

A-Engrossed
House Bill 2578

Ordered by the House April 10
Including House Amendments dated April 10

Sponsored by Representative RAYFIELD; Representatives KENY-GUYER, POWER (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.

Establishes Small Donor Funded Elections program to enable candidates for state office to receive 6-to-1 match on small dollar donations.

Establishes civil liability and criminal liability for knowingly falsifying campaign records or knowingly violating provisions of program.

A BILL FOR AN ACT

1
2 Relating to small donor funded elections.

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

4 **SECTION 1. Sections 2 to 7 of this 2017 Act are added to and made a part of ORS chapter**
5 **260.**

6 **SECTION 2. As used in sections 2 to 7 of this 2017 Act:**

7 **(1)(a) Except as provided in paragraph (b) of this subsection, "maximum public match"**
8 **means a candidate's receipt of the following amount of moneys from the Small Donor Funded**
9 **Elections Fund:**

10 **(A) For candidates for the office of Governor, Secretary of State, State Treasurer, At-**
11 **torney General or Commissioner of the Bureau of Labor and Industries, 130 percent of the**
12 **average amount, as determined by the Secretary of State, that was spent by the elected**
13 **candidate for that state office during the previous two election cycles; and**

14 **(B) For the office of state Senator, state Representative, judge or district attorney, 130**
15 **percent of the average amount, as determined by the Secretary of State, that was spent by**
16 **the elected candidates in the races for that state office during the previous two election cy-**
17 **cles that were the 20 percent most expensive.**

18 **(b) When a candidate is running unopposed for state office, "maximum public match"**
19 **means a candidate's receipt from the Small Donor Funded Elections Fund of 10 percent of**
20 **the amount set forth in paragraph (a) of this subsection.**

21 **(2) "Minimum amount of in-state qualifying contributions" means the following amount**
22 **of qualified small dollar contributions from in-state individuals that a candidate must receive**
23 **in order to participate in the Small Donor Funded Elections program:**

24 **(a) \$25,000 in qualified small dollar contributions for candidates for the office of Gover-**
25 **nor, Secretary of State, State Treasurer, Attorney General or Commissioner of the Bureau**
26 **of Labor and Industries;**

27 **(b) \$12,500 in qualified small dollar contributions for candidates for the office of state**

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 Senator or state Representative; or

2 (c) \$6,250 in qualified small dollar contributions for candidates for the office of judge or
3 district attorney.

4 (3) "Minimum number of in-state qualifying contributions" means the following number
5 of in-state individuals that a candidate must receive qualified small dollar contributions from
6 in order to participate in the Small Donor Funded Elections program:

7 (a) 1,000 donors for candidates for the office of Governor, Secretary of State, State
8 Treasurer, Attorney General or Commissioner of the Bureau of Labor and Industries;

9 (b) 500 donors for candidates for the office of state Senator or state Representative; or

10 (c) 250 donors for candidates for the office of judge or district attorney.

11 (4) "Nonmatching small donor contribution" means a contribution of between \$1 and \$125
12 from a person that is neither an individual nor the political committee of a major political
13 party to a candidate for state office.

14 (5) "Qualified small donor contribution" means a contribution of between \$1 and \$250
15 from an in-state individual to a candidate for state office.

16 (6) "Qualifying period" means a 120-day period that begins on the date a candidate for
17 state office files a statement of intent to participate in the Small Donor Funded Elections
18 program.

19 (7) "Small donor political committee" means a political committee that accepts contri-
20 butions only from individuals in aggregate amounts of no more than \$250 per calendar year.

21 **SECTION 3.** (1) In order to participate in the Small Donor Funded Elections program, a
22 candidate for state office:

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

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

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

30 (d) Must sign an affidavit designed by the Secretary of State by rule stating that the
31 candidate will follow the requirements of the Small Donor Funded Elections program set
32 forth in sections 2 to 7 of this 2017 Act; and

33 (e) At the time the candidate files a statement under paragraph (a) of this subsection,
34 may not have accepted contributions from any single person in an aggregate amount of more
35 than \$250 since the date of the last general election.

36 (2)(a) Except as provided in paragraph (b) of this subsection, a candidate who satisfies
37 each requirement set forth in subsection (1) of this section shall receive from the Small
38 Donor Funded Elections Fund an amount equal to six dollars for every one dollar in qualified
39 small dollar contributions received, provided that the amount received by the candidate does
40 not exceed the maximum public match. The distribution of moneys from the fund shall be
41 done in the manner set forth in section 4 of this 2017 Act.

