

# House Bill 3397

Sponsored by Representatives NATHANSON, DAVIS; Senators BOQUIST, GELSER

## 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**.

Expands definition of "political committee" to include person that makes aggregate expenditures of \$500 or more that refer to candidate, measure or political party within 60 calendar days of primary or general election.

## A BILL FOR AN ACT

1  
2 Relating to election expenditures; creating new provisions; and amending ORS 260.005 and 260.007.

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

4 **SECTION 1.** ORS 260.005 is amended to read:

5 260.005. As used in this chapter:

6 (1)(a) "Candidate" means:

7 (A) An individual whose name is printed on a ballot, for whom a declaration of candidacy,  
8 nominating petition or certificate of nomination to public office has been filed or whose name is  
9 expected to be or has been presented, with the individual's consent, for nomination or election to  
10 public office;

11 (B) An individual who has solicited or received and accepted a contribution, made an expendi-  
12 ture, or given consent to an individual, organization, political party or political committee to solicit  
13 or receive and accept a contribution or make an expenditure on the individual's behalf to secure  
14 nomination or election to any public office at any time, whether or not the office for which the in-  
15 dividual will seek nomination or election is known when the solicitation is made, the contribution  
16 is received and retained or the expenditure is made, and whether or not the name of the individual  
17 is printed on a ballot; or

18 (C) A public office holder against whom a recall petition has been completed and filed.

19 (b) For purposes of this section and ORS 260.035 to 260.156, "candidate" does not include a  
20 candidate for the office of precinct committeeperson.

21 (2) "Committee director" means any person who directly and substantially participates in  
22 decision-making on behalf of a political committee concerning the solicitation or expenditure of  
23 funds and the support of or opposition to candidates or measures. The officers of a political party  
24 shall be considered the directors of any political party committee of that party, unless otherwise  
25 provided in the party's bylaws.

26 (3) Except as provided in ORS 260.007, "contribute" or "contribution" includes:

27 (a) The payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compen-  
28 sation or consideration, of money, services other than personal services for which no compensation  
29 is asked or given, supplies, equipment or any other thing of value:

30 (A) For the purpose of influencing an election for public office or an election on a measure, or  
31 of reducing the debt of a candidate for nomination or election to public office or the debt of a pol-

**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 itical committee; or

2 (B) To or on behalf of a candidate, political committee or measure; and

3 (b) The excess value of a contribution made for compensation or consideration of less than  
4 equivalent value.

5 (4) “Controlled committee” means a political committee that, in connection with the making of  
6 contributions or expenditures:

7 (a) Is controlled directly or indirectly by a candidate or a controlled committee; or

8 (b) Acts jointly with a candidate or controlled committee.

9 (5) “Controlled directly or indirectly by a candidate” means:

10 (a) The candidate, the candidate’s agent, a member of the candidate’s immediate family or any  
11 other political committee that the candidate controls has a significant influence on the actions or  
12 decisions of the political committee; or

13 (b) The candidate’s principal campaign committee and the political committee both have the  
14 candidate or a member of the candidate’s immediate family as a treasurer or director.

15 (6) “County clerk” means the county clerk or the county official in charge of elections.

16 (7) “Elector” means an individual qualified to vote under Article II, section 2, of the Oregon  
17 Constitution.

18 (8) Except as provided in ORS 260.007, “expend” or “expenditure” includes the payment or fur-  
19 nishing of money or anything of value or the incurring or repayment of indebtedness or obligation  
20 by or on behalf of a candidate, political committee or person in consideration for any services,  
21 supplies, equipment or other thing of value performed or furnished for any reason, including support  
22 of or opposition to a candidate, political committee or measure, or for reducing the debt of a candi-  
23 dicate for nomination or election to public office. “Expenditure” also includes contributions made  
24 by a candidate or political committee to or on behalf of any other candidate or political committee.

25 (9) “Filing officer” means:

26 (a) The Secretary of State:

27 (A) Regarding a candidate for public office;

28 (B) Regarding a statement required to be filed under ORS 260.118;

29 (C) Regarding any measure; or

30 (D) Regarding any political committee.

31 (b) In the case of an irrigation district formed under ORS chapter 545, “filing officer” means:

32 (A) The county clerk, regarding any candidate for office or any measure at an irrigation district  
33 formation election where the proposed district is situated wholly in one county;

34 (B) The county clerk of the county in which the office of the secretary of the proposed irrigation  
35 district will be located, regarding any candidate for office or any measure at an irrigation district  
36 formation election where the proposed district is situated in more than one county; or

37 (C) The secretary of the irrigation district for any election other than an irrigation district  
38 formation election.

