

House Bill 3004

Sponsored by Representatives RAYFIELD, KENY-GUYER, HERNANDEZ, POWER, Senators FAGAN, GOLDEN; Representatives FAHEY, SOLLMAN, Senators FREDERICK, MANNING JR

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 2019 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 2019 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 2019 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 2019 Act.

14 (3) "Membership organization" means an organization that:

15 (a) Is tax-exempt under section 501(c) of the Internal Revenue Code;

16 (b) Is composed of members who are organized as individuals, whether or not the or-
 17 ganization has affiliated organizations, with every member of the membership organization
 18 required, as a condition of membership, to pay dues at least annually in amounts predeter-
 19 mined by the membership organization;

20 (c) Expressly solicits individuals to become members and expressly acknowledges ac-
 21 ceptance of membership; and

22 (d) Is neither a political committee nor otherwise organized for the principal purpose of
 23 promoting or opposing the nomination or election of a person to local, state or federal public
 24 office.

25 (4) "Minimum amount of in-state qualifying contributions" means the following amount
 26 of qualified small donor contributions from in-state individuals that a candidate must receive
 27 in order to participate in the Small Donor Elections Program:

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

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

32 (5) "Minimum number of in-state qualifying contributions" means the following number
 33 of in-state individuals that a candidate must receive qualified small donor contributions from
 34 in order to participate in the Small Donor Elections Program:

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

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

37 (6) "Nonmatching small donor contributions" means:

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

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

45 (7)(a) Except as provided in paragraph (b) of this subsection, "qualified small donor con-

1 **tributions” means contributions in an aggregate amount of no more than \$250 per election**
 2 **cycle from an individual to a candidate for the office of state Senator or state Represen-**
 3 **tative.**

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

5 **(8) “Qualifying period” means the 120-day period that begins on the date a candidate for**
 6 **the office of state Senator or state Representative files a statement of intent to participate**
 7 **in the Small Donor Elections Program.**

8 **(9)(a) “Small donor political committee” means a political committee that accepts con-**
 9 **tributions only from individuals in aggregate amounts of no more than \$250 per election cy-**
 10 **cle.**

11 **(b) A candidate may not establish more than one small donor political committee.**

12 **SECTION 3. (1) In order to participate in the Small Donor Elections Program, a candi-**
 13 **date for the office of state Senator or state Representative:**

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

17 **(b) Must collect at least the minimum amount of in-state qualifying contributions during**
 18 **the qualifying period;**

19 **(c) Must collect at least the minimum number of in-state qualifying contributions during**
 20 **the qualifying period;**

21 **(d) Must sign an affidavit designed by the Secretary of State by rule stating that the**
 22 **candidate will follow the requirements of the Small Donor Elections program set forth in**
 23 **sections 2 to 7 of this 2019 Act; and**

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

27 **(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a candidate who**
 28 **satisfies each requirement set forth in subsection (1) of this section shall receive from the**
 29 **Small Donor Elections Fund an amount equal to six dollars for every one dollar in qualified**
 30 **small donor contributions received from an in-state individual, provided that the total**
 31 **amount received by the candidate from the fund does not exceed the maximum public match.**
 32 **The distribution of moneys from the fund shall be done in the manner set forth in section 4**
 33 **of this 2019 Act.**

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

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

44 **(3) In addition to qualified small donor contributions and moneys received from the Small**
 45 **Donor Elections Fund under subsection (2) of this section and section 4 of this 2019 Act,**

1 candidates who participate in the Small Donor Elections Program may:

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

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

4 (c)(A) Receive contributions from a membership organization that does not have an af-
5 filiate that is a separate membership organization, if the contributions do not exceed \$250
6 per member per election cycle.

7 (B) Receive contributions from a membership organization that has an affiliate that is a
8 separate membership organization, if the contributions do not exceed \$125 per member per
9 election cycle.

