

Senate Bill 921

Sponsored by Senator THATCHER; Senator BAERTSCHIGER JR, Representatives BARRETO, ESQUIVEL, KENNEMER, POST, WHISNANT, WILSON, WITT (at the request of Senator Kim Thatcher in memory of Sandy Raddue)

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**.

Increases criminal and civil penalties for subsequent and intentional violations of specified election laws. Enhances penalties if person committing violation is public official acting in official capacity.

A BILL FOR AN ACT

1
2 Relating to election offenses penalties; creating new provisions; and amending ORS 260.993 and
3 260.995.

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

5 **SECTION 1.** ORS 260.993 is amended to read:

6 260.993. (1) The penalty for violation of ORS 260.532 is limited to that provided in ORS 260.532
7 (6) and (8).

8 (2) Violation of ORS 247.125 (1), 247.171 (5), 247.420 (2), 253.710, 260.402, 260.555, 260.558, 260.575,
9 260.645 or 260.665 (2) or (3) involving any action described in ORS 260.665 (2)(d) to (f) or 260.715 is
10 a Class C felony.

11 (3) **Except as provided in subsection (5) of this section**, a violation of ORS 260.695 (4) is a
12 Class A misdemeanor.

13 (4) **Except as provided in subsection (5) of this section**, a violation of ORS 247.171 (6) is a
14 Class C misdemeanor.

15 (5) **If a person has previously been found guilty of violating ORS 247.171 (6), 260.567,**
16 **260.569, 260.635, 260.675, 260.685, 260.695 (4) or 260.705, a subsequent and intentional violation**
17 **of ORS 247.171 (6), 260.567, 260.569, 260.635, 260.675, 260.685, 260.695 (4) or 260.705 is:**

18 (a) **Except as provided in paragraph (b) of this subsection**, a Class C felony.

19 (b) **A Class B felony, if the subsequent and intentional violation is committed by a public**
20 **official while acting in an official capacity.**

21 **SECTION 2.** ORS 260.995 is amended to read:

22 260.995. (1) Except as provided in subsection (2) of this section, following an investigation under
23 ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed
24 \$1,000 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any
25 election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter
26 preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

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

28 (a) \$1,000 plus the amount converted to personal use for each violation of ORS 260.407[; *or*].

29 (b) **Except as provided in paragraphs (d) to (f) of this subsection**, \$10,000 for each violation
30 of ORS 260.555, 260.558, 260.575, **260.685**, 260.695 (1) or 260.715 (1) or section 1b, Article IV of the

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 Oregon Constitution.

2 (c) **\$25,000 for a second or subsequent intentional violation of ORS 260.569.**

3 (d) **\$50,000 for a second or subsequent intentional violation of ORS 260.555, 260.558,**
 4 **260.567, 260.575, 260.635 or 260.695 (4).**

5 (e) **\$125,000 for a second or subsequent intentional violation of ORS 247.125 (1), 247.171 (5)**
 6 **or (6), 247.420 (2), 253.710, 260.645 or 260.665 (2) or (3) involving any action described in ORS**
 7 **260.665 (2)(d) to (f), 260.675, 260.705 or 260.715.**

8 (f) **Twice the amount of the allowed civil penalty for a second or subsequent intentional**
 9 **violation of a statutory provision listed in this subsection if the violation is committed by a**
 10 **public official while acting in an official capacity.**

11 (3) Except as otherwise provided by this section, civil penalties under this section shall be im-
 12 posed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall
 13 include:

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

15 (b) If the person is an agency, corporation or an unincorporated association, a statement that
 16 such person must be represented by an attorney licensed in Oregon, unless the person is a political
 17 committee which may be represented by any officer identified in the most recent statement of or-
 18 ganization filed with the filing officer.

19 (4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
 20 shall be held by the secretary or Attorney General:

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

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

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

30 (6) All hearings under this section shall be held not later than 45 days after the deadline for the
 31 person against whom the penalty may be assessed to request a hearing. However, if requested by
 32 the person against whom the penalty may be assessed, a hearing under subsection (4) of this section
 33 shall be held not later than 60 days after the deadline for the person against whom the penalty may
 34 be assessed to request a hearing.

35 (7) The secretary or Attorney General shall issue an order not later than 90 days after a hearing
 36 or after the deadline for requesting a hearing if no hearing is held.

37 (8) All penalties recovered under this section shall be paid into the State Treasury and credited
 38 to the General Fund.

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

41 (a) Is personally responsible for the payment of the civil penalty;

42 (b) Shall pay the civil penalty from personal funds of the person; and

43 (c) May not pay the civil penalty from contributions received by a candidate, a candidate's
 44 principal campaign committee, a political committee or a petition committee.

45 **SECTION 3. The amendments to ORS 260.993 and 260.995 by sections 1 and 2 of this 2017**

1 **Act apply to election law violations that occur on or after the effective date of this 2017 Act.**

2
