

# House Bill 2921

Sponsored by Representative RAYFIELD; Representatives MARSH, PHAM, SOLLMAN, Senators DEMBROW, GOLDEN (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 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. Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to election campaigns; creating new provisions; amending ORS 305.754 and 305.796; and  
3 prescribing an effective date.

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" has the meaning given that term in ORS 260.275.

9 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, "maximum public  
10 match" means the receipt by a candidate for the office of state Senator or state Represent-  
11 tive from the Small Donor Elections Fund of an amount of moneys equal to 130 percent  
12 of the average amount, as determined by the Secretary of State, that was spent by the  
13 elected candidates in the most expensive 20 percent of all races for that office during each  
14 of the two most recent election cycles.

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

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

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

26 (B) For a candidate for the office of state Senator or state Representative who is running  
27 unopposed in the general election, "maximum public match" means a candidate's receipt  
28 from the Small Donor Elections Fund of five percent of the amount set forth in paragraph  
29 (a) of this subsection during the period beginning on the day after the date of the primary  
30 election and ending on the date of the general election and:

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

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

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

13 (3) “Membership organization” means an organization that:

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

15 (b) Is composed of members who are organized as individuals, whether or not the or-  
 16 ganization has affiliated organizations, with every member of the membership organization  
 17 required, as a condition of membership, to pay dues at least annually in amounts predeter-  
 18 mined by the membership organization;

19 (c) Expressly solicits individuals to become members and expressly acknowledges ac-  
 20 ceptance of membership; and

21 (d) Is neither a political committee nor otherwise organized for the principal purpose of  
 22 promoting or opposing the nomination or election of a person to local, state or federal public  
 23 office.

24 (4) “Minimum amount of in-state qualifying contributions” means the following amount  
 25 of qualified small donor contributions from in-state individuals that a candidate must receive  
 26 in order to participate in the Small Donor Elections Program:

27 (a) \$10,000 in qualified small donor contributions for candidates for the office of state  
 28 Senator; or

29 (b) \$6,000 in qualified small donor contributions for candidates for the office of state  
 30 Representative.

31 (5) “Minimum number of in-state qualifying contributions” means the following number  
 32 of in-state individuals that a candidate must receive qualified small donor contributions from  
 33 in order to participate in the Small Donor Elections Program:

34 (a) 400 donors for candidates for the office of state Senator; or

35 (b) 250 donors for candidates for the office of state Representative.

36 (6) “Nonmatching small donor contributions” means:

37 (a) Contributions in an aggregate amount of no more than \$250 per election cycle from  
 38 a person that is not an individual to a candidate for the office of state Senator or state  
 39 Representative; or

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

44 (7)(a) Except as provided in paragraph (b) of this subsection, “qualified small donor con-  
 45 tributions” means contributions in an aggregate amount of no more than \$250 per election

1 cycle from an individual to a candidate for the office of state Senator or state Represen-  
 2 tative.

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

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

7 (9)(a) “Small donor political committee” means a political committee that accepts con-  
 8 tributions only from individuals in aggregate amounts of no more than \$250 per election cy-  
 9 cle.

10 (b) A candidate may not establish more than one small donor political committee.

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

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

16 (b) Must collect at least the minimum amount of in-state qualifying contributions during  
 17 the qualifying period;

18 (c) Must collect at least the minimum number of in-state qualifying contributions during  
 19 the qualifying period;

