

Requested by Representative RAYFIELD

**PROPOSED AMENDMENTS TO
HOUSE BILL 2584**

1 On page 1 of the printed bill, line 2, delete “260.055,” and insert “260.055
2 and 260.232.”.

3 Delete line 3.

4 Delete lines 5 through 19 and delete pages 2 through 11 and insert:

5 **“SECTION 1.** ORS 260.005 is amended to read:

6 “260.005. As used in this chapter:

7 “(1)(a) ‘Candidate’ means:

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

13 “(B) An individual who has solicited or received and accepted a contri-
14 bution, made an expenditure, or given consent to an individual, organization,
15 political party or political committee to solicit or receive and accept a con-
16 tribution or make an expenditure on the individual’s behalf to secure nomi-
17 nation or election to any public office at any time, whether or not the office
18 for which the individual will seek nomination or election is known when the
19 solicitation is made, the contribution is received and retained or the ex-
20 penditure is made, and whether or not the name of the individual is printed
21 on a ballot; or

1 “(C) A public office holder against whom a recall petition has been com-
2 pleted and filed.

3 “(b) For purposes of this section and ORS 260.035 to 260.156, ‘candidate’
4 does not include a candidate for the office of precinct committeeperson.

5 “(2) ‘Committee director’ means any person who directly and substantially
6 participates in decision-making on behalf of a political committee concerning
7 the solicitation or expenditure of funds and the support of or opposition to
8 candidates or measures. The officers of a political party shall be considered
9 the directors of any political party committee of that party, unless otherwise
10 provided in the party’s bylaws.

11 “(3) Except as provided in ORS 260.007, ‘contribute’ or ‘contribution’ in-
12 cludes:

13 “(a) The payment, loan, gift, forgiving of indebtedness, or furnishing
14 without equivalent compensation or consideration, of money, services other
15 than personal services for which no compensation is asked or given, supplies,
16 equipment or any other thing of value:

17 “(A) For the purpose of influencing an election for public office or an
18 election on a measure, or of reducing the debt of a candidate for nomination
19 or election to public office or the debt of a political committee; or

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

21 “(b) The excess value of a contribution made for compensation or con-
22 sideration of less than equivalent value.

23 “(4) ‘Controlled committee’ means a political committee that, in con-
24 nection with the making of contributions or expenditures:

25 “(a) Is controlled directly or indirectly by a candidate or a controlled
26 committee; or

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

28 “(5) ‘Controlled directly or indirectly by a candidate’ means:

29 “(a) The candidate, the candidate’s agent, a member of the candidate’s
30 immediate family or any other political committee that the candidate con-

1 trols has a significant influence on the actions or decisions of the political
2 committee; or

3 “(b) The candidate’s principal campaign committee and the political com-
4 mittee both have the candidate or a member of the candidate’s immediate
5 family as a treasurer or director.

6 “(6) ‘County clerk’ means the county clerk or the county official in charge
7 of elections.

8 “(7) ‘Elector’ means an individual qualified to vote under Article II, sec-
9 tion 2, of the Oregon Constitution.

10 “(8) Except as provided in ORS 260.007, ‘expend’ or ‘expenditure’ includes
11 the payment or furnishing of money or anything of value or the incurring
12 or repayment of indebtedness or obligation by or on behalf of a candidate,
13 political committee or person in consideration for any services, supplies,
14 equipment or other thing of value performed or furnished for any reason,
15 including support of or opposition to a candidate, political committee or
16 measure, or for reducing the debt of a candidate for nomination or election
17 to public office. ‘Expenditure’ also includes contributions made by a candi-
18 date or political committee to or on behalf of any other candidate or political
19 committee.

20 “(9) ‘Filing officer’ means:

21 “(a) The Secretary of State:

22 “(A) Regarding a candidate for public office;

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

24 “(C) Regarding any measure; or

25 “(D) Regarding any political committee.

26 “(b) In the case of an irrigation district formed under ORS chapter 545,
27 ‘filing officer’ means:

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

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

5 “(C) The secretary of the irrigation district for any election other than
6 an irrigation district formation election.

7 “(10) ‘Independent expenditure’ means an expenditure by a person for a
8 communication in support of or in opposition to a clearly identified candi-
9 date or measure that is not made with the cooperation or with the prior
10 consent of, or in consultation with, or at the request or suggestion of, a
11 candidate or any agent or authorized committee of the candidate, or any
12 political committee or agent of a political committee supporting or opposing
13 a measure. For purposes of this subsection:

14 “(a) ‘Agent’ means any person who has:

15 “(A) Actual oral or written authority, either express or implied, to make
16 or to authorize the making of expenditures on behalf of a candidate or on
17 behalf of a political committee supporting or opposing a measure; or

18 “(B) Been placed in a position within the campaign organization where
19 it would reasonably appear that in the ordinary course of campaign-related
20 activities the person may authorize expenditures.

