

House Bill 2584

Sponsored by Representative RAYFIELD (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**.

Lists specified types of expenditures that are definitively considered to be made in coordination with candidates for purposes of determining whether expenditure is considered independent expenditure.

Lowers threshold for required filing of statement of independent expenditures to \$250 per calendar year and requires statement to be filed within seven days after expenditure is made.

Increases penalties from 10 percent to 40 percent of total amount of contribution or expenditure for failure to file required statements or certificates, for failure to include required information in statements or certificates, for incorrectly identifying expenditure as independent expenditure and for failing to timely file accurate statements for in-kind contributions.

Requires person making independent expenditures of more than \$250 in calendar year to maintain detailed accounts that are current not later than seven days after triggering required report. Requires account records to be kept for at least two years.

Requires Secretary of State to randomly select for examination accounts of political committees. Requires that examinations occur four times per calendar year and determine whether committee accurately and timely complied with filing requirements during three months immediately preceding examination.

Permits Secretary of State or Attorney General, upon reasonable suspicion of violation, to examine accounts of person, political committee or petition committee being investigated as result of elector filing complaint alleging violation of election law or rule.

Permits Attorney General, during investigation of election complaint, to issue subpoena to compel production of relevant documents or information.

Appropriates moneys to Secretary of State for purposes of Act.

Becomes operative on January 1, 2019.

A BILL FOR AN ACT

1
2 Relating to campaign finance; creating new provisions; and amending ORS 260.005, 260.044, 260.055,
3 260.218, 260.232 and 260.345.

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

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

6 260.005. As used in this chapter:

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

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

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

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

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

3 (2) “Committee director” means any person who directly and substantially participates in
 4 decision-making on behalf of a political committee concerning the solicitation or expenditure of
 5 funds and the support of or opposition to candidates or measures. The officers of a political party
 6 shall be considered the directors of any political party committee of that party, unless otherwise
 7 provided in the party’s bylaws.

8 (3) Except as provided in ORS 260.007, “contribute” or “contribution” includes:

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

12 (A) For the purpose of influencing an election for public office or an election on a measure, or
 13 of reducing the debt of a candidate for nomination or election to public office or the debt of a pol-
 14 itical committee; or

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

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

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

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

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

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

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

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

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

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

31 (8) Except as provided in ORS 260.007, “expend” or “expenditure” includes the payment or fur-
 32 nishing of money or anything of value or the incurring or repayment of indebtedness or obligation
 33 by or on behalf of a candidate, political committee or person in consideration for any services,
 34 supplies, equipment or other thing of value performed or furnished for any reason, including support
 35 of or opposition to a candidate, political committee or measure, or for reducing the debt of a can-
 36 didate for nomination or election to public office. “Expenditure” also includes contributions made
 37 by a candidate or political committee to or on behalf of any other candidate or political committee.

38 (9) “Filing officer” means:

39 (a) The Secretary of State:

40 (A) Regarding a candidate for public office;

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

42 (C) Regarding any measure; or

43 (D) Regarding any political committee.

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

45 (A) The county clerk, regarding any candidate for office or any measure at an irrigation district

1 formation election where the proposed district is situated wholly in one county;

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

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

7 (10) "Independent expenditure" means an expenditure by a person for a communication in sup-
8 port of or in opposition to a clearly identified candidate or measure that is not made with the co-
9 operation or with the prior consent of, or in consultation with, or at the request or suggestion of,
10 a candidate or any agent or authorized committee of the candidate, or any political committee or
11 agent of a political committee supporting or opposing a measure. For purposes of this subsection:

12 (a) "Agent" means any person who has:

13 (A) Actual oral or written authority, either express or implied, to make or to authorize the
14 making of expenditures on behalf of a candidate or on behalf of a political committee supporting or
15 opposing a measure; or

16 (B) Been placed in a position within the campaign organization where it would reasonably ap-
17 pear that in the ordinary course of campaign-related activities the person may authorize expen-
18 ditures.

19 (b)(A) "Clearly identified" means, with respect to candidates:

20 (i) The name of the candidate involved appears;

21 (ii) A photograph or drawing of the candidate appears; or

22 (iii) The identity of the candidate is apparent by unambiguous reference.

23 (B) "Clearly identified" means, with respect to measures:

24 (i) The ballot number of the measure appears;

25 (ii) A description of the measure's subject or effect appears; or

26 (iii) The identity of the measure is apparent by unambiguous reference.

