

A-Engrossed
House Bill 2680

Ordered by the House June 14
Including House Amendments dated June 14

Sponsored by Representative RAYFIELD; Representatives HELM, HOLVEY, HUDSON, MARSH, NATHANSON, NERON, POWER, PRUSAK, REARDON, REYNOLDS, WILDE, WILLIAMS, Senator DEMBROW (Pre-session 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.

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.

Allows resident taxpayers to designate contribution to Small Donor Elections Fund on income tax return form.

Directs most election law penalties to Small Donor Elections Fund.

[Establishes limits on campaign contributions that may be accepted by candidates and political committees.]

[Requires political committee to identify as caucus, measure, multicandidate, political party, recall or small donor political committee. Prohibits person from controlling more than one of each committee.]

[Authorizes Secretary of State and Attorney General to require return of contribution excess of limits and impose civil penalty up to 150 percent of total amount of contribution.]

[Repeals Ballot Measure 47 (2006), currently held in abeyance, which establishes limits on political campaign contributions and independent expenditures on candidate races and establishes certain campaign finance disclosure requirements.]

Becomes operative November 9, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to campaign finance; creating new provisions; amending ORS 260.266, 260.995, 305.754 and
3 305.796; and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 7 of this 2021 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 2021 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 Represen-
12 tative from the Small Donor Elections Fund of an amount of moneys equal to the amount
13 set forth in section 7 of this 2021 Act.

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

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 and:

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

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

8 (B) For a candidate for the office of state Senator or state Representative who is running
9 unopposed in the general election, “maximum public match” means a candidate’s receipt
10 from the Small Donor Elections Fund of five percent of the amount set forth in paragraph
11 (a) of this subsection during the period beginning on the day after the date of the primary
12 election and ending on the date of the general election and:

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

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

19 (c) If a candidate has received contributions from a single person in an aggregate amount
20 of more than \$250 during an election cycle but prior to filing a statement of intent under
21 section 3 (1)(a) of this 2021 Act, the maximum public match shall be reduced by the total
22 amount of moneys received in contributions from a single person in an aggregate amount
23 of more than \$250 prior to the candidate filing a statement of intent under section 3 (1)(a)
24 of this 2021 Act.

25 (3) “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 (4) “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 (5) “Nonmatching small donor contributions” means, except as otherwise provided by
38 law:

39 (a) Contributions in an aggregate amount of no more than \$250 per election cycle from
40 a person that is not an individual, including a political committee, to a candidate for the of-
41 fice of state Senator or state Representative; or

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

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

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

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

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

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

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

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

18 **(d) Must sign an affidavit designed by the Secretary of State by rule stating that the**
19 **candidate will follow the requirements of the Small Donor Elections Program set forth in**
20 **sections 2 to 7 of this 2021 Act; and**

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

24 **(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a candidate who**
25 **satisfies each requirement set forth in subsection (1) of this section shall receive from the**
26 **Small Donor Elections Fund an amount equal to \$6 for every \$1 in qualified small donor**
27 **contributions received from an in-state individual, provided that the total amount received**
28 **by the candidate from the fund does not exceed the maximum public match. The distribution**
29 **of moneys from the fund shall be done in the manner set forth in section 4 of this 2021 Act.**

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

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

40 **(3) In addition to qualified small donor contributions and moneys received from the Small**
41 **Donor Elections Fund under subsection (2) of this section and section 4 of this 2021 Act,**
42 **candidates who participate in the Small Donor Elections Program may:**

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

44 **(b) Use personal moneys, or moneys raised from any legal source, to establish the**
45 **candidate’s campaign. Moneys used or raised under this paragraph:**

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

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

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

6 (b) Moneys received from the Small Donor Elections Fund under subsection (2) of this
7 section or section 4 of this 2021 Act:

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

10 (B) May not be used to:

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

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

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

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

16 (v) Pay for fundraising expenses for any person or entity other than the candidate; or

17 (vi) Make an independent expenditure.

18 (5) A candidate who participates in the Small Donor Elections Program may not:

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

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

23 (c) Except as provided in subsection (3) of this section, receive more than an aggregate
24 amount of \$250 in qualified small donor contributions and nonmatching small donor contri-
25 butions from a single donor per election cycle.

