

House Bill 2505

Sponsored by Representative NATHANSON, Senator BOQUIST (Pre-session 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**.

Subject to enumerated exceptions, expands definition of "independent expenditure" to include aggregate expenses of \$750 or more that refer to candidate, measure or political party within 30 calendar days of primary election or 60 calendar days of general election.

A BILL FOR AN ACT

1
2 Relating to election expenditures; creating new provisions; and amending ORS 260.005 and 260.007.

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

4 **SECTION 1.** ORS 260.005 is amended to read:

5 260.005. As used in this chapter:

6 (1)(a) "Candidate" means:

7 (A) An individual whose name is printed on a ballot, for whom a declaration of candidacy,
8 nominating petition or certificate of nomination to public office has been filed or whose name is
9 expected to be or has been presented, with the individual's consent, for nomination or election to
10 public office;

11 (B) An individual who has solicited or received and accepted a contribution, made an expendi-
12 ture, or given consent to an individual, organization, political party or political committee to solicit
13 or receive and accept a contribution or make an expenditure on the individual's behalf to secure
14 nomination or election to any public office at any time, whether or not the office for which the in-
15 dividual will seek nomination or election is known when the solicitation is made, the contribution
16 is received and retained or the expenditure is made, and whether or not the name of the individual
17 is printed on a ballot; or

18 (C) A public office holder against whom a recall petition has been completed and filed.

19 (b) For purposes of this section and ORS 260.035 to 260.156, "candidate" does not include a
20 candidate for the office of precinct committeeperson.

21 (2) "Committee director" means any person who directly and substantially participates in
22 decision-making on behalf of a political committee concerning the solicitation or expenditure of
23 funds and the support of or opposition to candidates or measures. The officers of a political party
24 shall be considered the directors of any political party committee of that party, unless otherwise
25 provided in the party's bylaws.

26 (3) Except as provided in ORS 260.007, "contribute" or "contribution" includes:

27 (a) The payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compen-
28 sation or consideration, of money, services other than personal services for which no compensation
29 is asked or given, supplies, equipment or any other thing of value:

30 (A) For the purpose of influencing an election for public office or an election on a measure, or
31 of reducing the debt of a candidate for nomination or election to public office or the debt of a pol-

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 itical committee; or

2 (B) To or on behalf of a candidate, political committee or measure; and

3 (b) The excess value of a contribution made for compensation or consideration of less than
4 equivalent value.

5 (4) “Controlled committee” means a political committee that, in connection with the making of
6 contributions or expenditures:

7 (a) Is controlled directly or indirectly by a candidate or a controlled committee; or

8 (b) Acts jointly with a candidate or controlled committee.

9 (5) “Controlled directly or indirectly by a candidate” means:

10 (a) The candidate, the candidate’s agent, a member of the candidate’s immediate family or any
11 other political committee that the candidate controls has a significant influence on the actions or
12 decisions of the political committee; or

13 (b) The candidate’s principal campaign committee and the political committee both have the
14 candidate or a member of the candidate’s immediate family as a treasurer or director.

15 (6) “County clerk” means the county clerk or the county official in charge of elections.

16 (7) “Elector” means an individual qualified to vote under Article II, section 2, of the Oregon
17 Constitution.

18 (8) Except as provided in ORS 260.007, “expend” or “expenditure” includes the payment or fur-
19 nishing of money or anything of value or the incurring or repayment of indebtedness or obligation
20 by or on behalf of a candidate, political committee or person in consideration for any services,
21 supplies, equipment or other thing of value performed or furnished for any reason, including support
22 of or opposition to a candidate, political committee or measure, or for reducing the debt of a candi-
23 date for nomination or election to public office. “Expenditure” also includes contributions made
24 by a candidate or political committee to or on behalf of any other candidate or political committee.

25 (9) “Filing officer” means:

26 (a) The Secretary of State:

27 (A) Regarding a candidate for public office;

28 (B) Regarding a statement required to be filed under ORS 260.118;

29 (C) Regarding any measure; or

30 (D) Regarding any political committee.

31 (b) In the case of an irrigation district formed under ORS chapter 545, “filing officer” means:

32 (A) The county clerk, regarding any candidate for office or any measure at an irrigation district
33 formation election where the proposed district is situated wholly in one county;

34 (B) The county clerk of the county in which the office of the secretary of the proposed irrigation
35 district will be located, regarding any candidate for office or any measure at an irrigation district
36 formation election where the proposed district is situated in more than one county; or

37 (C) The secretary of the irrigation district for any election other than an irrigation district
38 formation election.

