

House Bill 4085

Sponsored by Representative RAYFIELD (Presession filed.)

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**.

Lowers threshold for required filing of statement of independent expenditures to \$50 per calendar year and requires statement to be filed within five days of reaching threshold.

Increases penalties for incorrectly identifying expenditure as independent expenditure, failing to timely file accurate statements of independent expenditures and failing to timely file accurate statements for in-kind contributions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to campaign finance; creating new provisions; amending ORS 260.044 and 260.232; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 260.044 is amended to read:

6 260.044. (1) If a person makes independent expenditures in a total amount of more than [~~\$750~~
7 **\$50** in a calendar year, the person shall use the electronic filing system adopted under ORS 260.057
8 to file with the Secretary of State a statement of independent expenditures not later than [~~seven~~
9 **five** calendar days after the total amount of independent expenditures exceeds [~~\$750~~ **\$50** in a cal-
10 endar year.

11 (2) A person who files a statement of independent expenditures under subsection (1) of this
12 section shall use the electronic filing system adopted under ORS 260.057 to file with the secretary
13 additional statements of independent expenditures made by the person, as described in ORS 260.083.

14 (3) Except as provided in [~~subsections~~] **subsection** (4) [~~and (5)~~] of this section, a person shall file
15 a statement described in subsection (2) of this section not later than [~~30~~] **five** calendar days after
16 an independent expenditure is made.

17 [(4)(a) A person shall file a statement described in subsection (2) of this section not later than seven
18 calendar days after an independent expenditure is made. This paragraph applies to independent
19 expenditures made:]

20 [(A) During the period beginning on the 42nd calendar day before the date of any primary election
21 and ending on the date of the primary election; and]

22 [(B) During the period beginning on the 42nd calendar day before the date of any general election
23 and ending on the date of the general election.]

24 [(b) If the person makes an independent expenditure prior to the 42nd calendar day before the date
25 of the primary or general election and the person has not filed a statement under subsection (3) of this
26 section by the 43rd calendar day before the date of the primary or general election, the person shall file
27 a statement described in subsection (2) of this section not later than the 35th calendar day before the
28 date of the primary or general election.]

29 [(5)] (4) For any special election, the secretary by rule may establish a period during which a

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 person must file a statement described in subsection (2) of this section. The period may not extend
 2 beyond [seven] **five** calendar days after an independent expenditure is made.

3 [(6)] **(5)** Notwithstanding ORS 260.005 (18), a person who solicits and receives a contribution or
 4 contributions is a political committee and shall file a statement of organization under ORS 260.042
 5 and the statements required by ORS 260.057, 260.076 or 260.078.

6 [(7)] **(6)** For purposes of this section:

7 (a) An independent expenditure does not include a contribution to a candidate or political
 8 committee that is required to report the contribution on a statement filed under ORS 260.057,
 9 260.076 or 260.078 or a certificate filed under ORS 260.112;

10 (b) An independent expenditure does not include a contribution to a candidate who is not re-
 11 quired to file a statement of organization under ORS 260.043; and

12 (c) A person is not a political committee under subsection [(6)] **(5)** of this section if all contri-
 13 butions received by the person are:

14 (A) Designated to an identified candidate or political committee;

15 (B) Delivered by the person to the designated candidate or political committee not later than
 16 seven business days after the contribution is received; and

17 (C) Required to be reported as contributions by a candidate or political committee on a state-
 18 ment filed under ORS 260.057, 260.076 or 260.078 or a certificate filed under ORS 260.112.

19 **SECTION 2.** ORS 260.232 is amended to read:

20 260.232. (1) The Secretary of State may impose a civil penalty as provided in this section, in
 21 addition to any other penalty that may be imposed, for:

22 (a) Failure to file a statement or certificate required to be filed under ORS 260.044, 260.057,
 23 260.076, 260.078, 260.083, 260.112 or 260.118.

24 (b) Failure to include in a statement filed under ORS 260.044, 260.057, 260.076, 260.078, 260.083,
 25 260.112 or 260.118 the information required under ORS 260.044, 260.057, 260.076, 260.083 or 260.118.

26 **(c) Incorrectly identifying as an independent expenditure an expenditure that was made**
 27 **with the cooperation or with the prior consent of, or in consultation with, or at the request**
 28 **or suggestion of, a candidate or any agent or authorized committee of the candidate, or any**
 29 **political committee or agent of a political committee supporting or opposing a measure.**

30 (2)(a) If a person required to file has not filed [a] **an accurate** statement or certificate comply-
 31 ing with applicable provisions of ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.085, 260.112 or
 32 260.118 within the time specified in ORS 260.044, 260.057, 260.076, 260.078 or 260.118, the Secretary
 33 of State by first class mail shall notify the person that a penalty may be imposed and that the person
 34 has 20 days from the service date on the notice to request a hearing before the Secretary of State.