27 (c) "Communication in support of or in opposition to a clearly identified candidate or measure"
28 means:

29 (A) The communication, taken in its context, clearly and unambiguously urges the election or
30 defeat of a clearly identified candidate for nomination or election to public office, or the passage
31 or defeat of a clearly identified measure;

32 (B) The communication, as a whole, seeks action rather than simply conveying information; and

33 (C) It is clear what action the communication advocates.

34 (d) "Made with the cooperation or with the prior consent of, or in consultation with, or at the
35 request or suggestion of, a candidate or any agent or authorized committee of the candidate, or any
36 political committee or agent of a political committee supporting or opposing a measure":

37 (A) Means any arrangement, coordination or direction by the candidate or the candidate's agent,
38 or by any political committee or agent of a political committee supporting or opposing a measure,
39 prior to the publication, distribution, display or broadcast of the communication. **For purposes of**
40 **this definition:**

41 (i) **An expenditure shall be definitively considered to be so made whenever:**

42 (I) **A candidate solicits moneys or appears at a fund-raiser for a group and the group**
43 **then makes expenditures to benefit the candidate.**

44 (II) **A group led by a family member of the candidate or by an individual who was em-**
45 **ployed within the preceding 12 months as a staff member of the candidate makes expen-**

1 **ditures that benefit the candidate's campaign.**

2 **(III) A candidate provides information to a group about the candidate's campaign needs**
 3 **and the group makes expenditures accordingly.**

4 **(IV) A candidate and a group employ the same consultant to provide professional services**
 5 **relating to campaign or fund-raising strategy during the same electoral cycle and the group**
 6 **makes expenditures to benefit the candidate.**

7 **(V) A group republishes or redistributes materials from a candidate's campaign commu-**
 8 **nications, including any video materials from campaign communications.**

9 **(ii)** An expenditure shall be presumed to be so made when *[it]* **the expenditure** is:

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

14 *[(ii)]* **(II)** Made by or through any person who is or has been authorized to raise or expend funds,
 15 who is or has been an officer of a political committee authorized by the candidate or by a political
 16 committee or agent of a political committee supporting or opposing a measure, or who is or has been
 17 receiving any form of compensation or reimbursement from the candidate, the candidate's principal
 18 campaign committee or agent or from any political committee or agent of a political committee
 19 supporting or opposing a measure.

20 **(B)** Does not mean providing to the expending person upon request a copy of this chapter or any
 21 rules adopted by the Secretary of State relating to independent expenditures.

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

24 **(12)** "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon
 25 Tax Court.

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

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

- 31 (a) A proposed law.
- 32 (b) An Act or part of an Act of the Legislative Assembly.
- 33 (c) A revision of or amendment to the Oregon Constitution.
- 34 (d) Local, special or municipal legislation.
- 35 (e) A proposition or question.

36 **(15)** "Occupation" means:

- 37 (a) The nature of an individual's principal business; and
- 38 (b) If the individual is employed by another person, the business name and address, by city and
 39 state, of the employer.

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

43 **(17)** "Petition committee" means an initiative, referendum or recall petition committee organized
 44 under ORS 260.118.

45 **(18)** "Political committee" means a combination of two or more individuals, or a person other

1 than an individual, that has:

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

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

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

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

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

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

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

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

18 (23) "State office" means the office of Governor, Secretary of State, State Treasurer, Attorney
19 General, Commissioner of the Bureau of Labor and Industries, state Senator, state Representative,
20 judge or district attorney.

21 **SECTION 2.** ORS 260.044 is amended to read:

22 260.044. (1) If a person makes independent expenditures in a total amount of more than [~~\$750~~]
23 **\$250** in a calendar year, the person shall use the electronic filing system adopted under ORS 260.057
24 to file with the Secretary of State a statement of independent expenditures not later than seven
25 calendar days after the total amount of independent expenditures exceeds [~~\$750~~] **\$250** in a calendar
26 year.

