

# Senate Bill 644

Sponsored by Senator BOQUIST

## 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**.

Expands legal expenses for which principal campaign committees, political committees and petition committees can use amounts received as contributions.

Clarifies that definition of contribution or expenditure does not include payment for legal and accounting services rendered to candidate or political committee if person paying for services is regular employer of employee or independent contractor rendering services and services are solely for purpose of ensuring compliance with election laws and government ethics laws.

Establishes limited liability for principal campaign committees, political committees and petition committees.

Permits committees to sue, be sued and complain and defend in courts in own name.

Permits committees to indemnify persons for acts as director, manager, employee or agent of committee.

## A BILL FOR AN ACT

1  
2 Relating to campaign finance; creating new provisions; and amending ORS 260.007 and 260.407.

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

4 **SECTION 1.** ORS 260.407 is amended to read:

5 260.407. (1)(a) Except as provided in paragraph (b) of this subsection, amounts received as con-  
6 tributions by a candidate, the principal campaign committee of a candidate or the principal cam-  
7 paign committee of a holder of public office may be:

8 (A) Used to defray any expenses incurred in connection with the recipient's duties as a holder  
9 of public office;

10 (B) Transferred to any national, state or local political committee of any political party;

11 (C) Contributed to any organization described in section 170(c) of the Internal Revenue Code  
12 or to any charitable corporation as defined in ORS 128.620; or

13 (D) Used for any other lawful purpose.

14 (b) Amounts received as contributions by a candidate, the principal campaign committee of a  
15 candidate for public office or the principal campaign committee of a holder of public office may not  
16 be:

17 (A) Converted by any person to any personal use other than to defray any expenses incurred in  
18 connection with the person's duties as a holder of public office or to repay to a candidate any loan  
19 the proceeds of which were used in connection with the candidate's campaign;

20 (B) Except as provided in this subparagraph, used to pay any money award as defined in ORS  
21 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by  
22 an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116. Contri-  
23 butions described in this paragraph may be used to pay a civil penalty imposed under this chapter,  
24 other than a civil penalty imposed for a violation of this section or ORS 260.409; or

25 (C) Except as provided in this subparagraph, used to pay any legal expenses incurred by the  
26 candidate or public official in any civil, criminal or other legal proceeding or investigation that re-

**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 lates to or arises from the course and scope of the duties of the person as a candidate or public  
 2 official. Contributions described in this paragraph may be used to pay legal expenses incurred by  
 3 the candidate or public official in connection with a legal proceeding:

4 (i) Brought under ORS chapters 246 to 260, other than a proceeding brought under this section  
 5 or ORS 260.409[.];

6 **(ii) Brought under ORS chapter 244, other than a proceeding brought under ORS 244.040**  
 7 **or 244.045; or**

8 **(iii) Arising out of actions taken by the principal campaign committee while acting in the**  
 9 **ordinary course of business of the principal campaign committee.**

10 (2)(a) Except as provided in paragraph (b) of this subsection, amounts received as contributions  
 11 by a political committee that is not a principal campaign committee may be:

12 (A) Used to repay to the political committee any loan the proceeds of which were used in con-  
 13 nection with the campaign;

14 (B) Transferred to any national, state or local political committee of any political party;

15 (C) Contributed to any organization described in section 170(c) of the Internal Revenue Code  
 16 or to any charitable corporation as defined in ORS 128.620; or

17 (D) Used for any other lawful purpose.

18 (b) Amounts received as contributions by the political committee may not be:

19 (A) Converted by any person to any personal use;

20 (B) Except as provided in this subparagraph, used to pay any money award as defined in ORS  
 21 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by  
 22 an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116. Contri-  
 23 butions described in this subsection may be used to pay a civil penalty imposed under this chapter,  
 24 other than a civil penalty imposed for a violation of this section or ORS 260.409; or

25 (C) Except as provided in this subparagraph, used to pay any legal expenses incurred by a  
 26 treasurer or director of a political committee in any civil, criminal or other legal proceeding or in-  
 27 vestigation that relates to or arises from the course and scope of the duties of the person as a  
 28 treasurer or director. Contributions described in this subsection may be used to pay legal expenses  
 29 incurred by a treasurer or director in connection with a legal proceeding:

30 (i) Brought under ORS chapters 246 to 260, other than a proceeding brought under this section  
 31 or ORS 260.409[.];

32 **(ii) Brought under ORS chapter 244, other than a proceeding brought under ORS 244.040**  
 33 **or 244.045; or**

34 **(iii) Arising out of actions taken by the political committee while acting in the ordinary**  
 35 **course of business of the political committee.**

36 (3)(a) Except as provided in paragraph (b) of this subsection, amounts received as contributions  
 37 by a chief petitioner or treasurer of a petition committee may be:

38 (A) Used to repay to the chief petitioner any loan the proceeds of which were used in con-  
 39 nection with the initiative, referendum or recall petition;

40 (B) Transferred to any national, state or local political committee of any political party;

41 (C) Contributed to any organization described in section 170(c) of the Internal Revenue Code  
 42 or to any charitable corporation as defined in ORS 128.620; or

43 (D) Used for any other lawful purpose.

