

# House Bill 4076

Sponsored by Representative RAYFIELD, Senator ROBLAN, Representative KENY-GUYER; Representatives FAHEY, GREENLICK, HERNANDEZ, NOSSE, POWER, SALINAS, SANCHEZ, SOLLMAN, Senators FREDERICK, MANNING JR (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**.

Establishes Small Donor Elections program to enable candidates for office of state Representative and state Senator to receive 6-to-1 match on small dollar donations. Limits matching funds. Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to election campaigns; creating new provisions; amending ORS 305.754 and 305.796; and  
3 prescribing an effective date.

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

5 **SECTION 1. Sections 2 to 7 of this 2018 Act are added to and made a part of ORS chapter**  
6 **260.**

7 **SECTION 2. As used in sections 2 to 7 of this 2018 Act:**

8 (1) "Election cycle" means the period starting on the day after the date of a general  
9 election and ending on the date of the next general election.

10 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, "maximum public  
11 match" means the receipt by a candidate for the office of state Senator or state Represent-  
12 tive from the Small Donor Elections Fund of an amount of moneys equal to 130 percent  
13 of the average amount, as determined by the Secretary of State, that was spent by the  
14 elected candidates in the most expensive 20 percent of all races for that office during each  
15 of the two most recent election cycles.

16 (b)(A) For a candidate for the office of state Senator or state Representative who is  
17 running unopposed in the primary election, "maximum public match" means a candidate's  
18 receipt from the Small Donor Elections Fund of five percent of the amount set forth in  
19 paragraph (a) of this subsection during the period ending on the date of the primary election  
20 and:

21 (i) If the candidate is running unopposed in the general election, five percent of the  
22 amount set forth in paragraph (a) of this subsection during the period beginning on the day  
23 after the date of the primary election and ending on the date of the general election; or

24 (ii) If the candidate is not running unopposed in the general election, the total amount  
25 of moneys remaining from the amount set forth in paragraph (a) of this subsection after the  
26 date of the primary election.

27 (B) For a candidate for the office of state Senator or state Representative who is running  
28 unopposed in the general election, "maximum public match" means a candidate's receipt  
29 from the Small Donor Elections Fund of five percent of the amount set forth in paragraph  
30 (a) of this subsection during the period beginning on the day after the date of the primary

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 election and ending on the date of the general election and:

2 (i) If the candidate is running unopposed in the primary election, five percent of the  
 3 amount set forth in paragraph (a) of this subsection during the period ending on the date  
 4 of the primary election; or

5 (ii) If the candidate is not running unopposed in the primary election, 50 percent of the  
 6 amount set forth in paragraph (a) of this subsection during the period ending on the date  
 7 of the primary election.

8 (c) If a candidate has received contributions from a single person in an aggregate amount  
 9 of more than \$250 during an election cycle but prior to filing a statement of intent under  
 10 section 3 (1)(a) of this 2018 Act, the maximum public match shall be reduced by the total  
 11 amount of moneys received in contributions from a single person in an aggregate amount  
 12 of more than \$250 prior to the candidate filing a statement of intent under section 3 (1)(a)  
 13 of this 2018 Act.

14 (3) “Minimum amount of in-state qualifying contributions” means the following amount  
 15 of qualified small donor contributions from in-state individuals that a candidate must receive  
 16 in order to participate in the Small Donor Elections program:

17 (a) \$10,000 in qualified small donor contributions for candidates for the office of state  
 18 Senator; or

19 (b) \$6,000 in qualified small donor contributions for candidates for the office of state  
 20 Representative.

21 (4) “Minimum number of in-state qualifying contributions” means the following number  
 22 of in-state individuals that a candidate must receive qualified small donor contributions from  
 23 in order to participate in the Small Donor Elections program:

24 (a) 400 donors for candidates for the office of state Senator; or

25 (b) 250 donors for candidates for the office of state Representative.

26 (5) “Nonmatching small donor contributions” means:

27 (a) Contributions in an aggregate amount of no more than \$250 per election cycle from  
 28 a person that is not an individual to a candidate for the office of state Senator or state  
 29 Representative; or

30 (b) In-kind contributions to a candidate for the office of state Senator or state Repre-  
 31 sentative that, when combined with nonmatching small donor contributions described in  
 32 paragraph (a) of this subsection and with qualified small donor contributions, result in an  
 33 aggregate amount of no more than \$250 from a person per election cycle.