39 (10)(a) “Independent expenditure” means:

40 (A) An expenditure by a person for a communication in support of or in opposition to a clearly
41 identified candidate or measure that is not made with the cooperation or with the prior consent of,
42 or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized
43 committee of the candidate, or any political committee or agent of a political committee supporting
44 or opposing a measure[.]; **or**

45 (B) **Aggregate expenditures of \$750 or more by a person that:**

1 **(i) Refer to a clearly identified candidate, measure or political party; and**
 2 **(ii) Are made within 30 calendar days before a primary election or 60 calendar days before**
 3 **a general election.**

4 **(b)** For purposes of this subsection:

5 [(a)] **(A)** “Agent” means any person who has:

6 [(A)] **(i)** Actual oral or written authority, either express or implied, to make or to authorize the
 7 making of expenditures on behalf of a candidate or on behalf of a political committee supporting or
 8 opposing a measure; or

9 [(B)] **(ii)** Been placed in a position within the campaign organization where it would reasonably
 10 appear that in the ordinary course of campaign-related activities the person may authorize expen-
 11 ditures.

12 [(b)(A)] **(B)(i)** “Clearly identified” means, with respect to candidates:

13 [(i)] **(I)** The name of the candidate involved appears;

14 [(ii)] **(II)** A photograph or drawing of the candidate appears; or

15 [(iii)] **(III)** The identity of the candidate is apparent by unambiguous reference.

16 [(B)] **(ii)** “Clearly identified” means, with respect to measures:

17 [(i)] **(I)** The ballot number of the measure appears;

18 [(ii)] **(II)** A description of the measure’s subject or effect appears; or

19 [(iii)] **(III)** The identity of the measure is apparent by unambiguous reference.

20 **(iii) “Clearly identified” means, with respect to political parties, that the identity of the**
 21 **political party is apparent by unambiguous reference.**

22 [(c)] **(C)** “Communication in support of or in opposition to a clearly identified candidate or
 23 measure” means:

24 [(A)] **(i)** The communication, taken in its context, clearly and unambiguously urges the election
 25 or defeat of a clearly identified candidate for nomination or election to public office, or the passage
 26 or defeat of a clearly identified measure;

27 [(B)] **(ii)** The communication, as a whole, seeks action rather than simply conveying information;
 28 and

29 [(C)] **(iii)** It is clear what action the communication advocates.

30 [(d)] **(D)** “Made with the cooperation or with the prior consent of, or in consultation with, or
 31 at the request or suggestion of, a candidate or any agent or authorized committee of the candidate,
 32 or any political committee or agent of a political committee supporting or opposing a measure”:

33 [(A)] **(i)** Means any arrangement, coordination or direction by the candidate or the candidate’s
 34 agent, or by any political committee or agent of a political committee supporting or opposing a
 35 measure, prior to the publication, distribution, display or broadcast of the communication. An ex-
 36 penditure shall be presumed to be so made when it is:

37 [(i)] **(I)** Based on information about the plans, projects or needs of the candidate, or of the pol-
 38 itical committee supporting or opposing a measure, and provided to the expending person by the
 39 candidate or by the candidate’s agent, or by any political committee or agent of a political com-
 40 mittee supporting or opposing a measure, with a view toward having an expenditure made; or

41 [(ii)] **(II)** Made by or through any person who is or has been authorized to raise or expend funds,
 42 who is or has been an officer of a political committee authorized by the candidate or by a political
 43 committee or agent of a political committee supporting or opposing a measure, or who is or has been
 44 receiving any form of compensation or reimbursement from the candidate, the candidate’s principal
 45 campaign committee or agent or from any political committee or agent of a political committee

1 supporting or opposing a measure.

2 [(B)] (ii) Does not mean providing to the expending person upon request a copy of this chapter
3 or any rules adopted by the Secretary of State relating to independent expenditures.

4 (11) "Initiative petition" means a petition to initiate a measure for which a prospective petition
5 has been filed but that is not yet a measure.

6 (12) "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon
7 Tax Court.

8 (13) "Mass mailing" means more than 200 substantially similar pieces of mail, but does not in-
9 clude a form letter or other mail that is sent in response to an unsolicited request, letter or other
10 inquiry.

11 (14) "Measure" includes any of the following submitted to the people for their approval or re-
12 jection at an election:

13 (a) A proposed law.

14 (b) An Act or part of an Act of the Legislative Assembly.

15 (c) A revision of or amendment to the Oregon Constitution.

16 (d) Local, special or municipal legislation.

17 (e) A proposition or question.

18 (15) "Occupation" means:

19 (a) The nature of an individual's principal business; and

20 (b) If the individual is employed by another person, the business name and address, by city and
21 state, of the employer.

22 (16) "Person" means an individual, corporation, limited liability company, labor organization,
23 association, firm, partnership, joint stock company, club, organization or other combination of indi-
24 viduals having collective capacity.

25 (17) "Petition committee" means an initiative, referendum or recall petition committee organized
26 under ORS 260.118.

27 (18) "Political committee" means a combination of two or more individuals, or a person other
28 than an individual, that has:

29 (a) Received a contribution for the purpose of supporting or opposing a candidate, measure or
30 political party; or

31 (b) Made an expenditure for the purpose of supporting or opposing a candidate, measure or
32 political party. For purposes of this paragraph, an expenditure does not include:

33 (A) A contribution to a candidate or political committee that is required to report the contri-
34 bution on a statement filed under ORS 260.057 or 260.076 or a certificate filed under ORS 260.112;
35 or

36 (B) An independent expenditure for which a statement is required to be filed by a person under
37 ORS 260.044.