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

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

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

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

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

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

45 [~~(5)~~] (4) For any special election, the secretary by rule may establish a period during which a

1 person must file a statement described in subsection (2) of this section. The period may not extend
 2 beyond seven 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 3.** 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) For failure to file a statement or certificate required to be filed under ORS 260.044, 260.057,
 16 260.076, 260.078, 260.083, 260.112 or 260.118, [10] **40** percent of the total amount of the contribution
 17 or expenditure required to be included in the statement or certificate; [or]

18 (b) For each failure to include in a statement filed under ORS 260.044, 260.057, 260.076, 260.078,
 19 260.083, 260.112 or 260.118 the information required under ORS 260.044, 260.057, 260.076, 260.083 or
 20 260.118, [10] **40** percent of the total amount of the contribution or expenditure required to be in-
 21 cluded in the statement[.];

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

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

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

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

34 **SECTION 4.** ORS 260.055 is amended to read:

35 260.055. (1) Each candidate, other than a candidate for political party office, the treasurer of
 36 each political committee, [and] the treasurer of each petition committee **and each person that**
 37 **makes independent expenditures in a total amount of more than \$250 in a calendar year** shall
 38 keep detailed accounts. The accounts shall be current as of not later than the seventh calendar day
 39 after the date of receiving a contribution or making an expenditure **or independent expenditure**
 40 with respect to all contributions received and all expenditures **or independent expenditures** made
 41 by or on behalf of the candidate or committee that are required to be reported under ORS **260.044,**
 42 **260.057, 260.076 or 260.078.** Subject to ORS 260.085, the accounts shall list all information required
 43 to be reported under ORS 260.083.

44 (2) Accounts kept by a candidate [or the], a treasurer of a political committee **or a person that**
 45 **makes independent expenditures in a total amount of more than \$250 in a calendar year** may

1 be inspected under reasonable circumstances at any time before the election to which the accounts
 2 refer or during the period specified for retention of the accounts under subsection (3) of this section
 3 by any opposing candidate or the treasurer of any political committee for the same electoral contest.
 4 The right of inspection may be enforced by writ of mandamus issued by any court of competent ju-
 5 risdiction. The treasurers of political committees supporting a candidate may be joined with the
 6 candidate as defendants in a mandamus proceeding.

7 (3) Accounts kept by a candidate [*or treasurer*], **a treasurer of a political committee or a**
 8 **person that makes independent expenditures in a total amount of more than \$250 in a cal-**
 9 **endar year** shall be preserved by the candidate, [*or*] treasurer **or person** for at least two years
 10 after the date the statement of the contribution or expenditure is filed under ORS 260.057 **or the**
 11 **independent expenditure is made.**

12 **SECTION 5. Sections 6 and 7 of this 2017 Act are added to and made a part of ORS**
 13 **chapter 260.**

14 **SECTION 6. (1) In addition to the requirements of ORS 260.055 and 260.215, the Secretary**
 15 **of State shall examine the accounts of political committees and petition committees selected**
 16 **at random as provided in subsections (4) and (5) of this section. For each examination, the**
 17 **secretary shall require that the political committee or petition committee provide access to**
 18 **all committee bank account records and other documentation the secretary determines is**
 19 **necessary to successfully conduct the examination. The requirement to provide access to**
 20 **committee bank account records and other documentation under this subsection may be**
 21 **enforced by writ of mandamus issued by any court of competent jurisdiction.**

22 (2)(a) Each examination conducted by the secretary under this section must determine
 23 whether, during the three months immediately preceding the examination, the political
 24 committee or petition committee accurately and timely complied with all of the filing re-
 25 quirements set forth in this chapter and rules adopted by the secretary.

26 (b) If an examination indicates discrepancies between the filings made by the political
 27 committee or petition committee and the filing requirements set forth in this chapter and
 28 rules adopted by the secretary, the secretary may extend the scope of the examination to
 29 determine whether, during the two years immediately preceding the examination, the poli-
 30 tical committee or petition committee accurately and timely complied with all of the filing
 31 requirements.

32 (3) Committee bank account records and other documentation provided by a political
 33 committee or petition committee to the secretary under this section may be used only for
 34 purposes of the examination and may not be disclosed as a public record under ORS 192.410
 35 to 192.505.

36 (4) The secretary shall conduct examinations of political committees and petition com-
 37 mittees under this section four times per calendar year.

38 (5) The secretary by rule shall:

39 (a) Designate a method by which political committees and petition committees shall be
 40 selected at random for examination under this section.