34 (6)(a) Except as provided in paragraph (b) of this subsection, “qualified small donor con-  
 35 tributions” means contributions in an aggregate amount of no more than \$250 per election  
 36 cycle from an individual to a candidate for the office of state Senator or state Represen-  
 37 tative.

38 (b) In-kind contributions are not “qualified small donor contributions.”

39 (7) “Qualifying period” means the 120-day period that begins on the date a candidate for  
 40 the office of state Senator or state Representative files a statement of intent to participate  
 41 in the Small Donor Elections program.

42 (8) “Small donor political committee” means a political committee that accepts contri-  
 43 butions only from individuals in aggregate amounts of no more than \$250 per election cycle.  
 44 A candidate may not establish more than one small donor political committee.

45 **SECTION 3.** (1) In order to participate in the Small Donor Elections program, a candidate

1 for the office of state Senator or state Representative:

2 (a) Must file a statement of intent with the Secretary of State at any time during the  
3 period that begins immediately after the date of a general election and ends on the date 150  
4 days before the date of the next general election;

5 (b) Must collect at least the minimum amount of in-state qualifying contributions during  
6 the qualifying period;

7 (c) Must collect at least the minimum number of in-state qualifying contributions during  
8 the qualifying period;

9 (d) Must sign an affidavit designed by the Secretary of State by rule stating that the  
10 candidate will follow the requirements of the Small Donor Elections program set forth in  
11 sections 2 to 7 of this 2018 Act; and

12 (e) May not have made or accepted a loan in an aggregate amount of more than \$250 to  
13 the candidate's campaign since the date of the last general election at the time the candidate  
14 files a statement under paragraph (a) of this subsection.

15 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a candidate who  
16 satisfies each requirement set forth in subsection (1) of this section shall receive from the  
17 Small Donor Elections Fund an amount equal to six dollars for every one dollar in qualified  
18 small donor contributions received from an in-state individual, provided that the total  
19 amount received by the candidate from the fund does not exceed the maximum public match.  
20 The distribution of moneys from the fund shall be done in the manner set forth in section 4  
21 of this 2018 Act.

22 (b) During the period starting on the day after the date of a general election and ending  
23 on the date of the next primary election, moneys provided from the Small Donor Elections  
24 Fund under paragraph (a) of this subsection may not apply to more than \$125 of the qualified  
25 small donor contributions made by any individual to each candidate.

26 (c) During the period starting on the day after the date of a general election and ending  
27 on the date of the next general election, moneys provided from the Small Donor Elections  
28 Fund under paragraph (a) of this subsection may not apply to more than \$250 of the qualified  
29 small donor contributions made by an individual to each candidate. The moneys provided  
30 from the Small Donor Elections Fund shall apply to all qualified small donor contributions  
31 up to \$250 per individual for each candidate who qualifies for the next general election.

32 (3) In addition to qualified small donor contributions and moneys received from the Small  
33 Donor Elections Fund under subsection (2) of this section and section 4 of this 2018 Act,  
34 candidates who participate in the Small Donor Elections program may:

35 (a) Receive nonmatching small donor contributions from an unlimited number of donors.

36 (b) Receive unlimited contributions from a small donor political committee.

37 (c) Use personal moneys, or moneys raised from any legal source other than a political  
38 committee operated by a political party, to establish the candidate's campaign. Moneys used  
39 or raised under this paragraph:

40 (A) May include aggregate amounts in excess of \$250 from any person; and

41 (B) May not be in an aggregate amount of more than \$6,000 per election cycle.

42 (4)(a) Except as provided in paragraph (b) of this subsection, contributions received by a  
43 candidate who participates in the Small Donor Elections program may be used in any manner  
44 consistent with ORS 260.407.

45 (b) Moneys received from the Small Donor Elections Fund under subsection (2) of this

1 section or section 4 of this 2018 Act:

2 (A) Shall be used only for legitimate campaign expenses, as determined by rule by the  
3 Secretary of State; and

4 (B) May not be used to:

5 (i) Pay salaries for family members of the candidate;

6 (ii) Make purchases from a business or entity owned by the candidate or the candidate's  
7 family;

8 (iii) Pay for campaign expenditures at a rate greater than fair market value;

9 (iv) Make a contribution to the campaign of another candidate; or

10 (v) Make an independent expenditure.