21 “(b)(A) ‘Clearly identified’ means, with respect to candidates:

22 “(i) The name of the candidate involved appears;

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

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

25 “(B) ‘Clearly identified’ means, with respect to measures:

26 “(i) The ballot number of the measure appears;

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

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

29 “(c) ‘Communication in support of or in opposition to a clearly identified
30 candidate or measure’ means:

1 “(A) The communication, taken in its context, clearly and unambiguously
2 urges the election or defeat of a clearly identified candidate for nomination
3 or election to public office, or the passage or defeat of a clearly identified
4 measure;

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

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

8 “(d) ‘Made with the cooperation or with the prior consent of, or in con-
9 sultation with, or at the request or suggestion of, a candidate or any agent
10 or authorized committee of the candidate, or any political committee or
11 agent of a political committee supporting or opposing a measure’:

12 “(A) Means any arrangement, coordination or direction by the candidate
13 or the candidate’s agent, or by any political committee or agent of a political
14 committee supporting or opposing a measure, prior to the publication, dis-
15 tribution, display or broadcast of the communication. **For purposes of this
16 definition:**

17 “(i) **An expenditure shall be definitively considered to be so made
18 whenever:**

19 “(I) **A candidate solicits moneys or appears at a fund-raiser for a
20 group and the group then makes expenditures to benefit the candidate.**

21 “(II) **A group led by a family member of the candidate or by an in-
22 dividual who was employed within the preceding 12 months as a staff
23 member of the candidate makes expenditures that benefit the
24 candidate’s campaign.**

25 “(III) **A candidate provides information to a group about the
26 candidate’s campaign needs and the group makes expenditures ac-
27 cordingly.**

28 “(IV) **A candidate and a group employ the same consultant to pro-
29 vide professional services relating to campaign or fund-raising strategy
30 during the same electoral cycle and the group makes expenditures to**

1 **benefit the candidate.**

2 **“(V) A group republishes or redistributes materials from a**
3 **candidate’s campaign communications, including any video materials**
4 **from campaign communications.**

5 **“(ii) An expenditure shall be presumed to be so made when [it] the ex-**
6 **penditure is:**

7 **“[(i)] (I) Based on information about the plans, projects or needs of the**
8 **candidate, or of the political committee supporting or opposing a measure,**
9 **and provided to the expending person by the candidate or by the candidate’s**
10 **agent, or by any political committee or agent of a political committee sup-**
11 **porting or opposing a measure, with a view toward having an expenditure**
12 **made; or**

13 **“[(ii)] (II) Made by or through any person who is or has been authorized**
14 **to raise or expend funds, who is or has been an officer of a political com-**
15 **mittee authorized by the candidate or by a political committee or agent of**
16 **a political committee supporting or opposing a measure, or who is or has**
17 **been receiving any form of compensation or reimbursement from the candi-**
18 **date, the candidate’s principal campaign committee or agent or from any**
19 **political committee or agent of a political committee supporting or opposing**
20 **a measure.**

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

24 **“(11) ‘Initiative petition’ means a petition to initiate a measure for which**
25 **a prospective petition has been filed but that is not yet a measure.**

26 **“(12) ‘Judge’ means judge of the Supreme Court, Court of Appeals, circuit**
27 **court or the Oregon Tax Court.**

28 **“(13) ‘Mass mailing’ means more than 200 substantially similar pieces of**
29 **mail, but does not include a form letter or other mail that is sent in response**
30 **to an unsolicited request, letter or other inquiry.**

1 “(14) ‘Measure’ includes any of the following submitted to the people for
2 their approval or rejection at an election:

3 “(a) A proposed law.

4 “(b) An Act or part of an Act of the Legislative Assembly.

5 “(c) A revision of or amendment to the Oregon Constitution.

6 “(d) Local, special or municipal legislation.

7 “(e) A proposition or question.

8 “(15) ‘Occupation’ means:

9 “(a) The nature of an individual’s principal business; and

10 “(b) If the individual is employed by another person, the business name
11 and address, by city and state, of the employer.

12 “(16) ‘Person’ means an individual, corporation, limited liability company,
13 labor organization, association, firm, partnership, joint stock company, club,
14 organization or other combination of individuals having collective capacity.

15 “(17) ‘Petition committee’ means an initiative, referendum or recall peti-
16 tion committee organized under ORS 260.118.

17 “(18) ‘Political committee’ means a combination of two or more individ-
18 uals, or a person other than an individual, that has:

19 “(a) Received a contribution for the purpose of supporting or opposing a
20 candidate, measure or political party; or

21 “(b) Made an expenditure for the purpose of supporting or opposing a
22 candidate, measure or political party. For purposes of this paragraph, an
23 expenditure does not include:

24 “(A) A contribution to a candidate or political committee that is required
25 to report the contribution on a statement filed under ORS 260.057 or 260.076
26 or a certificate filed under ORS 260.112; or

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

29 “(19) ‘Public office’ means any national, state, county, district, city office
30 or position, except a political party office, that is filled by the electors.