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

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

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

33 (b) Withdraw from the program and return to the Secretary of State for deposit into the
34 Small Donor Elections Fund the total amount of public moneys distributed to the candidate
35 under subsection (2) of this section or section 4 of this 2021 Act, plus interest.

36 (7)(a) No later than 45 days after each general election, a candidate who participates in
37 the Small Donor Elections Program shall return to the Secretary of State for deposit into
38 the Small Donor Elections Fund any unspent public moneys that were provided to the can-
39 didate under subsection (2) of this section or section 4 of this 2021 Act.

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

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

45 (B) After campaign expenses are paid, return a percentage of the total amount of moneys

1 remaining in the account that is equal to the percentage of the total amount of moneys de-
2 posited into the account that came from the Small Donor Elections Fund.

3 (8) Except as otherwise provided in section 2 (2) of this 2021 Act, a candidate who par-
4 ticipates in the Small Donor Elections Program may receive up to 50 percent of the maxi-
5 mum public match during the primary election.

6 **SECTION 4.** The Secretary of State by rule shall establish a process for distributing
7 moneys from the Small Donor Elections Fund to candidates who have met all of the re-
8 quirements set forth in section 3 (1) of this 2021 Act for participation in the Small Donor
9 Elections Program. As part of this process:

10 (1) The Secretary of State shall certify that a candidate has completed each requirement
11 set forth in section 3 (1) of this 2021 Act.

12 (2) Except as provided in section 3 (2) of this 2021 Act, upon providing certification under
13 subsection (1) of this section, the Secretary of State shall provide moneys from the Small
14 Donor Elections Fund to the candidate in an amount equal to \$6 for every \$1 in qualified
15 small donor contributions received from an in-state individual, provided that the amount
16 received by the candidate does not exceed the maximum public match.

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

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

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

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

27 **SECTION 5.** (1) A candidate participating in the Small Donor Elections Program who
28 knowingly falsifies campaign records or who knowingly violates any provision of sections 2
29 to 7 of this 2021 Act:

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

31 (b) Shall be required to return to the Secretary of State for deposit into the Small Donor
32 Elections Fund the total amount of public moneys distributed to the candidate under sections
33 3 (2) and 4 of this 2021 Act, plus interest;

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

36 (d) Is subject to criminal liability under ORS 260.993 (2) and civil liability under ORS
37 260.995 (2)(c) for a violation of ORS 260.715 (1).

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

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

43 (4) A candidate participating in the Small Donor Elections Program may at any time
44 voluntarily withdraw from the program by returning to the Secretary of State for deposit
45 into the Small Donor Elections Fund 100 percent of the total amount of public moneys dis-

1 tributed to the candidate under sections 3 (2) and 4 of this 2021 Act, plus interest.

2 **SECTION 6.** (1) The Small Donor Elections Fund is established in the State Treasury,
3 separate and distinct from the General Fund. Interest earned by the Small Donor Elections
4 Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to
5 the Secretary of State for the purpose of administering sections 2 to 7 of this 2021 Act.

6 (2) The fund consists of moneys appropriated to the fund by the Legislative Assembly,
7 moneys returned to the fund by candidates who participate in the Small Donor Elections
8 Program in the manner set forth in sections 2 to 7 of this 2021 Act and moneys paid into the
9 fund under ORS 260.995. The Secretary of State may accept grants, donations, contributions
10 or gifts from any source for deposit in the fund.

11 **SECTION 7.** (1) The maximum public match described in section 2 (2) of this 2021 Act for
12 the period beginning on the day after the 2022 general election and ending on the date of the
13 2024 general election shall be:

- 14 (a) \$600,000 for candidates for the office of state Senator; and
- 15 (b) \$400,000 for candidates for the office of state Representative.

16 (2) Prior to the start of each election cycle, the Secretary of State shall adjust the dollar
17 amounts set forth in this section by the cumulative change in the Consumer Price Index for
18 All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statis-
19 tics of the United States Department of Labor, or its successor, since the previous election
20 cycle. The adjustments performed under this subsection shall be rounded to the nearest \$10
21 increment.

