

# D R A F T

## SUMMARY

Requires imposition of specified civil penalty for first, second, third and subsequent violation of constitutional prohibition against payment for signatures obtained on initiative or referendum petition.

### A BILL FOR AN ACT

Relating to payment per signature on election petitions; creating new provisions; and amending ORS 260.995.

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

**SECTION 1.** ORS 260.995 is amended to read:

260.995. (1) Except as provided in [*subsection (2)*] **subsections (2) and (3)** of this section, following an investigation under ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed \$250 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

(2) The secretary or the Attorney General may impose a civil penalty not to exceed:

(a) \$1,000 for each violation of ORS 251.049 (3) or 251.405 (3);

(b) \$1,000 plus the amount converted to personal use for each violation of ORS 260.407; or

(c) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1) or 260.715 (1) [*or section 1b, Article IV of the Oregon Constitution*].

**(3) For a violation of Article IV, section 1b, of the Oregon Consti-**

1 **tution, the secretary or Attorney General shall impose a civil penalty**  
2 **of:**

3 **(a) \$500 for a first violation.**

4 **(b) \$1,000 for a second violation.**

5 **(c) \$5,000 for a third violation and for each subsequent violation.**

6 [(3)] **(4)** Except as otherwise provided by this section, civil penalties under  
7 this section shall be imposed as provided in ORS 183.745. In addition to the  
8 requirements of ORS 183.745, the notice shall include:

9 (a) A statement of the authority and jurisdiction under which the hearing  
10 is to be held; and

11 (b) If the person is an agency, corporation or an unincorporated associ-  
12 ation, a statement that such person must be represented by an attorney li-  
13 censed in Oregon, unless the person is a political committee which may be  
14 represented by any officer identified in the most recent statement of organ-  
15 ization filed with the filing officer.

16 [(4)] **(5)** A hearing on whether to impose a civil penalty and to consider  
17 circumstances in mitigation shall be held by the secretary or Attorney Gen-  
18 eral:

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

22 (b) Upon the secretary's or Attorney General's own motion.

23 [(5)] **(6)** The person against whom a penalty may be assessed need not  
24 appear in person at a hearing held under this section, but instead may sub-  
25 mit written testimony or other evidence, sworn to before a notary public, to  
26 the secretary or Attorney General for entry in the hearing record. The tes-  
27 timony or other evidence must be received by the secretary or Attorney  
28 General not later than three business days before the day of the hearing.

29 [(6)] **(7)** All hearings under this section shall be held not later than 45  
30 days after the deadline for the person against whom the penalty may be as-  
31 sessed to request a hearing. However, if requested by the person against

1 whom the penalty may be assessed, a hearing under subsection [(4)] (5) of  
2 this section shall be held not later than 60 days after the deadline for the  
3 person against whom the penalty may be assessed to request a hearing.

4 [(7)] (8) The secretary or Attorney General shall issue an order not later  
5 than 90 days after a hearing or after the deadline for requesting a hearing  
6 if no hearing is held.

7 [(8)] (9) All penalties recovered under this section shall be paid into the  
8 State Treasury and credited to the General Fund.

9 [(9)] (10) In the case of a civil penalty imposed under this section for a  
10 violation of ORS 260.407, the person against whom the penalty is assessed:

- 11 (a) Is personally responsible for the payment of the civil penalty;  
12 (b) Shall pay the civil penalty from personal funds of the person; and  
13 (c) May not pay the civil penalty from contributions received by a can-  
14 didate, a candidate's principal campaign committee, a political committee or  
15 a petition committee.

16 **SECTION 2. (1) The amendments to ORS 260.995 by section 1 of this**  
17 **2013 Act apply to violations of Article IV, section 1b, of the Oregon**  
18 **Constitution that occur on or after the effective date of this 2013 Act.**

19 **(2) The first violation of Article IV, section 1b, of the Oregon Con-**  
20 **stitution that occurs on or after the effective date of this 2013 Act is**  
21 **considered a first violation of ORS 260.995, as amended by section 1 of**  
22 **this 2013 Act.**

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