41 (b) Designate the period of time within which a political committee or petition committee
 42 must provide access to committee bank account records and other documentation if required
 43 to do so under this section. The secretary may impose a civil penalty under ORS 260.995
 44 against a person that fails to timely provide the access to committee bank account records
 45 and other documentation required under this section.

1 **SECTION 7.** (1) When conducting an investigation under ORS 260.345 of a written com-
 2 plaint alleging that a violation of election law or rule adopted by the Secretary of State under
 3 ORS chapters 246 to 260 has occurred, the secretary or the Attorney General may, upon
 4 reasonable suspicion that a violation has occurred and in addition to any other action per-
 5 mitted by law, examine the accounts of the person, political committee or petition committee
 6 alleged to have committed the violation.

7 (2) When investigating the accounts of a person, political committee or petition com-
 8 mittee under this section, the secretary or the Attorney General may require that the per-
 9 son, political committee or petition committee provide access to bank account records and
 10 other documentation the secretary or Attorney General determines is necessary to success-
 11 fully conduct the investigation. The requirement to provide access to bank account records
 12 and other documentation may be enforced by writ of mandamus issued by any court of
 13 competent jurisdiction.

14 (3) Bank account records and other documentation provided by a person, political com-
 15 mittee or petition committee to the secretary or Attorney General under this section may
 16 be used only for purposes of the investigation and may not be disclosed as a public record
 17 under ORS 192.410 to 192.505.

18 (4) The secretary by rule shall designate the period of time within which a person, poli-
 19 tical committee or petition committee must provide access to bank account records and
 20 other documentation if required to do so under this section. The secretary or Attorney
 21 General may impose a civil penalty under ORS 260.995 against a person that fails to timely
 22 provide the access to bank account records and other documentation required under this
 23 section.

24 **SECTION 8.** ORS 260.218 is amended to read:

25 260.218. (1) The Secretary of State, **or the Attorney General acting under ORS 260.345**, may
 26 issue subpoenas to compel the production of records, documents, books, papers, memoranda or other
 27 information necessary to determine compliance with the provisions of this chapter.

28 (2) If a person fails to comply with any subpoena issued under subsection (1) of this section, a
 29 judge of the circuit court of any county, on application of the Secretary of State **or Attorney**
 30 **General** shall compel obedience by proceedings for contempt as in the case of disobedience of the
 31 requirements of a subpoena issued from the circuit court.

32 **SECTION 9.** ORS 260.345 is amended to read:

33 260.345. (1) Any elector may file with any filing officer a written complaint alleging that a vio-
 34 lation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260
 35 has occurred and stating the reason for believing that the violation occurred and any evidence re-
 36 lating to it. A complaint and any evidence relating to it may be filed electronically. A complaint
 37 alleging a violation involving the Secretary of State, a candidate for the office of Secretary of State,
 38 or any political committee or person supporting the Secretary of State or a candidate for the office
 39 of Secretary of State may be filed with the Attorney General. The Secretary of State or Attorney
 40 General [*shall*] **may** not accept an anonymous complaint.

41 (2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed
 42 with any person other than the Secretary of State. If the complaint concerns the Secretary of State,
 43 any candidate for the office of the Secretary of State, or any political committee or person sup-
 44 porting the candidacy of the Secretary of State or of another person for the office of Secretary of
 45 State, the complaint and any additional information relating to the complaint shall be sent to the

1 Attorney General.

2 (3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State
3 or Attorney General immediately shall examine the complaint to determine whether a violation of
4 an election law or rule has occurred and shall make any investigation the Secretary of State or
5 Attorney General considers necessary, **including but not limited to conducting an examination**
6 **of the bank account records and other documentation of a person, political committee or**
7 **petition committee in the manner set forth in section 7 of this 2017 Act.** Except as provided
8 in this subsection, within 48 hours of receiving a complaint under subsection (1) or (2) of this sec-
9 tion, the Secretary of State or Attorney General shall notify the person who is the subject of the
10 complaint that a complaint has been received. If the Secretary of State or Attorney General receives
11 a complaint or complaints involving 25 or more individuals, political committees or petition com-
12 mittees in any 24-hour period, the Secretary of State or Attorney General need not notify the per-
13 sons who are the subjects of those complaints within 48 hours of receiving the complaints but shall
14 notify those persons not later than 10 business days after receiving the complaint or complaints.

