

House Bill 2680

Sponsored by Representative RAYFIELD; Representatives HOLVEY, HUDSON, MARSH, NATHANSON, REARDON, WILDE, 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 **as introduced**.

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.

A BILL FOR AN ACT

1
2 Relating to campaign finance; creating new provisions; amending ORS 260.042 and 260.995; and re-
3 pealing chapter 3, Oregon Laws 2007.

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

5 **SECTION 1. Sections 2 to 4 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 4 of this 2021 Act:**

8 (1) "Caucus political committee," "major political party," "measure political
9 committee," "minor political party," "multicandidate political committee," "political party
10 committee" and "recall political committee" have the meanings given those terms in ORS
11 260.042.

12 (2) "Election cycle" means the period starting on the day after the date of a general
13 election and ending on the date of the next general election.

14 (3) "Local provision" means a charter provision, ordinance, resolution or other provision
15 adopted by a city, county or other local government.

16 (4) "Membership organization" means an organization that:

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

18 (b) Is not formed or operated for the purpose of conducting or promoting commercial
19 enterprise; and

20 (c) Is composed of individual members who:

21 (A) Have taken action to join the organization; and

22 (B) For each year of membership, on an annual or more frequent basis, either pay mon-
23 etary membership dues, make a monetary donation or volunteer time as a condition of
24 maintaining membership in the organization.

25 (5) "Small donor political committee" means a political committee that:

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 (a) Registers as a small donor political committee under ORS 260.042;

2 (b) Prior to registering as a small donor political committee has not accepted a contri-
 3 bution:

4 (A) From a person other than an individual; or

5 (B) In excess of the contribution limits for small donor political committees set forth in
 6 section 4 of this 2021 Act; and

7 (c) While operating as a small donor political committee, complies with the restrictions
 8 on receiving contributions set forth in section 4 of this 2021 Act.

9 (6) "State office," notwithstanding ORS 260.005, means the office of Governor, Secretary
 10 of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and In-
 11 dustries, state Senator, state Representative, judge of the Supreme Court, judge of the Court
 12 of Appeals or circuit court judge.

13 **SECTION 3.** (1)(a) A candidate for state office or the principal campaign committee of a
 14 candidate for state office may accept contributions only from the sources and in the amounts
 15 described in this section.

16 (b) Except as otherwise provided by a local provision or paragraph (c) of this subsection,
 17 the limits on aggregate contributions that may be accepted by a candidate or the principal
 18 campaign committee of a candidate for the office of state Representative under this section
 19 also apply to a candidate or the principal campaign committee of a candidate for any elected
 20 office that is not a state office.

21 (c) Notwithstanding any local provision, a candidate or the principal campaign committee
 22 of a candidate for any elected office that is not a state office may accept unlimited contri-
 23 butions from a small donor political committee.

24 (2)(a) A candidate or the principal campaign committee of a candidate for the office of
 25 state Representative may not accept aggregate contributions in excess of \$____ per election
 26 from an individual, a multicandidate political committee or the principal campaign committee
 27 of a candidate.

28 (b) A candidate or the principal campaign committee of a candidate for the office of state
 29 Senator or circuit court judge may not accept aggregate contributions in excess of \$____
 30 per election from an individual, a multicandidate political committee or the principal cam-
 31 paign committee of a candidate.

32 (c) A candidate or the principal campaign committee of a candidate for a state office not
 33 described in paragraph (a) or (b) of this subsection may not accept aggregate contributions
 34 in excess of \$____ per election from an individual, a multicandidate political committee or
 35 the principal campaign committee of a candidate.

36 (d) A candidate or the principal campaign committee of a candidate for state office may
 37 not accept aggregate contributions in excess of \$____ from a caucus political committee, a
 38 political party committee or a small donor political committee.

39 (3)(a) A political committee may make a contribution to a candidate for state office or
 40 the principal campaign committee of a candidate for state office only if the political com-
 41 mittee is registered with the Secretary of State as a caucus political committee, a multi-
 42 candidate political committee, a political party committee, the principal campaign committee
 43 of a candidate or a small donor political committee.

44 (b) A measure political committee or a recall political committee may not make a con-
 45 tribution to a candidate or the principal campaign committee of a candidate for a state office.

1 (4) Nothing in this section limits the amount a candidate may contribute from the
 2 candidate's personal funds to the candidate or the principal campaign committee of the
 3 candidate.