42 (b) During the period starting on the day after the date of a general election and ending
43 on the date of the next primary election, moneys provided from the Small Donor Funded
44 Elections Fund under paragraph (a) of this subsection may not apply to more than \$125 of
45 the aggregate qualified small dollar contributions made by any individual. The moneys pro-

1 vided from the Small Donor Funded Elections Fund shall apply to all qualified small donor
2 contributions for each candidate who qualifies for the next general election.

3 (3) In addition to qualified small dollar contributions and moneys received from the Small
4 Donor Funded Elections Fund under subsection (2) of this section and section 4 of this 2017
5 Act, candidates who participate in the Small Donor Funded Elections program may:

6 (a) Receive nonmatching small donor contributions from an unlimited number of donors.

7 (b) Receive unlimited contributions from a small donor political committee.

8 (c) Receive in-kind assistance in negotiating services and goods with vendors from a
9 political committee operated by a political party.

10 (d) Use personal moneys, or moneys raised from any legal source other than a political
11 committee operated by a political party, to establish the candidate's campaign. The aggregate
12 amount of money used or raised under this paragraph may not exceed:

13 (A) \$12,000 for candidates for the office of Governor, Secretary of State, State Treasurer,
14 Attorney General or Commissioner of the Bureau of Labor and Industries;

15 (B) \$6,000 for candidates for the office of state Senator or state Representative; or

16 (C) \$3,000 for candidates for the office of judge or district attorney.

17 (4)(a) Except as provided in paragraph (b) of this subsection, contributions received by a
18 candidate who participates in the Small Donor Funded Elections program may be used in any
19 manner consistent with ORS 260.407.

20 (b) Moneys received from the Small Donor Funded Elections Fund under subsection (2)
21 of this section or section 4 of this 2017 Act:

22 (A) Shall be used only for legitimate campaign expenses, as determined by rule by the
23 Secretary of State; and

24 (B) May not be used to:

25 (i) Pay salaries for family members of the candidate;

26 (ii) Make purchases from a business or entity owned by the candidate or the candidate's
27 family; or

28 (iii) Pay for campaign expenditures at a rate greater than fair market value.

29 (5) A candidate who participates in the Small Donor Funded Elections program may not:

30 (a) Coordinate election activities with any entity that makes independent expenditures
31 related to the candidate, the office the candidate is seeking or the election the candidate is
32 participating in.

33 (b) Receive contributions that are not authorized by this section.

34 (c) Receive an aggregate of more than \$250 in qualified small dollar contributions or
35 nonmatching small dollar contributions from a single donor during the period starting on the
36 day after the date of a general election and ending on the date of the next general election.

37 (6) A candidate who participates in the Small Donor Funded Elections program and re-
38 ceives a contribution that exceeds the amount that would constitute a qualified small dollar
39 contribution or a nonmatching small donor contribution shall within two weeks:

40 (a) Return to the person making the contribution the amount contributed that is in ex-
41 cess of the statutory limits; or

42 (b) Withdraw from the program and return to the Secretary of State for deposit into the
43 Small Donor Funded Elections Fund the total amount of public moneys distributed to the
44 candidate under subsection (2) of this section or section 4 of this 2017 Act plus interest.

45 (7) Following each general election, a candidate who participates in the Small Donor

1 Funded Elections program shall return to the Secretary of State for deposit into the Small
2 Donor Funded Elections Fund any unspent public moneys that were provided to the candi-
3 date under subsection (2) of this section or section 4 of this 2017 Act.

4 **SECTION 4.** The Secretary of State by rule shall establish a process for distributing
5 moneys from the Small Donor Funded Elections Fund to candidates who have met all of the
6 requirements set forth in section 3 (1) of this 2017 Act for participation in the Small Donor
7 Funded Elections program. As part of this process:

8 (1) The Secretary of State shall certify that a candidate has completed each requirement
9 set forth in section 3 (1) of this 2017 Act.

10 (2)(a) Except as provided in paragraph (b) of this subsection, upon providing certification
11 under subsection (1) of this section, the Secretary of State shall provide moneys from the
12 Small Donor Funded Elections Fund to the candidate in an amount equal to six dollars for
13 every one dollar in qualified small dollar contributions received, provided that the amount
14 received by the candidate does not exceed the maximum public match.

15 (b) During the period starting on the day after the date of a general election and ending
16 on the date of the next primary election, moneys provided from the Small Donor Funded
17 Elections Fund under paragraph (a) of this subsection may not apply to more than \$125 of
18 the aggregate qualified small dollar contributions made by any individual. The moneys pro-
19 vided from the Small Donor Funded Elections Fund shall apply to all qualified small donor
20 contributions for each candidate who qualifies for the next general election.