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

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

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

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

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

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

- 1 (a) Receive nonmatching small donor contributions from an unlimited number of donors.  
2 (b) Receive unlimited contributions from a small donor political committee.  
3 (c)(A) Receive contributions from a membership organization that does not have an af-  
4 filiate that is a separate membership organization, if the contributions do not exceed \$250  
5 per member per election cycle.  
6 (B) Receive contributions from a membership organization that has an affiliate that is a  
7 separate membership organization, if the contributions do not exceed \$125 per member per  
8 election cycle.  
9 (d) Use personal moneys, or moneys raised from any legal source, to establish the  
10 candidate's campaign. Moneys used or raised under this paragraph:  
11 (A) May include aggregate amounts in excess of \$250 from any person; and  
12 (B) May not be in an aggregate amount of more than \$6,000 per election cycle.  
13 (4) If a membership organization reports membership numbers, contributions received  
14 by the organization and affiliates of the organization to a state or federal agency, the re-  
15 ported data may be used by the membership organization to definitively establish the amount  
16 of contributions a candidate who participates in the Small Donor Elections Program may  
17 receive from the membership organization.  
18 (5)(a) Except as provided in paragraph (b) of this subsection, contributions received by a  
19 candidate who participates in the Small Donor Elections Program may be used in any man-  
20 ner consistent with ORS 260.407.  
21 (b) Moneys received from the Small Donor Elections Fund under subsection (2) of this  
22 section or section 4 of this 2021 Act:  
23 (A) Shall be used only for legitimate campaign expenses, as determined by rule by the  
24 Secretary of State; and  
25 (B) May not be used to:  
26 (i) Pay salaries for family members of the candidate;  
27 (ii) Make purchases from a business or entity owned by the candidate or the candidate's  
28 family;  
29 (iii) Pay for campaign expenditures at a rate greater than fair market value;  
30 (iv) Make a contribution to the campaign of another candidate; or  
31 (v) Make an independent expenditure.  
32 (6) A candidate who participates in the Small Donor Elections Program may not:  
33 (a) Coordinate election activities with any entity that makes independent expenditures  
34 related to the candidate, the office the candidate is seeking or the election the candidate is  
35 participating in.  
36 (b) Receive contributions that are not authorized by this section.  
37 (c) Receive more than an aggregate amount of \$250 in qualified small donor contributions  
38 and nonmatching small donor contributions from a single donor per election cycle.  
39 (d) Make or accept a loan in an aggregate amount of more than \$250 to the candidate's  
40 campaign.  
41 (7) A candidate who participates in the Small Donor Elections Program and receives a  
42 contribution that exceeds the amount that would constitute a qualified small donor contri-  
43 bution or a nonmatching small donor contribution shall within two weeks:  
44 (a) Return to the person making the contribution the amount contributed that is in ex-  
45 cess of the statutory limits; or

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

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

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

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

13 (B) After campaign expenses are paid, return a percentage of the total amount of moneys  
 14 remaining in the account that is equal to the percentage of the total amount of moneys de-  
 15 posited into the account that came from the Small Donor Elections Fund.

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

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

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

25 (2) Except as provided in section 3 (2) of this 2021 Act, upon providing certification under  
 26 subsection (1) of this section, the Secretary of State shall provide moneys from the Small  
 27 Donor Elections Fund to the candidate in an amount equal to six dollars for every one dollar  
 28 in qualified small donor contributions received from an in-state individual, provided that the  
 29 amount received by the candidate does not exceed the maximum public match.

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

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

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

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

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

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

44 (b) Shall be required to return to the Secretary of State for deposit into the Small Donor  
 45 Elections Fund the total amount of public moneys distributed to the candidate under sections

1 3 (2) and 4 of this 2021 Act, plus interest;

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

4 (d) Is subject to criminal liability under ORS 260.993 (2) and civil liability under ORS  
 5 260.995 (2)(b) for a violation of ORS 260.715 (1). Notwithstanding ORS 260.995 (8), penalties  
 6 recovered against a candidate for violating any provision of sections 2 to 7 of this 2021 Act  
 7 shall be paid into the Small Donor Elections Fund.

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

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

13 (4) A candidate participating in the Small Donor Elections Program may at any time  
 14 voluntarily withdraw from the program by returning to the Secretary of State for deposit  
 15 into the Small Donor Elections Fund 100 percent of the total amount of public moneys dis-  
 16 tributed to the candidate under sections 3 (2) and 4 of this 2021 Act, plus interest.

17 **SECTION 6.** (1) Any person may operate both a political committee and not more than  
 18 one small donor political committee, provided that the person:

19 (a) Establishes segregated campaign accounts for the political committee and the small  
 20 donor political committee.

21 (b) Does not transfer moneys from the political committee to the small donor political  
 22 committee. The person may transfer moneys not received under section 3 (2) or 4 of this 2021  
 23 Act from the small donor political committee to the political committee.

24 (c) Does not itself split a contribution from an individual, so that part of the individual's  
 25 contribution goes to the small donor political committee and part of the contribution goes  
 26 to the political committee.

27 (2) Any individual may make a contribution to both a small donor political committee and  
 28 a political committee that is operated by the same person.

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

33 (2) The fund consists of moneys appropriated to the fund by the Legislative Assembly and  
 34 moneys returned to the fund by candidates who participate in the Small Donor Elections  
 35 Program in the manner set forth in sections 2 to 7 of this 2021 Act. The Secretary of State  
 36 may accept grants, donations, contributions or gifts from any source for deposit in the fund.

37 **SECTION 8.** Notwithstanding section 2 of this 2021 Act, the maximum public match de-  
 38 scribed in section 2 (2) of this 2021 Act for the period beginning on the day after the 2020  
 39 general election and ending on the date of the 2022 general election shall be:

40 (1) \$1,000,000 for candidates for the office of state Senator; and

41 (2) \$700,000 for candidates for the office of state Representative.

42 **SECTION 9.** Section 8 of this 2021 Act is repealed on January 2, 2023.