4 (5)(a) For purposes of this section, a separate election exists in each instance in which
 5 an individual:

6 (A) Is a candidate for nomination to a state office by a major political party or a minor
 7 political party;

8 (B) Is a candidate for nomination to a state office by an assembly of electors under ORS
 9 249.735 or by individual electors under ORS 249.740;

10 (C) Is a candidate for nomination to a nonpartisan state office;

11 (D) Will appear on a general election ballot or a special election ballot as a candidate for
 12 state office;

13 (E) Is a write-in candidate for state office at a primary election, general election or
 14 special election who has established a principal campaign committee; or

15 (F) Will appear on a recall election ballot as the incumbent holder of a state office.

16 (b) Notwithstanding subsection (2) of this section, during each election cycle:

17 (A) A candidate or the principal campaign committee of a candidate for state office who
 18 has not qualified to appear on the general election ballot may accept contributions for only
 19 one election plus any additional elections in which the candidate meets the requirements
 20 described in paragraph (a)(F) of this subsection;

21 (B) A candidate or the principal campaign committee of a candidate for state office who
 22 will appear on the general election ballot may accept contributions for only two elections plus
 23 any additional elections in which the candidate meets the requirements described in para-
 24 graph (a)(F) of this subsection; and

25 (C) An individual may not accept contributions for more than two elections in which the
 26 individual is a candidate for nomination or election to a particular state office.

27 (6)(a) For purposes of the contribution limits established in this section, contributions
 28 made or received by multiple political committees are considered to be made or received by
 29 a single political committee if:

30 (A) The political committees have filed to operate as the same type of political committee
 31 under ORS 260.042; and

32 (B) The political committees are established, financed, maintained or controlled by the
 33 same person or substantially the same group of persons, including any parent, subsidiary,
 34 branch, division, department or local unit of the person or group of persons.

35 (b) Notwithstanding paragraph (a) of this subsection, having the same individual acting
 36 as the treasurer of two or more political committees is not by itself sufficient to consider
 37 contributions made by the political committees to be contributions made or received by a
 38 single political committee.

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

45 (8) The Secretary of State may adopt rules necessary to implement this section.

1 **SECTION 4.** (1) A political committee other than the principal campaign committee of a
 2 candidate may accept contributions only from the sources and in the amounts described in
 3 this section.

4 (2) A caucus political committee:

5 (a) May not accept aggregate contributions in excess of \$____ per calendar year from
 6 an individual or a multicandidate political committee; and

7 (b) May not accept aggregate contributions in excess of \$____ per calendar year from
 8 the principal campaign committee of a candidate, a political party committee, a caucus poli-
 9 tical committee or the candidate committee of a candidate for federal office.

10 (3) A political party committee:

11 (a) May not accept aggregate contributions in excess of \$____ per calendar year from
 12 an individual, a multicandidate political committee or a caucus political committee; and

13 (b) May not accept aggregate contributions in excess of \$____ per calendar year from
 14 the principal campaign committee of a candidate, a political party committee or the candi-
 15 date committee of a candidate to represent this state, or a district of this state, as a United
 16 States Senator or a Representative in Congress.

17 (4) A multicandidate political committee may not accept aggregate contributions in ex-
 18 cess of \$____ per calendar year from an individual, the principal campaign committee of a
 19 candidate, a multicandidate committee, a political party committee or a caucus political
 20 committee.

21 (5)(a) A measure political committee or a recall political committee may accept unlimited
 22 contributions from any person, including any other political committee.

23 (b) A measure political committee may not make a contribution to a caucus political
 24 committee, a multicandidate committee, a political party committee, a small donor political
 25 committee or a recall political committee.

26 (c) A recall political committee may not make a contribution to a caucus political com-
 27 mittee, a multicandidate committee, a political party committee, a small donor political
 28 committee or a measure political committee.

29 (6)(a) During a calendar year, a small donor political committee may accept contributions
 30 from:

31 (A) Individuals, in an aggregate amount of no more than \$____ per individual.

32 (B) Membership organizations, in an amount that does not exceed \$____.

33 (C) Small donor political committees, in an aggregate amount of no more than \$____.

