.

Government Unit(s) Affected:

Secretary of State

Analysis:

The proposed legislation has been determined to have
MINIMAL EXPENDITURE IMPACT
on state or local government.

While this individual measure has a “Minimal” fiscal impact, an agency may incur a net fiscal impact greater than minimal depending on the cumulative impact of all measures enacted into law that affect the agency.

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means
Vote:	9 - 0 - 0
Yeas:	Barnhart, Berger, Dembrow, Hicks, Holvey, Hoyle, Jenson, Kennemer, Garrett
Nays:	0
Exc.:	0
Prepared By:	Erin Seiler, Administrator
Meeting Dates:	5/8, 5/29

WHAT THE MEASURE DOES: Requires statements of independent expenditures to be filed with Secretary of State using electronic filing system. Applies filing deadlines to additional statements of independent expenditures. Requires campaign finance statement to be filed within two business days after contribution is received that brings aggregate amount of contributions received from single donor during period to \$1,000 or more during 14-day period immediately preceding election. Adjusts other filing deadlines for campaign finance statements. Requires candidate, political committee or petition committee that makes expenditure that must be reported by candidate or committee as in-kind contribution to provide written notice of expenditure to candidate or committee for whose benefit expenditure was made. Requires candidate or committee to give notice not later than 48 hours after time that original expenditure is reported in electronic filing system. Deletes “unfulfilled pledge, subscription, agreement or promise to make contribution” from definition of contributions. Deletes requirement that candidate or political committee submit bank account number when reporting contributions and expenditures. Changes operative date to January 1, 2014. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Amount of money in independent expenditures
- Lack of transparency in reporting independent expenditures
- Clarity for reporting of in-kind donations
- Importance of campaign finance disclosure in campaigns
- Aggregate amount, donor based reporting
- Eliminating reporting of pledges
- Eliminating collection of bank account numbers
- Definition of independent expenditures

EFFECT OF COMMITTEE AMENDMENT: Requires campaign finance statement to be filed within two business days after a contribution is received that brings the aggregate amount of contributions received from a single donor during the period to \$1,000 or more during the 14-day period immediately preceding election. Deletes “unfulfilled pledge, subscription, agreement or promise to make contribution” from definition of contributions. Deletes requirement that candidate or political committee submit bank account number when reporting contributions and expenditures. Changes operative date to January 1, 2014.

BACKGROUND: Oregon statute requires disclosure of contributions and expenditures related to any candidate, measure, or political party active in any election including initiative, referendum, and recall petition drives. All political committees and chief petitioner committees are required to file all contributions and expenditures using the online campaign finance reporting system, ORESTAR. However, there is one class of expenditures, independent expenditures, that are required to be reported, but not required to be filed electronically.

Independent expenditures are expenditures for a communication in support of or in opposition to a clearly identified candidate or measure. The expenditure must not be made with the cooperation or with the prior consent of, or in

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This summary has not been adopted or officially endorsed by action of the committee.

consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate, or any political committee or agent of a political committee supporting or opposing a measure

House Bill 3523-A would require that a person file a statement of independent expenditures in ORESTAR if the person makes independent expenditures in a total amount of more than \$750 in a calendar year. The following information would be required to be filed for an independent expenditure: (a) amount and purpose of the independent expenditure; (b) name and address of the payee, including the city, or county if the payee is not located in a city, and state in which the payee is located; (c) any candidates or measures supported or opposed by the independent expenditure.

Current Oregon law requires all contributions and expenditures by a candidate or political committee be reported electronically within 30 days, except for the 42-day prior to an election, when transactions must be reported within seven days. Even with this increased frequency of reporting, campaigns apparently delay expenditures until seven days before the election and delay reporting until the last possible moment. The Secretary of State reports that during the 2010 General Election, the agency's electronic filing system was deluged with 18,000 transactions just before the 11:59 PM filing deadline. The result of the current expenditure reporting deadlines is that voters have no information on who is sponsoring advertising late in the campaign.

House Bill 3523-A requires campaign finance statement to be filed within two business days after a contribution is received that brings the aggregate amount of contributions received from a single donor during reporting period to \$1,000 or more during 14-day period immediately preceding an election.

An in-kind contribution is a good or service, other than money, having monetary value. The value of this contribution is based on the fair market value of the good or service. Expenditure by any person from personal funds on behalf of the candidate or committee is an in-kind contribution to the candidate or committee if the person does not expect to be reimbursed. The definition of a "person" is an individual, corporation, limited-liability company, labor organization, association, firm, partnership, joint stock company, club, organization or other combination of individuals having collective capacity.

In-kind contributions are required to be reported in ORESTAR, in accordance with the schedule for filing contributions and expenditures set forth in ORS 260.057. Thus, contributions and expenditures are due not later than 30 days of the date of the transaction, except during the six weeks prior to an election when transactions must be filed within seven days of the date of the transaction. When reporting or amending an in-kind contribution in ORESTAR, the transaction date reported by the candidate or committee is the date when the committee is notified that an in-kind expenditure was made on their behalf. Currently, there is no timeline, outside of the statutorily prescribed reporting deadlines, for when a person must notify a candidate or committee that an in-kind donation has been made on their behalf.

House Bill 3523-A would require that person or committee reporting an in-kind expenditure in ORESTAR, must notify the candidate or committee for whom the in-kind contribution benefitted within 48-hours. In addition, the measure would require that all in-kind contributions and expenditures be highlighted in an identifiable color. Currently, out-of-state contributions are reported in ORESTAR in color.

The definition of contribution includes "payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compensation"; "any unfulfilled pledge, subscription, agreement or promise, whether or not legally enforceable, to make a contribution"; and "the excess value of a contribution made for compensation or consideration of less than equivalent value." However, there is no statutory definition, nor guidelines in the *Campaign Finance Manual*, describing what constitutes a pledge. Without guidance, there is no standard for campaign or political committees to determine what is or is not a pledge of cash or pledge of in-kind. House Bill 3523-A removes "unfulfilled pledge, subscription, agreement or promise to make contribution" from the definition of contribution. The effect of this change is that campaign and political committees would no longer be required to file transactions in ORESTAR for unfulfilled pledges.