



STATE OF OREGON  
LEGISLATIVE COUNSEL COMMITTEE

From the Desk of  
Senator Brian Boquist

May 12, 2015

Senator Brian Boquist  
900 Court Street NE S305  
Salem OR 97301

Re: Campaign Finance Reporting Requirements for Legal Advice

Dear Senator Boquist:

You have provided us with a memorandum from the Secretary of State<sup>1</sup> ("memo") and asked for our comments relating to how legal services need to be reported under Oregon's campaign finance laws. Your questions and our responses are below.

**Questions 1 and 2: When and how did the Legislative Assembly exempt legal services from campaign finance reporting laws? What laws exempt legal services from campaign finance reporting laws?**

Oregon's campaign finance laws specifically exempt certain types of legal services from reporting requirements. In contrast, other types of legal services must be reported.

The memo correctly notes the two laws that exempt certain legal services from reporting requirements: ORS 260.005 (3)(a) and 260.007 (8).<sup>2</sup> ORS 260.005 (3)(a) states, in relevant part, that "personal services for which no compensation is asked or given" are not considered "contributions." We believe that the plain language meaning of "personal services" encompasses legal services, as well as things like accounting services. As a result, we agree with the memo that "[u]npaid legal work is therefore not a 'contribution'" under ORS 260.005.<sup>3</sup> Because it is not considered a contribution, under current law a political committee is not required to report on ORESTAR any unpaid legal work that is provided to the political committee.

As is also noted in the memo, the policy decision reflected in ORS 260.005 (3)(a) is long-standing. When initially drafted in 1971, the list of services exempt from the definition of "contribution" was written more narrowly to exclude "services by speakers, writers, publishers or others, for which no compensation is asked or given."<sup>4</sup> However, in 1973, this language was amended to its current form of excluding all "personal services" from the definition of "contribution."<sup>5</sup>

<sup>1</sup> Memorandum from Secretary of State Atkins to Senator Boquist dated May 8, 2015.

<sup>2</sup> Memo, at 1.

<sup>3</sup> Memo, at 1.

<sup>4</sup> Section 1, chapter 749, Oregon Laws 1971.

<sup>5</sup> Section 1, chapter 744, Oregon Laws 1973.

A similar situation exists with respect to ORS 260.007 (8), which states that payment for "legal and accounting services rendered to a candidate or political committee" is excluded from the definition of contributions and expenditures, *if* "the person paying for the services is the regular employer of the individual rendering the services and the services are solely for the purpose of ensuring compliance with the provisions of this chapter."

Like ORS 260.005 (3)(a), ORS 260.007 (8) reflects a long-standing policy decision, as it has existed with respect to candidates since ORS 260.007 was first enacted into law in 1995.<sup>6</sup> In 1999, the exemption for legal and accounting services was enlarged to include services provided to political committees, as well as to candidates.<sup>7</sup>

**Question 3: How do political committees maintain accurate committee bank balance books and ORESTAR filings if political committees are not required to report legal services?**

As detailed above, Oregon does not require candidates or political committees to report the receipt of legal services in two situations: (1) when the legal services are provided free of charge to the candidate or campaign; and (2) when the legal services relate to compliance with campaign finance laws and the attorney's regular employer pays for the legal services. In contrast, and as is noted in the memo, any time a candidate or political committee actually pays for legal services, the payment must be reported as an expenditure in ORESTAR.<sup>8</sup> As a result, the committee bank balance should match the ORESTAR filing.

The opinions written by the Legislative Counsel and the staff of the Legislative Counsel's office are prepared solely for the purpose of assisting members of the Legislative Assembly in the development and consideration of legislative matters. In performing their duties, the Legislative Counsel and the members of the staff of the Legislative Counsel's office have no authority to provide legal advice to any other person, group or entity. For this reason, this opinion should not be considered or used as legal advice by any person other than legislators in the conduct of legislative business. Public bodies and their officers and employees should seek and rely upon the advice and opinion of the Attorney General, district attorney, county counsel, city attorney or other retained counsel. Constituents and other private persons and entities should seek and rely upon the advice and opinion of private counsel.

Very truly yours,

DEXTER A. JOHNSON  
Legislative Counsel



By  
Daniel R. Gilbert  
Deputy Legislative Counsel

<sup>6</sup> Section 2, chapter 1, Oregon Laws 1995.

<sup>7</sup> Section 2, chapter 999, Oregon Laws 1999.

<sup>8</sup> Memo, at 2 ("In addition, any expenditure of a committee for direct legal services has to be reported as an expenditure.").

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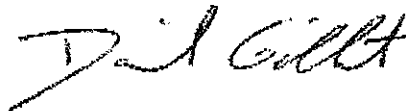
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