

Senate Bill 493

Sponsored by COMMITTEE ON JUDICIARY

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**.

Requires imposition of specified civil penalty for first, second, third and subsequent violation of constitutional prohibition against payment for signatures obtained on initiative or referendum petition.

A BILL FOR AN ACT

1
2 Relating to payment per signature on election petitions; creating new provisions; and amending ORS
3 260.995.

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

5 **SECTION 1.** ORS 260.995 is amended to read:

6 260.995. (1) Except as provided in [*subsection (2)*] **subsections (2) and (3)** of this section, fol-
7 lowing an investigation under ORS 260.345, the Secretary of State or Attorney General may impose
8 a civil penalty not to exceed \$250 for each violation of any provision of Oregon Revised Statutes
9 relating to the conduct of any election, any rule adopted by the secretary under ORS chapters 246
10 to 260 or any other matter preliminary to or relating to an election, for which a civil penalty is not
11 otherwise provided.

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

13 (a) \$1,000 for each violation of ORS 251.049 (3) or 251.405 (3);

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

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

17 **(3) For a violation of Article IV, section 1b, of the Oregon Constitution, the secretary or**
18 **Attorney General shall impose a civil penalty of:**

19 **(a) \$500 for a first violation.**

20 **(b) \$1,000 for a second violation.**

21 **(c) \$5,000 for a third violation and for each subsequent violation.**

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

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

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

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

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

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

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

10 [(6)] (7) All hearings under this section shall be held not later than 45 days after the deadline
 11 for the person against whom the penalty may be assessed to request a hearing. However, if re-
 12 quested by the person against whom the penalty may be assessed, a hearing under subsection [(4)]
 13 (5) of this section shall be held not later than 60 days after the deadline for the person against
 14 whom the penalty may be assessed to request a hearing.

15 [(7)] (8) The secretary or Attorney General shall issue an order not later than 90 days after a
 16 hearing or after the deadline for requesting a hearing if no hearing is held.

17 [(8)] (9) All penalties recovered under this section shall be paid into the State Treasury and
 18 credited to the General Fund.

19 [(9)] (10) In the case of a civil penalty imposed under this section for a violation of ORS 260.407,
 20 the person against whom the penalty is assessed:

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

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

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

25 **SECTION 2. (1) The amendments to ORS 260.995 by section 1 of this 2013 Act apply to**
 26 **violations of Article IV, section 1b, of the Oregon Constitution that occur on or after the**
 27 **effective date of this 2013 Act.**

28 **(2) The first violation of Article IV, section 1b, of the Oregon Constitution that occurs**
 29 **on or after the effective date of this 2013 Act is considered a first violation of ORS 260.995,**
 30 **as amended by section 1 of this 2013 Act.**

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