1 “(20) ‘Recall petition’ means a petition to recall a public officer for which
2 a prospective petition has been filed but that is not yet a measure.

3 “(21) ‘Referendum petition’ means a petition to refer a measure for which
4 a prospective petition has been filed but that is not yet a measure.

5 “(22) ‘Regular district election’ means the regular district election de-
6 scribed in ORS 255.335.

7 “(23) ‘State office’ means the office of Governor, Secretary of State, State
8 Treasurer, Attorney General, Commissioner of the Bureau of Labor and In-
9 dustries, state Senator, state Representative, judge or district attorney.

10 **“SECTION 2.** ORS 260.044 is amended to read:

11 “260.044. (1) If a person makes independent expenditures in a total amount
12 of more than [~~\$750~~] **\$250** in a calendar year, the person shall use the elec-
13 tronic filing system adopted under ORS 260.057 to file with the Secretary of
14 State a statement of independent expenditures not later than seven calendar
15 days after the total amount of independent expenditures exceeds [~~\$750~~] **\$250**
16 in a calendar year.

17 “(2) A person who files a statement of independent expenditures under
18 subsection (1) of this section shall use the electronic filing system adopted
19 under ORS 260.057 to file with the secretary additional statements of inde-
20 pendent expenditures made by the person, as described in ORS 260.083.

21 “(3) Except as provided in [~~subsections~~] **subsection** (4) [~~and (5)~~] of this
22 section, a person shall file a statement described in subsection (2) of this
23 section not later than [~~30~~] **seven** calendar days after an independent ex-
24 penditure is made.

25 “[~~(4)(a)~~] *A person shall file a statement described in subsection (2) of this*
26 *section not later than seven calendar days after an independent expenditure is*
27 *made. This paragraph applies to independent expenditures made.*]

28 “[~~(A)~~] *During the period beginning on the 42nd calendar day before the date*
29 *of any primary election and ending on the date of the primary election; and]*

30 “[~~(B)~~] *During the period beginning on the 42nd calendar day before the date*

1 *of any general election and ending on the date of the general election.]*

2 *“(b) If the person makes an independent expenditure prior to the 42nd*
3 *calendar day before the date of the primary or general election and the person*
4 *has not filed a statement under subsection (3) of this section by the 43rd cal-*
5 *endar day before the date of the primary or general election, the person shall*
6 *file a statement described in subsection (2) of this section not later than the*
7 *35th calendar day before the date of the primary or general election.]*

8 *“(5) (4) For any special election, the secretary by rule may establish a*
9 *period during which a person must file a statement described in subsection*
10 *(2) of this section. The period may not extend beyond seven calendar days*
11 *after an independent expenditure is made.*

12 *“(6) (5) Notwithstanding ORS 260.005 (18), a person who solicits and*
13 *receives a contribution or contributions is a political committee and shall*
14 *file a statement of organization under ORS 260.042 and the statements re-*
15 *quired by ORS 260.057, 260.076 or 260.078.*

16 *“(7) (6) For purposes of this section:*

17 *“(a) An independent expenditure does not include a contribution to a*
18 *candidate or political committee that is required to report the contribution*
19 *on a statement filed under ORS 260.057, 260.076 or 260.078 or a certificate*
20 *filed under ORS 260.112;*

21 *“(b) An independent expenditure does not include a contribution to a*
22 *candidate who is not required to file a statement of organization under ORS*
23 *260.043; and*

24 *“(c) A person is not a political committee under subsection [(6)] (5) of this*
25 *section if all contributions received by the person are:*

26 *“(A) Designated to an identified candidate or political committee;*

27 *“(B) Delivered by the person to the designated candidate or political*
28 *committee not later than seven business days after the contribution is re-*
29 *ceived; and*

30 *“(C) Required to be reported as contributions by a candidate or political*

1 committee on a statement filed under ORS 260.057, 260.076 or 260.078 or a
2 certificate filed under ORS 260.112.

3 **“SECTION 3.** ORS 260.232 is amended to read:

4 “260.232. (1) The Secretary of State may impose a civil penalty as provided
5 in this section, in addition to any other penalty that may be imposed, for:

6 “(a) Failure to file a statement or certificate required to be filed under
7 ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118.

8 “(b) Failure to include in a statement filed under ORS 260.044, 260.057,
9 260.076, 260.078, 260.083, 260.112 or 260.118 the information required under
10 ORS 260.044, 260.057, 260.076, 260.083 or 260.118.