11 (5) A candidate who participates in the Small Donor Elections program may not:

12 (a) Coordinate election activities with any entity that makes independent expenditures  
13 related to the candidate, the office the candidate is seeking or the election the candidate is  
14 participating in.

15 (b) Receive contributions that are not authorized by this section.

16 (c) Receive more than an aggregate amount of \$250 in qualified small donor contributions  
17 and nonmatching small donor contributions from a single donor per election cycle.

18 (d) Make or accept a loan in an aggregate amount of more than \$250 to the candidate's  
19 campaign.

20 (6) A candidate who participates in the Small Donor Elections program and receives a  
21 contribution that exceeds the amount that would constitute a qualified small donor contri-  
22 bution or a nonmatching small donor contribution shall within two weeks:

23 (a) Return to the person making the contribution the amount contributed that is in ex-  
24 cess of the statutory limits; or

25 (b) Withdraw from the program and return to the Secretary of State for deposit into the  
26 Small Donor Elections Fund the total amount of public moneys distributed to the candidate  
27 under subsection (2) of this section or section 4 of this 2018 Act, plus interest.

28 (7)(a) No later than 45 days after each general election, a candidate who participates in  
29 the Small Donor Elections program shall return to the Secretary of State for deposit into  
30 the Small Donor Elections Fund any unspent public moneys that were provided to the can-  
31 didate under subsection (2) of this section or section 4 of this 2018 Act.

32 (b) In order to ensure the return of unspent public moneys that are required to be re-  
33 turned under this subsection, the candidate shall:

34 (A) Keep detailed records establishing the total amount of moneys from the Small Donor  
35 Elections Fund and the total amount of moneys from other sources that compose the total  
36 amount of moneys deposited into the campaign bank account of the candidate; and

37 (B) After campaign expenses are paid, return a percentage of the total amount of moneys  
38 remaining in the account that is equal to the percentage of the total amount of moneys de-  
39 posited into the account that came from the Small Donor Elections Fund.

40 (8) Except as otherwise provided in section 2 (2) of this 2018 Act, a candidate who par-  
41 ticipates in the Small Donor Elections program may receive up to 50 percent of the maxi-  
42 mum public match during the primary election.

43 **SECTION 4.** The Secretary of State by rule shall establish a process for distributing  
44 moneys from the Small Donor Elections Fund to candidates who have met all of the re-  
45 quirements set forth in section 3 (1) of this 2018 Act for participation in the Small Donor

1 Elections program. As part of this process:

2 (1) The Secretary of State shall certify that a candidate has completed each requirement  
3 set forth in section 3 (1) of this 2018 Act.

4 (2) Except as provided in section 3 (2) of this 2018 Act, upon providing certification under  
5 subsection (1) of this section, the Secretary of State shall provide moneys from the Small  
6 Donor Elections Fund to the candidate in an amount equal to six dollars for every one dollar  
7 in qualified small donor contributions received from an in-state individual, provided that the  
8 amount received by the candidate does not exceed the maximum public match.

9 (3) Following an initial distribution made under subsection (2) of this section, the candi-  
10 date may file with the Secretary of State additional contribution statements seeking moneys  
11 from the Small Donor Elections Fund. Except as provided in subsection (4) of this section,  
12 additional contribution statements:

13 (a) May be filed only after the candidate has received qualified small donor contributions  
14 of at least \$1,500 since the candidate last filed a statement.

15 (b) May not be filed more than one time per week.

16 (4) During the 30 days immediately preceding the general election, a candidate may file  
17 additional contribution statements seeking moneys from the Small Donor Elections Fund  
18 without receiving qualified small donor contributions of at least \$1,500.

19 **SECTION 5.** (1) A candidate participating in the Small Donor Elections program who  
20 knowingly falsifies campaign records or who knowingly violates any provision of sections 2  
21 to 7 of this 2018 Act:

22 (a) May no longer participate in the program;

23 (b) Shall be required to return to the Secretary of State for deposit into the Small Donor  
24 Elections Fund the total amount of public moneys distributed to the candidate under sections  
25 3 (2) and 4 of this 2018 Act, plus interest;

26 (c) Is personally liable for the return of any public moneys that have already been ex-  
27 pended; and

28 (d) Is subject to criminal liability under ORS 260.993 (2) and civil liability under ORS  
29 260.995 (2)(b) for a violation of ORS 260.715 (1). Notwithstanding ORS 260.995 (8), penalties  
30 recovered against a candidate for violating any provision of sections 2 to 7 of this 2018 Act  
31 shall be paid into the Small Donor Elections Fund.

