

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO
SENATE BILL 478**

1 On page 1 of the printed bill, line 2, delete “260.407” and insert “244.350,
2 260.407 and 260.995”.

3 On page 3, after line 24, insert:

4 **“SECTION 4.** ORS 260.995 is amended to read:

5 “260.995. (1) Except as provided in subsection (2) of this section, following
6 an investigation under ORS 260.345, the Secretary of State or Attorney
7 General may impose a civil penalty not to exceed \$1,000 for each violation
8 of any provision of Oregon Revised Statutes relating to the conduct of any
9 election, any rule adopted by the secretary under ORS chapters 246 to 260
10 or any other matter preliminary to or relating to an election, for which a
11 civil penalty is not otherwise provided.

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

14 **“(a)(A) Except as provided in subparagraph (B) of this subsection,**
15 \$1,000 plus the amount converted to personal use for each violation of ORS
16 260.407;

17 **“(B) Two times the amount of the penalty provision for violating a**
18 **nondisclosure agreement that is contained within each nondisclosure**
19 **agreement entered into in violation of ORS 260.407; or**

20 “(b) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1)
21 or 260.715 (1) or section 1b, Article IV of the Oregon Constitution.

1 “(3) Except as otherwise provided by this section, civil penalties under
2 this section shall be imposed as provided in ORS 183.745. In addition to the
3 requirements of ORS 183.745, the notice shall include:

4 “(a) A statement of the authority and jurisdiction under which the hear-
5 ing is to be held; and

6 “(b) If the person is an agency, corporation or an unincorporated associ-
7 ation, a statement that such person must be represented by an attorney li-
8 censed in Oregon, unless the person is a political committee which may be
9 represented by any officer identified in the most recent statement of organ-
10 ization filed with the filing officer.

11 “(4) A hearing on whether to impose a civil penalty and to consider cir-
12 cumstances in mitigation shall be held by the secretary or Attorney General:

13 “(a) Upon request of the person against whom the penalty may be as-
14 sessed, if the request is made not later than the 20th day after the date the
15 person received notice sent under subsection (3) of this section; or

16 “(b) Upon the secretary’s or Attorney General’s own motion.

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

23 “(6) All hearings under this section shall be held not later than 45 days
24 after the deadline for the person against whom the penalty may be assessed
25 to request a hearing. However, if requested by the person against whom the
26 penalty may be assessed, a hearing under subsection (4) of this section shall
27 be held not later than 60 days after the deadline for the person against whom
28 the penalty may be assessed to request a hearing.

29 “(7) The secretary or Attorney General shall issue an order not later than
30 90 days after a hearing or after the deadline for requesting a hearing if no

1 hearing is held.

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

4 “(9) In the case of a civil penalty imposed under this section for a vio-
5 lation of ORS 260.407, the person against whom the penalty is assessed:

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

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

8 “(c) May not pay the civil penalty from contributions received by a can-
9 didate, a candidate’s principal campaign committee, a political committee or
10 a petition committee.

11 **“SECTION 5.** ORS 244.350 is amended to read:

12 “244.350. (1) The Oregon Government Ethics Commission may impose civil
13 penalties not to exceed:

14 “(a) Except as provided in paragraphs (b), (c) **and (d)** [*and (c)*] of this
15 subsection, \$5,000 for violation of any provision of this chapter or any re-
16 solution adopted under ORS 244.160.

17 “(b) \$25,000 for violation of ORS 244.045.

18 “(c) \$10,000 for willfully violating ORS 244.040.

19 **“(d) Two times the amount of the penalty provision for violating a**
20 **nondisclosure agreement that is contained within each nondisclosure**
21 **agreement entered into in violation of section 3 of this 2019 Act.**

22 “(2)(a) Except as provided in paragraph (b) of this subsection, the com-
23 mission may impose civil penalties not to exceed \$1,000 for violation of any
24 provision of ORS 192.660.

25 “(b) A civil penalty may not be imposed under this subsection if the vio-
26 lation occurred as a result of the governing body of the public body acting
27 upon the advice of the public body’s counsel.

28 “(3) The commission may impose civil penalties not to exceed \$250 for
29 violation of ORS 293.708. A civil penalty imposed under this subsection is in
30 addition to and not in lieu of a civil penalty that may be imposed under

1 subsection (1) of this section.

2 “(4)(a) The commission may impose civil penalties on a person who fails
3 to file the statement required under ORS 244.050 or 244.217. In enforcing this
4 subsection, the commission is not required to follow the procedures in ORS
5 244.260 before finding that a violation of ORS 244.050 or 244.217 has occurred.

6 “(b) Failure to file the required statement in timely fashion is prima facie
7 evidence of a violation of ORS 244.050 or 244.217.

8 “(c) The commission may impose a civil penalty of \$10 for each of the first
9 14 days the statement is late beyond the date set by law, or by the commis-
10 sion under ORS 244.050, and \$50 for each day thereafter. The maximum pen-
11 alty that may be imposed under this subsection is \$5,000.

12 “(5) In lieu of or in conjunction with finding a violation of law or any
13 resolution or imposing a civil penalty under this section, the commission
14 may issue a written letter of reprimand, explanation or education.”

15 In line 25, delete “4” and insert “6”.

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