

HB 2323 -2, -4, -5 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 3/4, 3/23, 4/13, 4/29

WHAT THE MEASURE DOES:

Prohibits person from knowingly communicating materially false statement with the intent to mislead electors about election date, ballot deadline, voter registration deadline, voter registration method, ballot deposit locations, elector qualifications, or voter registration status within 30 days of primary election or special election or within 60 days of general election. Excludes broadcast of advertisement by a radio or television station or cable television company unless the advertisement is created by the owner, licensee, or operator of the station or company. Authorizes Attorney General to institute civil proceedings and establishes civil penalty of up to \$10,000 for violations.

ISSUES DISCUSSED:

- Process and manner of voter disinformation
- Clarification needed for internet and social media communication

EFFECT OF AMENDMENT:

-2 Clarifies that prohibition applies to statements circulated by electronic or telephonic means.

FISCAL: Fiscal impact issued (indeterminate)

REVENUE: No revenue impact

-4 Changes enforcement from Attorney General to Secretary of State (SOS), except in the case of a violation by SOS or a candidate for SOS, and clarifies location for deposit of penalties. Adds circulation by electronic or telephonic means to the prohibition of knowingly communicating a false statement of material fact relating to any candidate, political committee, or measure.

FISCAL: Fiscal impact issued (indeterminate)

REVENUE: Revenue impact issued (indeterminate)

-5 Requires imitation voters' pamphlets printed or circulated, including by electronic means, to be clearly marked as not official. Establishes civil penalty of \$10,000 for each violation. Prohibits person from registering as paid petition circulator if person has had a civil penalty imposed for a violation.

FISCAL: Fiscal impact issued (indeterminate)

REVENUE: No revenue impact

BACKGROUND:

ORS 260.532 prohibits a person from knowingly communicating a false statement of material fact about a candidate, political committee, or measure. Candidates are liable if they know of and consent to false statements made by others. This law is enforced by private lawsuit between the parties involved and complaints must be filed with the appropriate circuit court, either in the county in which the defendant resides or in the county where the material was published. A "candidate or political committee aggrieved by a violation" of this statute may file an action in an appropriate circuit court to recover damages and secure equitable relief. An action under this statute must be filed not later than the 30th day after the election to which the material relates. Violations may result in economic and non-economic damages, or \$2,500, whichever is greater. Additionally, the court may grant other relief, such as ordering a retraction of the false statement (Secretary of State, *Election Law Summary*, December

This summary has not been adopted or officially endorsed by action of the committee.

2020).

The Secretary of State investigates complaints alleging possible false statements in documents required by election law, such as the required portion of a candidate's filing form or voters' pamphlet statement. In these cases, the candidate signs an affidavit or oath as to the veracity of the information on an election form (ORS 260.715(1)).

House Bill 2323 prohibits a person from knowingly communicating a materially false statement with the intent to mislead electors about the election date, ballot deadline, voter registration deadline, voter registration method, ballot deposit locations, elector qualifications, or voter registration status within 30 days of a primary election or special election or within 60 days of the general election. The measure also authorizes the Attorney General to institute civil proceedings and establishes a civil penalty of up to \$10,000 for violations.