32 (2) The Secretary of State by rule shall conduct reasonable audits of participants in the  
33 Small Donor Elections program to ensure the integrity of the program.

34 (3) A candidate may use the appeal mechanism established in ORS 246.910 to challenge  
35 any decision of the Secretary of State relating to the candidate's ability to participate in the  
36 Small Donor Elections program.

37 (4) A candidate participating in the Small Donor Elections program may at any time  
38 voluntarily withdraw from the program by returning to the Secretary of State for deposit  
39 into the Small Donor Elections Fund 110 percent of the total amount of public moneys dis-  
40 tributed to the candidate under sections 3 (2) and 4 of this 2018 Act, plus interest.

41 **SECTION 6.** (1) Any person may operate both a political committee and not more than  
42 one small donor political committee, provided that the person:

43 (a) Establishes segregated campaign accounts for the political committee and the small  
44 donor political committee.

45 (b) Does not transfer moneys from the political committee to the small donor political

1 committee. The person may transfer moneys not received under sections 3 (2) or 4 of this  
 2 2018 Act from the small donor political committee to the political committee.

3 (c) Does not itself split a contribution from an individual, so that part of the individual's  
 4 contribution goes to the small donor political committee and part of the contribution goes  
 5 to the political committee.

6 (2) Any individual may make a contribution to both a small donor political committee and  
 7 a political committee that is operated by the same person.

8 **SECTION 7.** (1) The Small Donor Elections Fund is established in the State Treasury,  
 9 separate and distinct from the General Fund. Interest earned by the Small Donor Elections  
 10 Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to  
 11 the Secretary of State for the purpose of administering sections 2 to 7 of this 2018 Act.

12 (2) The fund consists of moneys appropriated to the fund by the Legislative Assembly and  
 13 moneys returned to the fund by candidates who participate in the Small Donor Elections  
 14 program in the manner set forth in sections 2 to 7 of this 2018 Act. The Secretary of State  
 15 may accept grants, donations, contributions or gifts from any source for deposit in the fund.

16 **SECTION 8.** Notwithstanding section 2 of this 2018 Act, the maximum public match de-  
 17 scribed in section 2 (2) of this 2018 Act for the period beginning on the day after the 2018  
 18 general election and ending on the date of the 2020 general election shall be:

19 (1) \$1,000,000 for candidates for the office of state Senator; and

20 (2) \$700,000 for candidates for the office of state Representative.

21 **SECTION 9.** Section 8 of this 2018 Act is repealed on January 2, 2021.

22 **SECTION 10.** (1) A resident individual taxpayer who files a full-year Oregon individual  
 23 income tax return may designate that a contribution be made to the Small Donor Elections  
 24 Fund established in section 7 of this 2018 Act. The resident individual taxpayer shall make  
 25 the designation by marking the box or filling in the space provided on the return form pur-  
 26 suant to subsection (2) of this section. The amount designated shall be subtracted from any  
 27 refund due on the return.

28 (2)(a) The Department of Revenue shall provide, on the face of the full-year Oregon in-  
 29 dividual income tax return form, a place for resident individual taxpayers to contribute to  
 30 the Small Donor Elections Fund. The department is not required to add a line to a particular  
 31 form if this addition would require the addition of a page to the return form.

32 (b) The area on the return form for making the designation shall provide for:

33 (A) A checkoff box of \$5, \$10, \$20 or \$50; and

34 (B) A blank line in which the individual may write in an amount other than an amount  
 35 designated under subparagraph (A) of this paragraph.

36 (c) The instructions for the return form shall adequately explain that any amount des-  
 37 ignated shall be paid to the Small Donor Elections Fund, that the amount designated will  
 38 decrease the refund of the taxpayer by the designated amount and that the designation is  
 39 entirely voluntary.

40 (3) If a taxpayer designates both a contribution to the Small Donor Elections Fund under  
 41 this section and a contribution pursuant to ORS 305.745, and the refund due the taxpayer is  
 42 insufficient to satisfy the designated contribution under ORS 305.745, the designation under  
 43 this section is void and no contribution to the Small Donor Elections Fund is made.