21 (3) Following an initial distribution made under subsection (2) of this section, the candi-
22 date may file with the Secretary of State additional statements for moneys from the Small
23 Donor Funded Elections Fund. Except as provided in subsection (4) of this section, additional
24 statements for moneys:

25 (a) May be filed only after the candidate has received qualified small dollar contributions
26 of at least \$5,000 since the candidate last filed a statement.

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

28 (4) During the 30 days immediately preceding the general election, a candidate may file
29 additional statements for moneys from the Small Donor Funded Elections Fund without re-
30 ceiving qualified small dollar contributions of at least \$5,000.

31 **SECTION 5.** (1) A candidate participating in the Small Donor Funded Elections program
32 who knowingly falsifies campaign records or who knowingly violates any provision in sections
33 2 to 7 of this 2017 Act:

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

35 (b) Shall be required to return to the Secretary of State for deposit into the Small Donor
36 Funded Elections Fund the total amount of public moneys distributed to the candidate under
37 sections 3 (2) and 4 of this 2017 Act plus interest;

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

40 (d) Is subject to criminal liability under ORS 260.993 (2) and civil liability under ORS
41 260.995 (2)(b) for a violation of ORS 260.715 (1). Notwithstanding ORS 260.995 (8), penalties
42 recovered against a candidate for violating any provision in sections 2 to 7 of this 2017 Act
43 shall be paid into the Small Donor Funded Elections Fund.

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

1 **(3) A candidate may use the appeal mechanism established in ORS 246.910 to challenge**
2 **any decision of the Secretary of State relating to the candidate's ability to participate in the**
3 **Small Donor Funded Elections program.**

4 **(4) A candidate participating in the Small Donor Funded Elections program may at any**
5 **time voluntarily withdraw from the program by returning to the Secretary of State for de-**
6 **posit into the Small Donor Funded Elections Fund 110 percent of the total amount of public**
7 **moneys distributed to the candidate under sections 3 (2) and 4 of this 2017 Act plus interest.**

8 **SECTION 6. (1) Any person or political party may operate both a political committee and**
9 **a small donor political committee, provided that the person or political party:**

10 **(a) Establishes segregated campaign accounts for the political committee and the small**
11 **donor political committee.**

12 **(b) Does not transfer moneys from the political committee to the small donor political**
13 **committee. The person or political party may transfer moneys from the small donor political**
14 **committee to the political committee.**

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

18 **(2) Any individual may make a contribution to both a small donor political committee and**
19 **a political committee that is operated by the same person or political party.**

20 **(3)(a) Except as provided in paragraph (b) of this subsection, a political party may not**
21 **make any expenditures on behalf of a candidate participating in the Small Donor Funded**
22 **Elections program.**

23 **(b) A small donor political committee that is operated by a political party may make**
24 **unlimited expenditures in coordination with any candidate that is participating in the Small**
25 **Donor Funded Elections program.**

26 **SECTION 7. (1) The Small Donor Funded Elections Fund is established in the State**
27 **Treasury, separate and distinct from the General Fund. Interest earned by the Small Donor**
28 **Funded Elections Fund shall be credited to the fund. All moneys in the fund are continuously**
29 **appropriated to the Secretary of State for the purpose of administering sections 2 to 7 of this**
30 **2017 Act.**

31 **(2) The fund consists of moneys appropriated to the fund by the Legislative Assembly and**
32 **moneys returned to the fund by candidates who participate in the Small Donor Funded**
33 **Elections program in the manner set forth in sections 2 to 7 of this 2017 Act.**

34 **SECTION 8. (1) Notwithstanding section 2 of this 2017 Act, the maximum public match**
35 **for the period beginning on the day after the 2016 general election and ending on the date**
36 **of the 2018 general election shall be:**

37 **(a) \$9,600,000 for candidates for the office of Governor;**

38 **(b) \$2,200,000 for candidates for the office of Secretary of State;**

39 **(c) \$1,400,000 for candidates for the office of Attorney General;**

40 **(d) \$1,100,000 for candidates for the office of State Treasurer;**

41 **(e) \$1,100,000 for candidates for the office of Commissioner of the Bureau of Labor and**
42 **Industries;**

43 **(f) \$1,100,000 for candidates for the office of state Senator;**

44 **(g) \$800,000 for candidates for the office of state Representative;**

45 **(h) \$500,000 for candidates for the office of Supreme Court judge;**

1 (i) \$50,000 for candidates for the office of Court of Appeals judge or circuit court judge;
2 and
3 (j) \$50,000 for the office of district attorney.

4 (2) As used in this section, “maximum public match” has the meaning given that term
5 in section 2 of this 2017 Act.

6 SECTION 9. Section 8 of this 2017 Act is repealed on January 2, 2019.

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