34 (b) A membership organization may make contributions to one or more small donor pol-
 35 itical committees. The aggregate total contributions, including in-kind contributions, that a
 36 membership organization may make to small donor political committees may not exceed ____
 37 percent of each individual member's membership dues or the aggregate total of each indi-
 38 vidual member's donations that were received by the membership organization during the
 39 previous 12 months, with a limit of \$____ from the dues or donations paid by each individual
 40 member per calendar year.

41 (7)(a) A person may not control more than one of each of the following types of com-
 42 mittee at one time:

43 (A) Principal campaign committee.

44 (B) Caucus political committee.

45 (C) Measure political committee.

1 (D) Multicandidate political committee.

2 (E) Political party committee.

3 (F) Recall political committee.

4 (G) Small donor political committee.

5 (b) For the purpose of the contribution limits established in this section, contributions
6 made or received by multiple political committees are considered to be made or received by
7 a single political committee if:

8 (A) The political committees have filed to operate as the same type of political committee
9 under ORS 260.042; and

10 (B) The political committees are established, financed, maintained or controlled by the
11 same person or substantially the same group of persons, including any parent, subsidiary,
12 branch, division, department or local unit of such person or group of persons.

13 (c) Notwithstanding paragraph (b) of this subsection, having the same individual acting
14 as the treasurer of two or more political committees is not by itself sufficient to consider
15 contributions made by the political committees to be contributions made or received by a
16 single political committee.

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

23 (9) The Secretary of State may adopt rules necessary to implement this section.

24 **SECTION 5.** ORS 260.995, as amended by section 3, chapter 636, Oregon Laws 2019, is amended
25 to read:

26 260.995. (1) Except as provided in subsection (2) **or** (3) of this section, following an investigation
27 under ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to
28 exceed \$1,000 for each violation of any provision of Oregon Revised Statutes relating to the conduct
29 of any election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other
30 matter preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

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

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

34 (B) Two times the amount of the penalty provision for violating a nondisclosure agreement that
35 is contained within each nondisclosure agreement entered into in violation of ORS 260.407 or
36 260.413;

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

40 (c) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1) or 260.715 (1) or sec-
41 tion 1b, Article IV of the Oregon Constitution.

42 (3)(a) **Except as provided in paragraph (b) of this subsection, for each instance in which**
43 **a political committee or a candidate for state office or the principal campaign committee of**
44 **a candidate for state office accepts a contribution in excess of the limits established in sec-**
45 **tion 3 or 4 of this 2021 Act, the secretary or Attorney General:**

1 **(A) Shall require the candidate or committee to return all moneys accepted in excess of**
2 **the applicable contribution limit to the person that made the nonconforming contribution;**
3 **and**

4 **(B) May impose a civil penalty in the form of a fine not to exceed 150 percent of the total**
5 **amount of the contribution accepted that resulted in a violation of the contribution limits**
6 **established in section 3 or 4 of this 2021 Act.**

7 **(b)(A) The secretary or Attorney General may not impose a civil penalty on a political**
8 **committee or a candidate for state office or the principal campaign committee of a candidate**
9 **for state office for receiving contributions in excess of the contribution limits established in**
10 **section 3 or 4 of this 2021 Act if, within 10 business days of receiving the nonconforming**
11 **contribution, the candidate or committee:**

12 **(i) Refuses to accept and returns the contribution; or**

13 **(ii) Returns all moneys included in the contribution that are in excess of the contribution**
14 **limits established in section 3 or 4 of this 2021 Act.**

15 **(B) If a political committee or a candidate for state office or the principal campaign**
16 **committee of a candidate for state office is unable to return all or part of a nonconforming**
17 **contribution to the person that made the contribution, the return of all or part of a contri-**
18 **bution under this paragraph may be satisfied by donating the moneys described in subpara-**
19 **graph (A) of this paragraph to an organization recognized as tax exempt under section**
20 **501(c)(3) of the Internal Revenue Code.**

21 [(3)] **(4) Except as otherwise provided by this section, civil penalties under this section shall be**
22 **imposed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall**
23 **include:**

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

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

29 [(4)] **(5) A hearing on whether to impose a civil penalty and to consider circumstances in miti-**
30 **gation shall be held by the secretary or Attorney General:**

31 **(a) Upon request of the person against whom the penalty may be assessed, if the request is made**
32 **not later than the 20th day after the date the person received notice sent under subsection [(3)] (4)**
33 **of this section; or**

