

House Bill 3491

Sponsored by Representative CONGER; Representatives PARRISH, WAND, WHISNANT, Senators OLSEN, TELFER, THOMSEN

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**.

Modifies provisions relating to inclusion of names or titles of persons or organizations in argument or statement in voters' pamphlet.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the voters' pamphlet; creating new provisions; amending ORS 251.049, 251.405 and
3 260.995; and declaring an emergency.

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

5 **SECTION 1.** ORS 251.049 is amended to read:

6 251.049. (1) [*Except as provided in subsection (2) of this section,*] The Secretary of State may
7 [*not*] **only** print the name or title of a person or the name of an organization in an argument sup-
8 porting or opposing any measure or a statement of any candidate, political party or assembly of
9 electors filed for inclusion in the voters' pamphlet, if: [*the name or title of the person or the name of*
10 *the organization is cited as supporting or endorsing the argument or statement.*]

11 [(2) *The Secretary of State may print the name or title of a person or the name of an organization*
12 *in an argument or statement submitted for inclusion in the voters' pamphlet as supporting or endorsing*
13 *the argument or statement if:*]

14 (a) Not later than the deadline for filing an argument or statement with the Secretary of State,
15 the secretary receives a statement signed by the person, or by an authorized person on behalf of
16 an organization, stating that the person consents to the use of the name or title of the person or the
17 name of the organization; or

18 (b) The name or title of a person or the name of an organization is used with a quotation made
19 by the person or by an authorized person on behalf of an organization, the quotation was dissem-
20 inated to the public prior to its inclusion in the argument or statement and the quotation is identi-
21 fied by its source and date.

22 [(3)] (2) A person may not:

23 (a) Submit a false signature under subsection [(2)] (1) of this section; or

24 (b) Alter the manner in which a person signing a statement of consent described in subsection
25 [(2)] (1) of this section designates the person's name or title or the name of the organization the
26 person represents to appear in the argument or statement. This paragraph does not prohibit re-
27 visions allowed or required under ORS 251.055 or 251.087.

28 **SECTION 2.** ORS 251.405 is amended to read:

29 251.405. (1) [*Except as provided in subsection (2) of this section,*] The county clerk may [*not*] **only**
30 print the name or title of a person or the name of an organization in an argument supporting or

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 opposing any measure or a statement of any candidate, filed for inclusion in a county voters' pam-
 2 phlet, if: *[the name or title of the person or the name of the organization is cited as supporting or*
 3 *endorsing the argument or statement.]*

4 *[(2) The county clerk may print the name or title of a person or the name of an organization in*
 5 *an argument or statement submitted for inclusion in a county voters' pamphlet as supporting or en-*
 6 *dorsing the argument or statement if:]*

7 (a) Not later than the deadline for filing an argument or statement with the county clerk, the
 8 county clerk receives a statement signed by the person, or by an authorized person on behalf of an
 9 organization, stating that the person consents to the use of the name or title of the person or the
 10 name of the organization; or

11 (b) The name or title of a person or the name of an organization is used with a quotation made
 12 by the person or by an authorized person on behalf of an organization, the quotation was dissem-
 13 inated to the public prior to its inclusion in the argument or statement and the quotation is identi-
 14 fied by its source and date.

15 [(3)] (2) A person may not:

16 (a) Submit a false signature under subsection [(2)] (1) of this section; or

17 (b) Alter the manner in which a person signing a statement of consent described in subsection
 18 [(2)] (1) of this section designates the person's name or title or the name of the organization the
 19 person represents to appear in the argument or statement. This paragraph does not prohibit re-
 20 visions allowed or required under ORS 251.415.

21 **SECTION 3.** ORS 260.995, as amended by section 10, chapter 9, Oregon Laws 2010, and section
 22 2, chapter 35, Oregon Laws 2010, is amended to read:

23 260.995. (1) Except as provided in subsection (2) of this section, following an investigation under
 24 ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed
 25 \$250 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any
 26 election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter
 27 preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

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

29 (a) \$1,000 for each violation of ORS 251.049 [(3)] (2) or 251.405 [(3)] (2);

30 (b) \$1,000 plus the amount converted to personal use for each violation of ORS 260.407; or

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

33 (3) Except as otherwise provided by this section, civil penalties under this section shall be im-
 34 posed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall
 35 include:

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **SECTION 4. (1) The amendments to ORS 251.049 and 251.405 by sections 1 and 2 of this**
23 **2011 Act apply to voters' pamphlets printed on or after the effective date of this 2011 Act.**

24 **(2) The amendments to ORS 260.995 by section 3 of this 2011 Act apply to violations that**
25 **occur on or after the effective date of this 2011 Act.**

26 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
28 **on its passage.**

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