10 (d) Use personal moneys, or moneys raised from any legal source, to establish the
11 candidate's campaign. Moneys used or raised under this paragraph:

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

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

14 (4) If a membership organization reports membership numbers, contributions received
15 by the organization and affiliates of the organization to a state or federal agency, the re-
16 ported data may be used by the membership organization to definitively establish the amount
17 of contributions a candidate who participates in the Small Donor Elections Program may
18 receive from the membership organization.

19 (5)(a) Except as provided in paragraph (b) of this subsection, contributions received by a
20 candidate who participates in the Small Donor Elections Program may be used in any man-
21 ner consistent with ORS 260.407.

22 (b) Moneys received from the Small Donor Elections Fund under subsection (2) of this
23 section or section 4 of this 2019 Act:

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

26 (B) May not be used to:

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

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

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

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

32 (v) Make an independent expenditure.

33 (6) A candidate who participates in the Small Donor Elections Program may not:

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

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

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

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

42 (7) A candidate who participates in the Small Donor Elections Program and receives a
43 contribution that exceeds the amount that would constitute a qualified small donor contri-
44 bution or a nonmatching small donor contribution shall within two weeks:

45 (a) Return to the person making the contribution the amount contributed that is in ex-

1 cess of the statutory limits; or

2 (b) Withdraw from the program and return to the Secretary of State for deposit into the
 3 Small Donor Elections Fund the total amount of public moneys distributed to the candidate
 4 under subsection (2) of this section or section 4 of this 2019 Act, plus interest.

5 (8)(a) No later than 45 days after each general election, a candidate who participates in
 6 the Small Donor Elections Program shall return to the Secretary of State for deposit into
 7 the Small Donor Elections Fund any unspent public moneys that were provided to the can-
 8 didate under subsection (2) of this section or section 4 of this 2019 Act.

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

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

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

17 (9) Except as otherwise provided in section 2 (2) of this 2019 Act, a candidate who par-
 18 ticipates in the Small Donor Elections Program may receive up to 50 percent of the maxi-
 19 mum public match during the primary election.

20 **SECTION 4.** The Secretary of State by rule shall establish a process for distributing
 21 moneys from the Small Donor Elections Fund to candidates who have met all of the re-
 22 quirements set forth in section 3 (1) of this 2019 Act for participation in the Small Donor
 23 Elections Program. As part of this process:

24 (1) The Secretary of State shall certify that a candidate has completed each requirement
 25 set forth in section 3 (1) of this 2019 Act.

26 (2) Except as provided in section 3 (2) of this 2019 Act, upon providing certification under
 27 subsection (1) of this section, the Secretary of State shall provide moneys from the Small
 28 Donor Elections Fund to the candidate in an amount equal to six dollars for every one dollar
 29 in qualified small donor contributions received from an in-state individual, provided that the
 30 amount received by the candidate does not exceed the maximum public match.

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

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

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

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

41 **SECTION 5.** (1) A candidate participating in the Small Donor Elections Program who
 42 knowingly falsifies campaign records or who knowingly violates any provision of sections 2
 43 to 7 of this 2019 Act:

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

45 (b) Shall be required to return to the Secretary of State for deposit into the Small Donor

1 Elections Fund the total amount of public moneys distributed to the candidate under sections
 2 3 (2) and 4 of this 2019 Act, plus interest;

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

5 (d) Is subject to criminal liability under ORS 260.993 (2) and civil liability under ORS
 6 260.995 (2)(b) for a violation of ORS 260.715 (1). Notwithstanding ORS 260.995 (8), penalties
 7 recovered against a candidate for violating any provision of sections 2 to 7 of this 2019 Act
 8 shall be paid into the Small Donor Elections Fund.

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

11 (3) A candidate may use the appeal mechanism established in ORS 246.910 to challenge
 12 any decision of the Secretary of State relating to the candidate's ability to participate in the
 13 Small Donor Elections Program.

14 (4) A candidate participating in the Small Donor Elections Program may at any time
 15 voluntarily withdraw from the program by returning to the Secretary of State for deposit
 16 into the Small Donor Elections Fund 100 percent of the total amount of public moneys dis-
 17 tributed to the candidate under sections 3 (2) and 4 of this 2019 Act, plus interest.