43 **SECTION 10.** (1) A resident individual taxpayer who files a full-year Oregon individual  
 44 income tax return may designate that a contribution be made to the Small Donor Elections  
 45 Fund established in section 7 of this 2021 Act. The resident individual taxpayer shall make

1 the designation by marking the box or filling in the space provided on the return form pur-  
2 suant to subsection (2) of this section. The amount designated shall be subtracted from any  
3 refund due on the return.

4 (2)(a) The Department of Revenue shall provide, on the face of the full-year Oregon in-  
5 dividual income tax return form, a place for resident individual taxpayers to contribute to  
6 the Small Donor Elections Fund. The department is not required to add a line to a particular  
7 form if this addition would require the addition of a page to the return form.

8 (b) The area on the return form for making the designation shall provide for:

9 (A) A checkoff box of \$5, \$10, \$20 or \$50; and

10 (B) A blank line in which the individual may write in an amount other than an amount  
11 designated under subparagraph (A) of this paragraph.

12 (c) The instructions for the return form shall adequately explain that any amount des-  
13 igned shall be paid to the Small Donor Elections Fund, that the amount designated will  
14 decrease the refund of the taxpayer by the designated amount and that the designation is  
15 entirely voluntary.

16 (3) If a taxpayer designates both a contribution to the Small Donor Elections Fund under  
17 this section and a contribution pursuant to ORS 305.745, and the refund due the taxpayer is  
18 insufficient to satisfy the designated contribution under ORS 305.745, the designation under  
19 this section is void and no contribution to the Small Donor Elections Fund is made.

20 **SECTION 11.** ORS 305.754 is amended to read:

21 305.754. (1) A resident individual taxpayer who files a full-year Oregon individual income tax  
22 return may designate that a contribution be made to the Oregon Political Party Fund for payment  
23 to the major or minor political party designated. The resident individual taxpayer shall make the  
24 designation by entering a code denoting the party and marking the box provided on the return form  
25 pursuant to subsection (2) of this section. The amount designated shall be subtracted from any re-  
26 fund due on the return.

27 (2)(a) The Department of Revenue shall provide, on the face of the full-year Oregon individual  
28 income tax return form, a place for resident individual taxpayers to make the designation of a pol-  
29 itical party provided by this section. The department is not required to add a line to a particular  
30 form if this addition would require addition of a page to the return form. All major political parties,  
31 as described in ORS 248.006, and all minor political parties, as described in ORS 248.008, shall be  
32 listed, with identifying codes, in the instructions to the individual income tax return.

33 (b) The area on the return form for making the designation shall provide for a checkoff box of  
34 \$3. The instructions shall adequately explain that any amount designated shall be paid to the poli-  
35 tical party of the taxpayer's choice, that the amount designated will decrease the refund of the  
36 taxpayer by the designated amount, and that the designation is entirely voluntary.

37 (3) If a taxpayer filing a full-year Oregon individual income tax return designates more than one  
38 political party to receive the contribution, the designation is void and no contribution is made.

39 (4) If a joint return is filed and only one political party is designated, that political party shall  
40 receive a contribution in the total amount designated. If two political parties are designated on a  
41 joint return, each political party shall receive a contribution in the amount designated by each joint  
42 filer. If more than two parties are designated, the designations are void and no contribution is made.

43 (5) If an organization that is not a major or minor political party is designated under this sec-  
44 tion, the designation is void and no contribution is made.

45 (6) If a designation is void under subsection (3), (4) or (5) of this section, the department shall

1 adjust the return to reflect the amount designated for contribution under this section.

2 (7) If a taxpayer designates both a contribution to a political party under this section and a  
 3 contribution pursuant to **either** ORS 305.745 **or section 10 of this 2021 Act**, and the refund due the  
 4 taxpayer is insufficient to satisfy the designated contribution under ORS 305.745 **or section 10 of**  
 5 **this 2021 Act**, the designation under this section is void and no contribution to a political party is  
 6 made.

7 **SECTION 12.** ORS 305.796, as amended by section 2, chapter 316, Oregon Laws 2019, is  
 8 amended to read:

9 305.796. (1) The Department of Revenue shall provide a means by which personal income tax-  
 10 payers may elect to establish an account under ORS 178.335 within the Oregon 529 Savings Network  
 11 in the name of a designated beneficiary.

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

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

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

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

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

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

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

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

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

30 (D) All contributions to political parties designated by means of a checkoff as provided in ORS  
 31 305.754[.]; **and**

32 **(E) All contributions to the Small Donor Elections Fund as provided in section 10 of this**  
 33 **2021 Act.**

34 **SECTION 13.** **This 2021 Act takes effect on the 91st day after the date on which the 2021**  
 35 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

36