22 **SECTION 8.** (1) A resident individual taxpayer who files a full-year Oregon individual in-
23 come tax return may designate that a contribution be made to the Small Donor Elections
24 Fund established in section 6 of this 2021 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 9.** 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 8 of this 2021 Act**, and the refund due the
 28 taxpayer is insufficient to satisfy the designated contribution under ORS 305.745 **or section 8 of**
 29 **this 2021 Act**, the designation under this section is void and no contribution to a political party is
 30 made.

31 **SECTION 10.** ORS 305.796, as amended by section 2, chapter 316, Oregon Laws 2019, is
 32 amended to read:

33 305.796. (1) The Department of Revenue shall provide a means by which personal income tax-
 34 payers may elect to establish an account under ORS 178.335 within the Oregon 529 Savings Network
 35 in the name of a designated beneficiary.

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

40 (3) The election to contribute all or a portion of a refund shall be made on a form prescribed
 41 by the department and filed with the taxpayer's tax return for the tax year or at such other time
 42 and in such other manner as the department may prescribe by rule. The department shall prescribe
 43 by rule the maximum number of accounts to which a taxpayer may elect to contribute a portion of
 44 the refund.

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

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

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

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

5 (A) The contribution elected in subsection (2) of this section;

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

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

9 (D) All contributions to political parties designated by means of a checkoff as provided in ORS
10 305.754[.]; **and**

11 **(E) All contributions to the Small Donor Elections Fund as provided in section 8 of this**
12 **2021 Act.**

13 **SECTION 11.** ORS 260.266 is amended to read:

14 260.266. (1) Except as otherwise provided by a local provision, a communication in support of
15 or in opposition to a clearly identified candidate must state the name of the persons that paid for
16 the communication.

17 (2) For the purpose of complying with subsection (1) of this section:

18 (a) Except as provided in paragraph (b) of this subsection, a communication in support of or in
19 opposition to a clearly identified candidate by a political committee or petition committee must
20 state:

21 (A) The name of the **principal campaign committee**, political committee or petition committee;
22 and

23 (B) The names of the five persons that have made the largest aggregate contributions of \$10,000
24 or more to the committee in the election cycle in which the communication is made.

25 (b) A communication in support of or in opposition to a clearly identified candidate by an
26 individual[,] **or** a for-profit business entity [*or a candidate or the principal campaign committee of a*
27 *candidate*] must state the name of the individual[,] **or** for-profit business entity [*or candidate*].

28 (c)(A) A communication in support of or in opposition to a clearly identified candidate by a
29 person not described in paragraph (a) or (b) of this subsection must state:

30 (i) The name of the person; and

31 (ii) Except as provided in subparagraph (B) of this paragraph, the names of the five persons that
32 have made the largest aggregate donations of \$10,000 or more to the person in the election cycle in
33 which the communication is made.

34 (B) In identifying persons that have made aggregate donations of \$10,000 or more, a person de-
35 scribed in this paragraph may exclude:

36 (i) Donations received from an affiliated charitable organization that is tax exempt under section
37 501(c)(3) of the Internal Revenue Code; and

38 (ii) Donations and grants received from foundations and other persons that may not be used to
39 make a communication in support of or in opposition to a clearly identified candidate.

40 (d) Notwithstanding paragraphs (a) to (c) of this subsection, a digital communication may state
41 only the name of the person that made the communication if the digital communication includes an
42 active link to a website that prominently displays the additional information required by this sub-
43 section.

44 (3) A person that makes communications in support of or in opposition to a clearly identified
45 candidate must consider an anonymous donation of \$1,000 or more from a single person to be a do-

1 nation that may not be used to make a communication in support of or in opposition to a clearly
2 identified candidate.

3 (4)(a) If a person is required to disclose the names of five persons under subsection (2)(a)(B) or
4 (c)(A)(ii) of this section and more than five persons qualify as having made the largest aggregate
5 contributions or donations, the person shall disclose the five applicable persons whose contributions
6 or donations were made closest to the date of initial printing or transmission of the communication.