15 (4) If the Secretary of State believes after an investigation under subsection (3) of this section
16 that a violation of an election law or rule has occurred, the secretary:

17 (a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall
18 report the findings to the Attorney General and request prosecution. If the violation involves the
19 Attorney General, a candidate for that office or a political committee or person supporting or op-
20 posing the Attorney General or a candidate for that office, the Secretary of State shall appoint an-
21 other prosecutor for that purpose; or

22 (b) In the case of a violation not subject to a penalty under ORS 260.993, may impose a civil
23 penalty under ORS 260.995.

24 (5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section involving
25 an alleged violation subject to a penalty under ORS 260.993, the Attorney General or other
26 prosecutor immediately shall examine the complaint or report to determine whether a violation of
27 an election law has occurred. If the Attorney General or prosecutor determines that a violation
28 has occurred, the Attorney General or prosecutor immediately shall begin prosecution in the name
29 of the state. The Attorney General or other prosecutor shall have the same powers in any county
30 of this state as the district attorney for the county.

31 (6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged
32 violation of an election law or rule not subject to a penalty under ORS 260.993, the Attorney Gen-
33 eral shall examine the complaint to determine whether a violation of an election law or rule has
34 occurred and shall make any investigation the Attorney General considers necessary, **including but**
35 **not limited to conducting an examination of the bank account records and other documen-**
36 **tation of a person, political committee or petition committee in the manner set forth in**
37 **section 7 of this 2017 Act.** If the Attorney General believes after an investigation that a violation
38 of an election law or rule has occurred, the Attorney General may impose a civil penalty under ORS
39 260.995.

40 (7) In the case of an alleged violation subject to a civil penalty under ORS 260.995, a complaint
41 shall be filed by an elector under this section no later than 90 days following the election at which
42 a violation of an election law or rule is alleged to have occurred, or 90 days following the date the
43 violation of an election law or rule is alleged to have occurred, whichever is later.

44 (8) A filing officer having reason to believe that a violation of an election law or rule has oc-
45 curred shall proceed promptly as though the officer had received a complaint. Except as provided

1 in ORS 260.234, a filing officer shall proceed under this subsection no later than two years following
 2 the election at which a violation of an election law or rule is alleged to have occurred, or two years
 3 following the date the violation of an election law or rule is alleged to have occurred, whichever is
 4 later. If a filing officer has not proceeded within two years because of fraud, deceit, misleading
 5 representation or the filing officer could not have reasonably discovered the alleged violation, the
 6 filing officer shall proceed no later than five years following the election at which a violation of an
 7 election law or rule is alleged to have occurred, or five years following the date the violation of an
 8 election law or rule is alleged to have occurred, whichever is later.

9 **SECTION 10.** In addition to and not in lieu of any other appropriation, there is appro-
 10 priated to the Secretary of State, for the biennium beginning July 1, 2017, out of the General
 11 Fund, the amount of \$_____ for the purposes of preparing to implement the provisions of
 12 sections 6 and 7 of this 2017 Act and the amendments to ORS 260.005, 260.044, 260.055, 260.218,
 13 260.232 and 260.345 by sections 1 to 4, 8 and 9 of this 2017 Act.

14 **SECTION 11.** (1) Sections 6 and 7 of this 2017 Act and the amendments to ORS 260.005,
 15 260.044, 260.055, 260.218, 260.232 and 260.345 by sections 1 to 4, 8 and 9 of this 2017 Act become
 16 operative on January 1, 2019.

17 (2) Sections 6 and 7 of this 2017 Act and the amendments to ORS 260.005, 260.044, 260.055,
 18 260.218, 260.232 and 260.345 by sections 1 to 4, 8 and 9 of this 2017 Act apply to any inde-
 19 pendent expenditures made or campaign finance statements filed on or after the operative
 20 date specified in subsection (1) of this section.

21 (3) The Secretary of State and the Attorney General may take any action before the op-
 22 erative date specified in subsection (1) of this section that is necessary to enable the Secre-
 23 tary of State and the Attorney General to exercise, on and after the operative date specified
 24 in subsection (1) of this section, all of the duties, functions and powers conferred on the
 25 Secretary of State and the Attorney General by sections 6 and 7 of this 2017 Act and the
 26 amendments to ORS 260.005, 260.044, 260.055, 260.218, 260.232 and 260.345 by sections 1 to 4,
 27 8 and 9 of this 2017 Act.