44 **SECTION 11.** ORS 305.754 is amended to read:

45 305.754. (1) A resident individual taxpayer who files a full-year Oregon individual income tax

1 return may designate that a contribution be made to the Oregon Political Party Fund for payment  
 2 to the major or minor political party designated. The resident individual taxpayer shall make the  
 3 designation by entering a code denoting the party and marking the box provided on the return form  
 4 pursuant to subsection (2) of this section. The amount designated shall be subtracted from any re-  
 5 fund due on the return.

6 (2)(a) The Department of Revenue shall provide, on the face of the full-year Oregon individual  
 7 income tax return form, a place for resident individual taxpayers to make the designation of a pol-  
 8 itical party provided by this section. The department is not required to add a line to a particular  
 9 form if this addition would require addition of a page to the return form. All major political parties,  
 10 as described in ORS 248.006, and all minor political parties, as described in ORS 248.008, shall be  
 11 listed, with identifying codes, in the instructions to the individual income tax return.

12 (b) The area on the return form for making the designation shall provide for a checkoff box of  
 13 \$3. The instructions shall adequately explain that any amount designated shall be paid to the poli-  
 14 tical party of the taxpayer's choice, that the amount designated will decrease the refund of the  
 15 taxpayer by the designated amount, and that the designation is entirely voluntary.

16 (3) If a taxpayer filing a full-year Oregon individual income tax return designates more than one  
 17 political party to receive the contribution, the designation is void and no contribution is made.

18 (4) If a joint return is filed and only one political party is designated, that political party shall  
 19 receive a contribution in the total amount designated. If two political parties are designated on a  
 20 joint return, each political party shall receive a contribution in the amount designated by each joint  
 21 filer. If more than two parties are designated, the designations are void and no contribution is made.

22 (5) If an organization that is not a major or minor political party is designated under this sec-  
 23 tion, the designation is void and no contribution is made.

24 (6) If a designation is void under subsection (3), (4) or (5) of this section, the department shall  
 25 adjust the return to reflect the amount designated for contribution under this section.

26 (7) If a taxpayer designates both a contribution to a political party under this section and a  
 27 contribution pursuant to **either** ORS 305.745 **or section 10 of this 2018 Act**, and the refund due the  
 28 taxpayer is insufficient to satisfy the designated contribution under ORS 305.745 **or section 10 of**  
 29 **this 2018 Act**, the designation under this section is void and no contribution to a political party is  
 30 made.

31 **SECTION 12.** ORS 305.796 is amended to read:

32 305.796. (1) A taxpayer may elect to contribute all or a portion of a refund of personal income  
 33 tax to an account that has been established under ORS 178.335 by direct deposit to the financial  
 34 institution managing the account. The amount elected to be contributed by the taxpayer must be  
 35 at least \$25 and may be applied as a contribution only for the tax year in which the refund is issued.

36 (2) The election shall be made on a form prescribed by the Department of Revenue and filed  
 37 with the taxpayer's tax return for the tax year or at such other time and in such other manner as  
 38 the department may prescribe by rule. The department shall prescribe by rule the maximum number  
 39 of accounts to which a taxpayer may elect to contribute a portion of the refund.

40 (3) The election to contribute all or a portion of a refund may not be changed or revoked.

41 (4) The election to contribute all or a portion of a refund shall be void, and no portion of the  
 42 refund may be contributed to an account that has been established under ORS 178.335, if:

43 (a) The taxpayer's refund is offset to pay amounts owed by the taxpayer; or

44 (b) The taxpayer's refund is less than the total of the following:

45 (A) The contribution elected in subsection (1) of this section;

1 (B) Payments of tax as provided in ORS 316.583 that accompany the return;

2 (C) All contributions to charitable and governmental entities designated by means of a checkoff  
3 as provided in ORS 305.745; *[and]*

4 (D) All contributions to political parties designated by means of a checkoff as provided in ORS  
5 305.754[.]; **and**

6 **(E) All contributions to the Small Donor Elections Fund as provided in section 10 of this**  
7 **2018 Act.**

8 **SECTION 13. This 2018 Act takes effect on the 91st day after the date on which the 2018**  
9 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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