7 (b) Except as provided in paragraph (c) of this subsection, the five persons required to be named
8 under subsection (2)(a)(B) or (c)(A)(ii) of this section must be accurate as of 10 days before the most
9 recent payment to print or transmit the communication.

10 (c) A person that both makes multiple digital communications in support of or in opposition to
11 a clearly identified candidate and uses the method described in subsection (2)(d) of this section to
12 meet the identification requirements of subsection (2)(a)(B) or (c)(A)(ii) of this section, may use one
13 active link to the same website for all digital communications made by the person, provided that the
14 information on the website is accurate as of 10 days before the most recent payment to print or
15 transmit a communication.

16 (5) This section does not apply to:

17 (a) Candidates for federal office.

18 (b) Candidates other than those described in paragraph (a) of this subsection who are not re-
19 quired to use the electronic filing system adopted under ORS 260.057 to file statements of contribu-
20 tions received or expenditures made.

21 (c) Petition committees that are not required to use the electronic filing system adopted under
22 ORS 260.057 to file statements of contributions received or expenditures made.

23 (d) Political committees that are not required to use the electronic filing system adopted under
24 ORS 260.057 to file statements of contributions received or expenditures made.

25 (e) A person that makes independent expenditures and that is exempt under ORS 260.044 from
26 being required to file statements of independent expenditures using the electronic filing system
27 adopted under ORS 260.057.

28 (f) A communication that is excluded from the definition of “expenditure” under ORS 260.007.

29 (g) Items of de minimis value relating to a candidate, including but not limited to:

30 (A) Lawn signs, pins, pens and other similar items;

31 (B) Skywriting; or

32 (C) Wearable merchandise.

33 (h) Any other item that the Secretary of State by rule determines is too small to feasibly include
34 the identifying information required by this section.

35 (6) The Secretary of State by rule shall prescribe the form of statements required on communi-
36 cations described in this section. Rules adopted under this subsection must ensure that the infor-
37 mation required to be included in communications under this section is:

38 (a) In a font, size and color that are easy for an average person to read, if the communication
39 appears in a print or digital format; and

40 (b) Clearly audible to the average person, if the communication appears in an audio format.

41 (7) As used in this section:

42 (a) “Clearly identified” has the meaning given that term in ORS 260.005 (10)(b).

43 (b)(A) Except as provided in subparagraph (B) of this paragraph, “communication in support of
44 or in opposition to a clearly identified candidate” means:

45 (i)(I) The communication, when taken as a whole and with limited reference to external events,

1 such as the proximity to the election, could only be interpreted by a reasonable person as containing
2 advocacy for the election or defeat of a clearly identified candidate for nomination or election to
3 public office; and

4 (II) The electoral portion of the communication is unmistakable, unambiguous and suggestive
5 of only one meaning; or

6 (ii)(I) The communication involves aggregate expenditures by a person of more than the amount
7 provided in ORS 260.044 (1);

8 (II) The communication refers to a clearly identified candidate who will appear on the ballot;
9 and

10 (III) The communication is printed or transmitted to the relevant electorate within the time
11 frame provided in ORS 260.005 (10)(c)(B)(iii).

12 (B)(i) "Communication in support of or in opposition to a clearly identified candidate" includes
13 but is not limited to communications distributed via print, telephone, radio, television or the Inter-
14 net.

15 (ii) "Communication in support of or in opposition to a clearly identified candidate" does not
16 include newspaper editorials, printed advertisements with a fair market value of less than \$500 or
17 communications made via telephone that have a fair market value of less than \$500.

18 (c)(A) "Donation" means the gift or transfer of moneys or any other item of value to a person
19 subject to subsection (2)(c)(A) of this section, including any membership fees, dues or assessments.

20 (B) "Donation" does not include moneys or any other item of value received by a person subject
21 to subsection (2)(c)(A) of this section in the ordinary course of a trade or business conducted by the
22 person.

23 (d) "Election cycle" means the period of time starting on the day after the date of a general
24 election and ending on the date of the next general election.

25 (e) "Local provision" means a charter provision, ordinance, resolution or other provision
26 adopted by a city, county or other local government.