39 (10) “Independent expenditure” means an expenditure by a person for a communication in sup-  
40 port of or in opposition to a clearly identified candidate or measure that is not made with the co-  
41 operation or with the prior consent of, or in consultation with, or at the request or suggestion of,  
42 a candidate or any agent or authorized committee of the candidate, or any political committee or  
43 agent of a political committee supporting or opposing a measure. For purposes of this subsection:

44 (a) “Agent” means any person who has:

45 (A) Actual oral or written authority, either express or implied, to make or to authorize the

1 making of expenditures on behalf of a candidate or on behalf of a political committee supporting or  
 2 opposing a measure; or

3 (B) Been placed in a position within the campaign organization where it would reasonably ap-  
 4 pear that in the ordinary course of campaign-related activities the person may authorize expen-  
 5 ditures.

6 (b)(A) “Clearly identified” means, with respect to candidates:

7 (i) The name of the candidate involved appears;

8 (ii) A photograph or drawing of the candidate appears; or

9 (iii) The identity of the candidate is apparent by unambiguous reference.

10 (B) “Clearly identified” means, with respect to measures:

11 (i) The ballot number of the measure appears;

12 (ii) A description of the measure’s subject or effect appears; or

13 (iii) The identity of the measure is apparent by unambiguous reference.

14 (c) “Communication in support of or in opposition to a clearly identified candidate or measure”  
 15 means:

16 (A) The communication, taken in its context, clearly and unambiguously urges the election or  
 17 defeat of a clearly identified candidate for nomination or election to public office, or the passage  
 18 or defeat of a clearly identified measure;

19 (B) The communication, as a whole, seeks action rather than simply conveying information; and

20 (C) It is clear what action the communication advocates.

21 (d) “Made with the cooperation or with the prior consent of, or in consultation with, or at the  
 22 request or suggestion of, a candidate or any agent or authorized committee of the candidate, or any  
 23 political committee or agent of a political committee supporting or opposing a measure”:

24 (A) Means any arrangement, coordination or direction by the candidate or the candidate’s agent,  
 25 or by any political committee or agent of a political committee supporting or opposing a measure,  
 26 prior to the publication, distribution, display or broadcast of the communication. An expenditure  
 27 shall be presumed to be so made when it is:

28 (i) Based on information about the plans, projects or needs of the candidate, or of the political  
 29 committee supporting or opposing a measure, and provided to the expending person by the candidate  
 30 or by the candidate’s agent, or by any political committee or agent of a political committee sup-  
 31 porting or opposing a measure, with a view toward having an expenditure made; or

32 (ii) Made by or through any person who is or has been authorized to raise or expend funds, who  
 33 is or has been an officer of a political committee authorized by the candidate or by a political  
 34 committee or agent of a political committee supporting or opposing a measure, or who is or has been  
 35 receiving any form of compensation or reimbursement from the candidate, the candidate’s principal  
 36 campaign committee or agent or from any political committee or agent of a political committee  
 37 supporting or opposing a measure.

38 (B) Does not mean providing to the expending person upon request a copy of this chapter or any  
 39 rules adopted by the Secretary of State relating to independent expenditures.

40 (11) “Initiative petition” means a petition to initiate a measure for which a prospective petition  
 41 has been filed but that is not yet a measure.

42 (12) “Judge” means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon  
 43 Tax Court.

44 (13) “Mass mailing” means more than 200 substantially similar pieces of mail, but does not in-  
 45 clude a form letter or other mail that is sent in response to an unsolicited request, letter or other

1 inquiry.

2 (14) "Measure" includes any of the following submitted to the people for their approval or re-  
3 jection at an election:

- 4 (a) A proposed law.
- 5 (b) An Act or part of an Act of the Legislative Assembly.
- 6 (c) A revision of or amendment to the Oregon Constitution.
- 7 (d) Local, special or municipal legislation.
- 8 (e) A proposition or question.

9 (15) "Occupation" means:

- 10 (a) The nature of an individual's principal business; and
- 11 (b) If the individual is employed by another person, the business name and address, by city and  
12 state, of the employer.

13 (16) "Person" means an individual, corporation, limited liability company, labor organization,  
14 association, firm, partnership, joint stock company, club, organization or other combination of indi-  
15 viduals having collective capacity.