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

20 (a) Establishes segregated campaign accounts for the political committee and the small
 21 donor political committee.

22 (b) Does not transfer moneys from the political committee to the small donor political
 23 committee. The person may transfer moneys not received under sections 3 (2) or 4 of this
 24 2019 Act from the small donor political committee to the political committee.

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

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

30 **SECTION 7.** (1) The Small Donor Elections Fund is established in the State Treasury,
 31 separate and distinct from the General Fund. Interest earned by the Small Donor Elections
 32 Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to
 33 the Secretary of State for the purpose of administering sections 2 to 7 of this 2019 Act.

34 (2) The fund consists of moneys appropriated to the fund by the Legislative Assembly and
 35 moneys returned to the fund by candidates who participate in the Small Donor Elections
 36 Program in the manner set forth in sections 2 to 7 of this 2019 Act. The Secretary of State
 37 may accept grants, donations, contributions or gifts from any source for deposit in the fund.

38 **SECTION 8.** Notwithstanding section 2 of this 2019 Act, the maximum public match de-
 39 scribed in section 2 (2) of this 2019 Act for the period beginning on the day after the 2019
 40 general election and ending on the date of the 2020 general election shall be:

41 (1) \$1,000,000 for candidates for the office of state Senator; and

42 (2) \$700,000 for candidates for the office of state Representative.

43 **SECTION 9.** Section 8 of this 2019 Act is repealed on January 2, 2021.

44 **SECTION 10.** (1) A resident individual taxpayer who files a full-year Oregon individual
 45 income tax return may designate that a contribution be made to the Small Donor Elections

1 **Fund established in section 7 of this 2019 Act. The resident individual taxpayer shall make**
2 **the designation by marking the box or filling in the space provided on the return form pur-**
3 **suant to subsection (2) of this section. The amount designated shall be subtracted from any**
4 **refund due on the return.**

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

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

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

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

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

17 **(3) If a taxpayer designates both a contribution to the Small Donor Elections Fund under**
18 **this section and a contribution pursuant to ORS 305.745, and the refund due the taxpayer is**
19 **insufficient to satisfy the designated contribution under ORS 305.745, the designation under**
20 **this section is void and no contribution to the Small Donor Elections Fund is made.**

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

22 305.754. (1) A resident individual taxpayer who files a full-year Oregon individual income tax
23 return may designate that a contribution be made to the Oregon Political Party Fund for payment
24 to the major or minor political party designated. The resident individual taxpayer shall make the
25 designation by entering a code denoting the party and marking the box provided on the return form
26 pursuant to subsection (2) of this section. The amount designated shall be subtracted from any re-
27 fund due on the return.

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

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

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

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

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

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

3 (7) If a taxpayer designates both a contribution to a political party under this section and a
4 contribution pursuant to **either** ORS 305.745 **or section 10 of this 2019 Act**, and the refund due the
5 taxpayer is insufficient to satisfy the designated contribution under ORS 305.745 **or section 10 of**
6 **this 2019 Act**, the designation under this section is void and no contribution to a political party is
7 made.

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

9 305.796. (1) A taxpayer may elect to contribute all or a portion of a refund of personal income
10 tax to an account that has been established under ORS 178.335 by direct deposit to the financial
11 institution managing the account. The amount elected to be contributed by the taxpayer must be
12 at least \$25 and may be applied as a contribution only for the tax year in which the refund is issued.

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

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

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

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

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

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

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

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

26 (D) All contributions to political parties designated by means of a checkoff as provided in ORS
27 305.754[.]; **and**

28 **(E) All contributions to the Small Donor Elections Fund as provided in section 10 of this**
29 **2019 Act.**

30 **SECTION 13.** This 2019 Act takes effect on the 91st day after the date on which the 2019
31 regular session of the Eightieth Legislative Assembly adjourns sine die.
32