38 (19) "Public office" means any national, state, county, district, city office or position, except a
39 political party office, that is filled by the electors.

40 (20) "Recall petition" means a petition to recall a public officer for which a prospective petition
41 has been filed but that is not yet a measure.

42 (21) "Referendum petition" means a petition to refer a measure for which a prospective petition
43 has been filed but that is not yet a measure.

44 (22) "Regular district election" means the regular district election described in ORS 255.335.

45 (23) "State office" means the office of Governor, Secretary of State, State Treasurer, Attorney

1 General, Commissioner of the Bureau of Labor and Industries, state Senator, state Representative,
 2 judge or district attorney.

3 **SECTION 2.** ORS 260.007 is amended to read:

4 260.007. As used in this chapter, “contribute,” “contribution,” “expend” or “expenditure” does
 5 not include:

6 (1) Any written news story, commentary or editorial distributed through the facilities of any
 7 broadcasting station, newspaper, magazine or other regularly published publication, unless a poli-
 8 tical committee owns the facility.

9 (2) An individual’s use of the individual’s own personal residence, including a community room
 10 associated with the individual’s residence, to conduct a reception for a candidate or political com-
 11 mittee and the individual’s cost of invitations, food and beverages provided at the reception.

12 (3) A vendor’s sale of food and beverages for use in a candidate’s or political committee’s cam-
 13 paign at a charge less than the normal comparable charge, if the charge is at least equal to the cost
 14 of the food or beverages to the vendor.

15 (4) Any unreimbursed payment for travel expenses an individual, including a candidate, makes
 16 on behalf of a candidate or political committee.

17 (5) Any loan of money made by a financial institution as defined in ORS 706.008, other than any
 18 overdraft made with respect to a checking or savings account, if the loan bears the usual and cus-
 19 tomary interest rate for the category of loan involved, is made on a basis that ensures repayment,
 20 is evidenced by a written instrument and is subject to a due date or amortization schedule. How-
 21 ever, each indorser or guarantor of the loan shall be considered to have contributed that portion
 22 of the total amount of the loan for which that person agreed to be liable in a written agreement,
 23 except if the indorser or guarantor is the candidate’s spouse.

24 (6) Nonpartisan activity designed to encourage individuals to vote or to register to vote, **pro-**
 25 **vided that, except as provided in subsection (10) of this section, the nonpartisan activity does**
 26 **not refer to a candidate, measure or political party within 30 calendar days before a primary**
 27 **election or 60 calendar days before a general election.**

28 (7) Any communication a membership organization or corporation makes to its members, share-
 29 holders or employees if the membership organization or corporation is not organized primarily for
 30 the purpose of influencing an election.

31 (8) The payment of compensation for legal and accounting services rendered to a candidate or
 32 political committee if the person paying for the services is the regular employer of the individual
 33 rendering the services and the services are solely for the purpose of ensuring compliance with the
 34 provisions of this chapter.

35 (9) The payment by a state or local committee of a political party of the costs of preparation,
 36 display or mailing or other distribution incurred by the committee with respect to a printed slate
 37 card or sample ballot, or other printed listing, of three or more candidates for any public office for
 38 which an election is held in this state. This subsection does not apply to costs incurred by the
 39 committee with respect to a display of any such listing made on broadcasting stations or in news-
 40 papers, magazines or similar types of general public political advertising.

41 **(10) The following nonpartisan communications that refer to a candidate, measure or**
 42 **political party within 30 calendar days before a primary election or 60 calendar days before**
 43 **a general election:**

44 **(a) The publication of a nonpartisan voters’ guide that:**

45 **(A) With respect to each office referenced in the voters’ guide:**

- 1 **(i) Includes information from all candidates for the office referenced; or**
 - 2 **(ii) Offers all candidates for the office referenced a reasonable opportunity to be included**
 - 3 **in the voters' guide; and**
 - 4 **(B) With respect to each measure referenced in the voters' guide, provides a reasonable**
 - 5 **opportunity to be included in the voters' guide to the chief petitioners of the measure and**
 - 6 **to each political committee or petition committee involved in advocating for or against the**
 - 7 **measure.**
 - 8 **(b) A commercial communication that depicts a candidate's name, image, likeness or**
 - 9 **voice only in the candidate's capacity as owner, operator or employee of a business that ex-**
 - 10 **isted prior to the candidate's declaration of candidacy.**
 - 11 **(c) Official publications produced or distributed by public employees while on the job**
 - 12 **during working hours.**
 - 13 **(d) Any other nonpartisan communication identified by the Secretary of State by rule.**
 - 14 **SECTION 3. The amendments to ORS 260.005 and 260.007 by sections 1 and 2 of this 2017**
 - 15 **Act apply to independent expenditures made on or after the effective date of this 2017 Act.**
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