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

35 [(5)] **(6) The person against whom a penalty may be assessed need not appear in person at a**
36 **hearing held under this section, but instead may submit written testimony or other evidence, sworn**
37 **to before a notary public, to the secretary or Attorney General for entry in the hearing record. The**
38 **testimony or other evidence must be received by the secretary or Attorney General not later than**
39 **three business days before the day of the hearing.**

40 [(6)] **(7) All hearings under this section shall be held not later than 45 days after the deadline**
41 **for the person against whom the penalty may be assessed to request a hearing. However, if re-**
42 **quested by the person against whom the penalty may be assessed, a hearing under subsection [(4)]**
43 **(5) of this section shall be held not later than 60 days after the deadline for the person against**
44 **whom the penalty may be assessed to request a hearing.**

45 [(7)] **(8) The secretary or Attorney General shall issue an order not later than 90 days after a**

1 hearing or after the deadline for requesting a hearing if no hearing is held.

2 [(8)] (9) All penalties recovered under this section shall be paid into the State Treasury and
3 credited to the General Fund.

4 [(9)] (10) In the case of a civil penalty imposed under this section for a violation of ORS 260.407,
5 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 candidate, a candidate's
9 principal campaign committee, a political committee or a petition committee.

10 **SECTION 6.** ORS 260.042 is amended to read:

11 260.042. (1) The treasurer of a political committee shall file a statement of organization with the
12 filing officer. The statement must include:

13 (a) The name[,] **and** address [*and nature*] of the committee. The address must be the address
14 of a residence, office, headquarters or similar location where the political committee or a responsi-
15 ble officer of the political committee may be conveniently located.

16 (b) The name, address and occupation of the committee director or directors.

17 (c) The name and address of the committee treasurer.

18 (d) The name and address of any other political committee of which two or more committee di-
19 rectors are also directors of the committee filing the statement.

20 **(e)(A) Whether the political committee will operate as a caucus political committee, a**
21 **measure political committee, a multicandidate political committee, a political party commit-**
22 **tee, a recall political committee or a small donor political committee.**

23 **(B) A major political party or minor political party may not establish more than one**
24 **political party committee.**

25 **(C) A major political party or minor political party may not establish more than one**
26 **caucus political committee in the Senate and one caucus political committee in the House**
27 **of Representatives.**

28 **(D) A recall political committee may be formed only after a recall election is certified to**
29 **the ballot.**

30 [(e)] (f) The name, office sought, and party affiliation of each candidate whom the committee is
31 supporting or specifically opposing or intends to support or specifically oppose, when known, or, if
32 the committee is supporting or specifically opposing all the candidates of a given party, the name
33 of that party.

34 [(f)] (g) A designation of any measure that the committee is opposing or supporting, or intends
35 to support or oppose. **Only a political committee that operates as a measure political com-**
36 **mittee may use amounts received as contributions to support or oppose one or more meas-**
37 **ures.**

38 [(g)] (h) A statement of whether the committee is a controlled committee.

39 (2) In addition to the information listed in subsection (1) of this section, the statement of or-
40 ganization must include, or be amended within five business days to include, the name of the finan-
41 cial institution in which the campaign account required under ORS 260.054 is established, the name
42 of the account, the name of the account holder and the names of all individuals who have signature
43 authority for the account. The Secretary of State may not disclose information received by the sec-
44 retary under this subsection except as necessary for purposes of enforcing the provisions of ORS
45 chapters 246 to 260.

1 (3) A treasurer may designate an individual to receive any notice provided by a filing officer
 2 under ORS chapters 246 to 260. The treasurer shall include the name and address of the individual
 3 in a statement of organization filed under this section. A filing officer who provides any notice under
 4 ORS chapters 246 to 260 to the treasurer of the political committee shall also provide the notice to
 5 the individual designated by the treasurer under this subsection.

6 (4) A treasurer may designate an elector of this state to be liable for any civil penalty imposed
 7 under ORS 260.232. The treasurer shall include the name and address of any elector designated un-
 8 der this subsection in a statement of organization filed under this section.

9 (5) The statement of organization must be filed not later than the date specified in ORS 260.035.

10 (6) Except as provided in subsection (2) of this section, any change in information submitted in
 11 a statement of organization under subsections (1) and (2) of this section must be indicated in an
 12 amended statement of organization filed not later than the 10th day after the change in information.

13 (7) This section does not apply to a political committee that is a principal campaign committee
 14 or to a political committee exclusively supporting or opposing one or more candidates for federal
 15 or political party office.