16 (17) "Petition committee" means an initiative, referendum or recall petition committee organized  
17 under ORS 260.118.

18 (18) "Political committee" means:

19 (a) A combination of two or more individuals, or a person other than an individual, that has:

20 [(a)] (A) Received a contribution for the purpose of supporting or opposing a candidate, measure  
21 or political party; or

22 [(b)] (B) Made an expenditure for the purpose of supporting or opposing a candidate, measure  
23 or political party[.]; or

24 (b) **A person that makes aggregate expenditures of \$500 or more that refer to a candi-  
25 date, measure or political party within 60 calendar days of a primary or general election.**

26 (c) For purposes of this [paragraph] subsection, an expenditure does not include:

27 (A) A contribution to a candidate or political committee that is required to report the contri-  
28 bution on a statement filed under ORS 260.057 or 260.076 or a certificate filed under ORS 260.112;  
29 or

30 (B) An independent expenditure for which a statement is required to be filed by a person under  
31 ORS 260.044.

32 (19) "Public office" means any national, state, county, district, city office or position, except a  
33 political party office, that is filled by the electors.

34 (20) "Recall petition" means a petition to recall a public officer for which a prospective petition  
35 has been filed but that is not yet a measure.

36 (21) "Referendum petition" means a petition to refer a measure for which a prospective petition  
37 has been filed but that is not yet a measure.

38 (22) "Regular district election" means the regular district election described in ORS 255.335.

39 (23) "State office" means the office of Governor, Secretary of State, State Treasurer, Attorney  
40 General, Commissioner of the Bureau of Labor and Industries, state Senator, state Representative,  
41 judge or district attorney.

42 **SECTION 2.** ORS 260.007 is amended to read:

43 260.007. As used in this chapter, "contribute," "contribution," "expend" or "expenditure" does  
44 not include:

- 45 (1) Any written news story, commentary or editorial distributed through the facilities of any

1 broadcasting station, newspaper, magazine or other regularly published publication, unless a poli-  
 2 tical committee owns the facility.

3 (2) An individual's use of the individual's own personal residence, including a community room  
 4 associated with the individual's residence, to conduct a reception for a candidate or political com-  
 5 mittee and the individual's cost of invitations, food and beverages provided at the reception.

6 (3) A vendor's sale of food and beverages for use in a candidate's or political committee's cam-  
 7 paign at a charge less than the normal comparable charge, if the charge is at least equal to the cost  
 8 of the food or beverages to the vendor.

9 (4) Any unreimbursed payment for travel expenses an individual, including a candidate, makes  
 10 on behalf of a candidate or political committee.

11 (5) Any loan of money made by a financial institution as defined in ORS 706.008, other than any  
 12 overdraft made with respect to a checking or savings account, if the loan bears the usual and cus-  
 13 tomary interest rate for the category of loan involved, is made on a basis that ensures repayment,  
 14 is evidenced by a written instrument and is subject to a due date or amortization schedule. How-  
 15 ever, each indorser or guarantor of the loan shall be considered to have contributed that portion  
 16 of the total amount of the loan for which that person agreed to be liable in a written agreement,  
 17 except if the indorser or guarantor is the candidate's spouse.

18 (6) Nonpartisan activity designed to encourage individuals to vote or to register to vote, **pro-**  
 19 **vided that the nonpartisan activity does not refer to a particular candidate, measure or pol-**  
 20 **itical party within 60 calendar days of a primary or general election.**

21 (7) Any communication a membership organization or corporation makes to its members, share-  
 22 holders or employees if the membership organization or corporation is not organized primarily for  
 23 the purpose of influencing an election.

24 (8) The payment of compensation for legal and accounting services rendered to a candidate or  
 25 political committee if the person paying for the services is the regular employer of the individual  
 26 rendering the services and the services are solely for the purpose of ensuring compliance with the  
 27 provisions of this chapter.

28 (9) The payment by a state or local committee of a political party of the costs of preparation,  
 29 display or mailing or other distribution incurred by the committee with respect to a printed slate  
 30 card or sample ballot, or other printed listing, of three or more candidates for any public office for  
 31 which an election is held in this state. This subsection does not apply to costs incurred by the  
 32 committee with respect to a display of any such listing made on broadcasting stations or in news-  
 33 papers, magazines or similar types of general public political advertising.

34 **SECTION 3. The amendments to ORS 260.005 and 260.007 by sections 1 and 2 of this 2015**  
 35 **Act apply to independent expenditures made on or after the effective date of this 2015 Act.**

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