27 **SECTION 12.** ORS 260.995, as amended by section 3, chapter 636, Oregon Laws 2019, is
28 amended to read:

29 260.995. (1) Except as provided in subsection (2) of this section, following an investigation under
30 ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed
31 \$1,000 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any
32 election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter
33 preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

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

35 (a)(A) Except as provided in subparagraph (B) of this paragraph, \$1,000 plus the amount con-
36 verted to personal use for each violation of ORS 260.407;

37 (B) Two times the amount of the penalty provision for violating a nondisclosure agreement that
38 is contained within each nondisclosure agreement entered into in violation of ORS 260.407 or
39 260.413;

40 (b) 150 percent of the total cost of printing, transmitting or distributing a communication in
41 support of or in opposition to a clearly identified candidate if the disclosure requirements set forth
42 in ORS 260.266 are not met; or

43 (c) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1) or 260.715 (1) or [*sec-*
44 *tion 1b,*] Article IV, **section 1b**, of the Oregon Constitution.

45 (3) Except as otherwise provided by this section, civil penalties under this section shall be im-

1 posed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall
2 include:

3 (a) A statement of the authority and jurisdiction under which the hearing is to be held; and

4 (b) If the person is an agency, corporation or an unincorporated association, a statement that
5 such person must be represented by an attorney licensed in Oregon, unless the person is a political
6 committee which may be represented by any officer identified in the most recent statement of or-
7 ganization filed with the filing officer.

8 (4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
9 shall be held by the secretary or Attorney General:

10 (a) Upon request of the person against whom the penalty may be assessed, if the request is made
11 not later than the 20th day after the date the person received notice sent under subsection (3) of
12 this section; or

13 (b) Upon the secretary's or Attorney General's own motion.

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

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

24 (7) The secretary or Attorney General shall issue an order not later than 90 days after a hearing
25 or after the deadline for requesting a hearing if no hearing is held.

26 (8) All penalties recovered under this section shall be paid into the **Small Donor Elections**
27 **Fund established in section 6 of this 2021 Act** [*State Treasury and credited to the General Fund*].

28 (9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the
29 person against whom the penalty is assessed:

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

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

32 (c) May not pay the civil penalty from contributions received by a candidate, a candidate's
33 principal campaign committee, a political committee or a petition committee.

34 **SECTION 13. The Secretary of State shall hire a full-time employee to provide voter ed-**
35 **ucation, support and outreach regarding Oregon's campaign finance laws, including the Small**
36 **Donor Elections Program established in sections 2 to 7 of this 2021 Act.**

37 **SECTION 14. It is the intent of the Legislative Assembly that all parts of this 2021 Act**
38 **are independent and that if any part of this 2021 Act is held unconstitutional, all remaining**
39 **parts shall remain in force.**

40 **SECTION 15. Sections 2 to 7 of this 2021 Act and the amendments to ORS 260.995 by**
41 **section 12 of this 2021 Act become operative on November 9, 2022.**

42 **SECTION 16. (1) The Secretary of State may take any action before the operative date**
43 **specified in section 15 of this 2021 Act that is necessary for the Secretary of State to exer-**
44 **cise, on and after the operative date specified in section 15 of this 2021 Act, all of the duties,**
45 **functions and powers conferred on the Secretary of State by sections 2 to 7 of this 2021 Act**

1 **and the amendments to ORS 260.995 by section 12 of this 2021 Act.**

2 **(2) No later than January 1, 2022, the Secretary of State shall propose rules necessary**
3 **to implement sections 2 to 7 of this 2021 Act and the amendments to ORS 260.995 by section**
4 **12 of this 2021 Act.**

5 **(3) No later than September 1, 2022, the Secretary of State shall propose revisions to the**
6 **manual on campaign finance that is adopted by administrative rule and made publicly avail-**
7 **able on the secretary's website to ensure that it incorporates and describes the contents of**
8 **this 2021 Act in a clear and straightforward manner.**

9 **(4) No later than September 30, 2022, the Secretary of State shall report to the interim**
10 **committees of the Legislative Assembly responsible for campaign finance on the actions**
11 **taken by the secretary to implement the provisions of this 2021 Act.**

12 **SECTION 17. This 2021 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
14 **on its passage.**

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