35 (b) If the person required to file is a candidate or the principal campaign committee of a can-
 36 didate, the Secretary of State shall send the notice described in paragraph (a) of this subsection by
 37 first class mail to the candidate. The notice shall be used for purposes of determining the deadline
 38 for requesting a hearing under subsection (3) of this section.

39 (3) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
 40 shall be held by the Secretary of State:

41 (a) Upon request of the person against whom the penalty may be assessed, if the request is made
 42 not later than the 20th day after the person received the notice sent under subsection (2) of this
 43 section;

44 (b) Upon request of the filing officer with whom a statement or certificate was required to be
 45 filed but was not filed; or

1 (c) Upon the Secretary of State's own motion.

2 (4) A hearing under subsection (3) of this section shall be held not later than 45 days after the
 3 deadline for the person against whom the penalty may be assessed to request a hearing. However,
 4 if requested by the person against whom the penalty may be assessed, a hearing under subsection
 5 (3) of this section shall be held not later than 60 days after the deadline for the person against whom
 6 the penalty may be assessed to request a hearing.

7 (5) The Secretary of State shall issue an order not later than 90 days after a hearing or after
 8 the deadline for requesting a hearing if no hearing is held.

9 (6) The person against whom a penalty may be assessed need not appear in person at a hearing
 10 held under this section, but instead may submit written testimony and other evidence, subject to the
 11 penalty for false swearing, to the Secretary of State for entry in the hearing record. The testimony
 12 and other evidence must be received by the secretary not later than three business days before the
 13 day of the hearing and may be submitted electronically.

14 (7) A civil penalty imposed under this section may not be more than the following:

15 (a) **Except as provided in paragraphs (c), (d) and (e) of this subsection**, for failure to file
 16 a statement or certificate required to be filed under ORS [260.044,] 260.057, 260.076, 260.078, 260.083,
 17 260.112 or 260.118, 10 percent of the total amount of the contribution or expenditure required to be
 18 included in the statement or certificate; [or]

19 (b) **Except as provided in paragraphs (c), (d) and (e) of this subsection**, for each failure to
 20 include in a statement filed under ORS [260.044,] 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118
 21 the information required under ORS [260.044,] 260.057, 260.076, 260.083 or 260.118, 10 percent of the
 22 total amount of the contribution or expenditure required to be included in the statement[.];

23 (c) **For each instance of incorrectly identifying as an independent expenditure an ex-**
 24 **penditure that was made with the cooperation or with the prior consent of, or in consultation**
 25 **with, or at the request or suggestion of, a candidate or any agent or authorized committee**
 26 **of the candidate, or any political committee or agent of a political committee supporting or**
 27 **opposing a measure, 40 percent of the incorrectly identified expenditure;**

28 (d) **For each failure to timely file an accurate statement for an in-kind contribution made**
 29 **to a candidate, political committee or petition committee, 40 percent of the total amount of**
 30 **the contribution; or**

31 (e) **For each failure to timely file an accurate statement of independent expenditures**
 32 **required under ORS 260.044, 40 percent of the total amount of the independent expenditure.**

33 (8) The Secretary of State, upon a showing of mitigating circumstances, may reduce the amount
 34 of the penalty described in subsection (7) of this section.

35 (9) Except as otherwise provided by this section, civil penalties under this section shall be im-
 36 posed as provided in ORS 183.745.

37 **SECTION 3. In addition to and not in lieu of any other appropriation, there is appropri-**
 38 **ated to the Secretary of State, for the biennium beginning July 1, 2015, out of the General**
 39 **Fund, the amount of \$_____ for the purposes of hiring additional employees in order to**
 40 **implement the amendments to ORS 260.044 and 260.232 by sections 1 and 2 of this 2016 Act.**

41 **SECTION 4. (1) The amendments to ORS 260.044 and 260.232 by sections 1 and 2 of this**
 42 **2016 Act become operative on January 1, 2017.**

43 (2) **The amendments to ORS 260.044 and 260.232 by sections 1 and 2 of this 2016 Act apply**
 44 **to any independent expenditures made or campaign finance statements filed on or after the**
 45 **operative date specified in subsection (1) of this section.**