16 (8) **As used in this section:**

17 (a) **“Caucus political committee” means a political committee:**

18 (A) **Established by the caucus of a major political party or a minor political party in the**
 19 **Senate or the House of Representatives;**

20 (B) **Established under rules or bylaws created by the caucus by which it was established;**
 21 **and**

22 (C) **Controlled by an elected leader of the caucus by which it was established.**

23 (b) **“Major political party” means a political party that has qualified as a major political**
 24 **party under ORS 248.006.**

25 (c) **“Measure political committee” means a political committee that supports or opposes**
 26 **one or more measures.**

27 (d) **“Minor political party” means a political party that has qualified as a minor political**
 28 **party under ORS 248.008.**

29 (e) **“Multicandidate political committee” means a political committee that supports or**
 30 **opposes:**

31 (A) **One or more candidates; or**

32 (B) **All candidates affiliated with a major political party or a minor political party.**

33 (f) **“Political party committee” is a political committee that, on a statewide basis:**

34 (A) **Supports or opposes one or more candidates; and**

35 (B)(i) **Represents a major political party or a minor political party; or**

36 (ii) **Is established under the bylaws of a major political party or a minor political party.**

37 (g) **“Recall political committee” means a political committee that supports or opposes a**
 38 **person subject to a recall election.**

39 (h) **“Small donor political committee” has the meaning given that term in section 2 of**
 40 **this 2021 Act.**

41 **SECTION 7.** Notwithstanding section 2 (5) of this 2021 Act, a political committee, as de-
 42 fined in ORS 260.005, that is not organized as a small donor political committee, as defined
 43 in section 2 of this 2021 Act, may reorganize as a small donor political committee if, during
 44 the previous 24-month period, not less than 90 percent of the total amount of moneys con-
 45 tributed to the political committee were contributed by individuals in amounts not exceeding

1 \$____ per individual donor per calendar year. Any moneys in the bank accounts of a political
 2 committee that reorganizes as a small donor political committee under this section shall
 3 transfer to the newly organized small donor political committee and may be used in the same
 4 manner as any other moneys contributed to the small donor political committee.

5 **SECTION 8.** Section 7 of this 2021 Act is repealed on March 31, 2023.

6 **SECTION 9.** Chapter 3, Oregon Laws 2007, is repealed.

7 **SECTION 10.** It is the intent of the Legislative Assembly that all parts of this 2021 Act
 8 are independent and that if any part of this 2021 Act is held unconstitutional, all remaining
 9 parts shall remain in force.

10 **SECTION 11.** Sections 2 to 4 and 7 of this 2021 Act and the amendments to ORS 260.042
 11 and 260.995 by sections 5 and 6 of this 2021 Act become operative on November 9, 2022.

12 **SECTION 12.** (1) The Secretary of State may take any action before the operative date
 13 specified in section 11 of this 2021 Act that is necessary for the Secretary of State to exer-
 14 cise, on and after the operative date specified in section 11 of this 2021 Act, all of the duties,
 15 functions and powers conferred on the Secretary of State by sections 2 to 4 and 7 of this 2021
 16 Act and the amendments to ORS 260.042 and 260.995 by sections 5 and 6 of this 2021 Act.

17 (2)(a) A political committee may take any action before the operative date set forth in
 18 section 11 of this 2021 Act that is necessary for the political committee to be in compliance
 19 with the requirements set forth in ORS 260.042, as amended by section 6 of this 2021 Act,
 20 no later than the operative date set forth in section 11 of this 2021 Act.

21 (b) The Secretary of State shall reorganize as a multicandidate political committee any
 22 active political committee that remains organized to operate as a miscellaneous political
 23 committee on March 31, 2021. Any moneys in the bank accounts of a political committee
 24 described in this paragraph shall transfer to the newly organized multicandidate political
 25 committee and may be used in the same manner as any other moneys contributed to the
 26 multicandidate political committee.

27 (c) The Secretary of State shall by rule establish a process that provides a miscellaneous
 28 political committee that was reorganized under paragraph (b) of this subsection with a single
 29 opportunity to reorganize as a measure political committee. The process shall ensure that
 30 any moneys in the bank accounts of a political committee described in this paragraph
 31 transfer to the newly organized measure political committee and may be used in the same
 32 manner as any other moneys contributed to the measure political committee.

33 _____