44 (b) Amounts received as contributions by a chief petitioner or treasurer of a petition committee  
 45 may not be:

1 (A) Converted by any person to any personal use;

2 (B) Except as provided in this subparagraph, used to pay any money award as defined in ORS  
 3 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by  
 4 an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116. Contri-  
 5 butions described in this subsection may be used to pay a civil penalty imposed under this chapter,  
 6 other than a civil penalty imposed for a violation of this section or ORS 260.409; or

7 (C) Except as provided in this subparagraph, used to pay any legal expenses incurred by a chief  
 8 petitioner or the treasurer of a petition committee in any civil, criminal or other legal proceeding  
 9 or investigation that relates to or arises from the course and scope of the duties of the person as  
 10 a chief petitioner or treasurer. Contributions described in this subsection may be used to pay legal  
 11 expenses incurred by a chief petitioner or treasurer in connection with a legal proceeding:

12 (i) Brought under ORS chapters 246 to 260, other than a proceeding brought under this section  
 13 or ORS 260.409[.]; **or**

14 **(ii) Arising out of actions taken by the petition committee while acting in the ordinary**  
 15 **course of business of the petition committee.**

16 (4) As used in this section:

17 (a) “Contribution” and “expenditure” include a contribution or expenditure to or on behalf of  
 18 an initiative, referendum or recall petition.

19 (b) “Funds donated” means all funds, including but not limited to gifts, loans, advances, credits  
 20 or deposits of money that are donated for the purpose of supporting the activities of a holder of  
 21 public office. “Funds donated” does not mean funds appropriated by the Legislative Assembly or  
 22 another similar public appropriating body or personal funds of the office holder donated to an ac-  
 23 count containing only those personal funds.

24 (c) “Public office” does not include national or political party office.

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

26 260.007. As used in this chapter, “contribute,” “contribution,” “expend” or “expenditure” does  
 27 not include:

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

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

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

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

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

1 (6) Nonpartisan activity designed to encourage individuals to vote or to register to vote, in-  
 2 cluding but not limited to activity that is allowed for a not-for-profit corporation that is tax exempt  
 3 under section 501(c)(3) of the Internal Revenue Code.

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

7 (8) The payment of compensation for legal and accounting services rendered to a candidate or  
 8 political committee if the person paying for the services is the regular employer of the *[individual]*  
 9 **employee or independent contractor** rendering the services and the services are solely for the  
 10 purpose of ensuring compliance with the provisions of *[this chapter]* **ORS chapters 244 or 246 to**  
 11 **260.**

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

18 (10) A candidate debate or forum for a state office, or a communication publicizing a candidate  
 19 debate or forum for a state office, when all major political party candidates for the state office have  
 20 been invited to participate in the candidate debate or forum.

21 (11) The following nonpartisan communications that refer to a candidate or political party  
 22 within 30 calendar days before a primary election or 60 calendar days before a general election:

23 (a) The publication of a nonpartisan voters' guide that:

24 (A) Is permitted to be published by a not-for-profit corporation that is tax exempt under section  
 25 501(c)(3) of the Internal Revenue Code; or

26 (B) With respect to each state office referenced in the voters' guide:

27 (i) Includes information from all major political party candidates for the state office referenced;  
 28 or

29 (ii) Offers all major political party candidates for the state office referenced a reasonable op-  
 30 portunity to be included in the voters' guide.

31 (b) A commercial communication that depicts a candidate's name, image, likeness or voice only  
 32 in the candidate's capacity as owner, operator or employee of a business that existed prior to the  
 33 candidate's declaration of candidacy.

34 (c) Official publications produced or distributed by public employees while on the job during  
 35 working hours.

36 (d) A communication by a labor union, membership organization or corporation to its members,  
 37 stockholders or executive or administrative personnel.

38 (e) Any other nonpartisan communication identified by the Secretary of State by rule.

39 **SECTION 3. Section 4 of this 2019 Act is added to and made a part of ORS chapter 260.**

40 **SECTION 4. (1) The statement of organization of a principal campaign committee, poli-**  
 41 **tical committee or petition committee may include, or may be amended to include, a pro-**  
 42 **vision for the indemnification of any person for acts or omissions as a director, manager,**  
 43 **employee or agent and may eliminate or limit the liability of a director, manager, employee**  
 44 **or agent of the committee for damages from such acts or omissions. However, no such pro-**  
 45 **vision shall eliminate or limit the liability or provide for indemnification of a person for any**

1 act or omission occurring prior to the date when such provision became effective, and no  
2 such provision shall eliminate or limit the liability or provide for indemnification of a person  
3 for:

4 (a) Acts or omissions not in good faith which involve intentional misconduct or a know-  
5 ing violation of law; or

6 (b) Any transaction from which the person derives an improper personal benefit.

7 (2)(a) The debts, obligations and liability of a principal campaign committee, political  
8 committee or petition committee, whether arising in contract, tort or otherwise, are solely  
9 the debts, obligations and liability of the principal campaign committee, political committee  
10 or petition committee. A director or manager is not personally liable for a debt, obligation  
11 or liability of the principal campaign committee, political committee or petition committee  
12 solely by reason of being or acting as a director or manager.

13 (b) The failure of a principal campaign committee, political committee or petition com-  
14 mittee to observe the usual formalities or requirements relating to the exercise of its com-  
15 mittee powers or management is not a ground for imposing personal liability on the directors  
16 or managers for liabilities of the principal campaign committee, political committee or peti-  
17 tion committee.

18 (3) A principal campaign committee, political committee or petition committee is liable  
19 for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act  
20 or omission, or other actionable conduct, of a director or manager acting in the ordinary  
21 course of business of the principal campaign committee, political committee or petition  
22 committee or with authority of the principal campaign committee, political committee or  
23 petition committee.

24 (4) A principal campaign committee, political committee or petition committee may sue  
25 and be sued, and complain and defend in all courts in its own name.

26 SECTION 5. Section 4 of this 2019 Act and the amendments to ORS 260.007 and 260.407  
27 by sections 1 and 2 of this 2019 Act apply to actions taken, or payments or omissions made,  
28 by a principal campaign committee, political committee or petition committee on or after the  
29 effective date of this 2019 Act.