11 **“(c) Incorrectly identifying as an independent expenditure an ex-**
12 **penditure that was made with the cooperation or with the prior con-**
13 **sent of, or in consultation with, or at the request or suggestion of, a**
14 **candidate or any agent or authorized committee of the candidate, or**
15 **any political committee or agent of a political committee supporting**
16 **or opposing a measure.**

17 “(2)(a) If a person required to file has not filed [*a*] **an accurate** statement
18 or certificate complying with applicable provisions of ORS 260.044, 260.057,
19 260.076, 260.078, 260.083, 260.085, 260.112 or 260.118 within the time specified
20 in ORS 260.044, 260.057, 260.076, 260.078 or 260.118, the Secretary of State by
21 first class mail shall notify the person that a penalty may be imposed and
22 that the person has 20 days from the service date on the notice to request
23 a hearing before the Secretary of State.

24 “(b) If the person required to file is a candidate or the principal campaign
25 committee of a candidate, the Secretary of State shall send the notice de-
26 scribed in paragraph (a) of this subsection by first class mail to the candi-
27 date. The notice shall be used for purposes of determining the deadline for
28 requesting a hearing under subsection (3) of this section.

29 “(3) A hearing on whether to impose a civil penalty and to consider cir-
30 cumstances in mitigation shall be held by the Secretary of State:

1 “(a) Upon request of the person against whom the penalty may be as-
2 sessed, if the request is made not later than the 20th day after the person
3 received the notice sent under subsection (2) of this section;

4 “(b) Upon request of the filing officer with whom a statement or certifi-
5 cate was required to be filed but was not filed; or

6 “(c) Upon the Secretary of State’s own motion.

7 “(4) A hearing under subsection (3) of this section shall be held not later
8 than 45 days after the deadline for the person against whom the penalty may
9 be assessed to request a hearing. However, if requested by the person
10 against whom the penalty may be assessed, a hearing under subsection (3)
11 of this section shall be held not later than 60 days after the deadline for the
12 person against whom the penalty may be assessed to request a hearing.

13 “(5) The Secretary of State shall issue an order not later than 90 days
14 after a hearing or after the deadline for requesting a hearing if no hearing
15 is held.

16 “(6) The person against whom a penalty may be assessed need not appear
17 in person at a hearing held under this section, but instead may submit
18 written testimony and other evidence, subject to the penalty for false
19 swearing, to the Secretary of State for entry in the hearing record. The tes-
20 timony and other evidence must be received by the secretary not later than
21 three business days before the day of the hearing and may be submitted
22 electronically.

23 “(7) A civil penalty imposed under this section may not be more than the
24 following:

25 “(a) For failure to file a statement or certificate required to be filed under
26 ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118[.]:

27 “(A) [10] **20** percent of the total amount of the contribution or expendi-
28 ture required to be included in the statement or certificate, **if the total**
29 **amount of the contribution or expenditure required to be included in**
30 **the statement or certificate is less than \$1,000; or**

1 **“(B) 40 percent of the total amount of the contribution or expendi-**
2 **ture required to be included in the statement or certificate, if the total**
3 **amount of the contribution or expenditure required to be included in**
4 **the statement or certificate is \$1,000 or more;**

5 “(b) For each failure to include in a statement filed under ORS 260.044,
6 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118 the information required
7 under ORS 260.044, 260.057, 260.076, 260.083 or 260.118[.];

8 **“(A) [10] 20 percent of the total amount of the contribution or expendi-**
9 **ture required to be included in the statement, if the total amount of the**
10 **contribution or expenditure required to be included in the statement**
11 **is less than \$1,000[.]; or**

12 **“(B) 40 percent of the total amount of the contribution or expendi-**
13 **ture required to be included in the statement, if the total amount of**
14 **the contribution or expenditure required to be included in the state-**
15 **ment is \$1,000 or more;**

16 **“(c) For each instance of incorrectly identifying as an independent**
17 **expenditure an expenditure that was made with the cooperation or**
18 **with the prior consent of, or in consultation with, or at the request**
19 **or suggestion of, a candidate or any agent or authorized committee**
20 **of the candidate, or any political committee or agent of a political**
21 **committee supporting or opposing a measure:**

22 **“(A) 20 percent of the incorrectly identified expenditure, if the in-**
23 **correctly identified expenditure is less than \$1,000; or**

24 **“(B) 40 percent of the incorrectly identified expenditure, if the in-**
25 **correctly identified expenditure is \$1,000 or more; or**

26 **“(d) For each failure to timely file an accurate statement for an**
27 **in-kind contribution made to a candidate, political committee or peti-**
28 **tion committee:**

29 **“(A) 20 percent of the total amount of the contribution, if the con-**
30 **tribution is less than \$1,000; or**

1 **“(B) 40 percent of the total amount of the contribution, if the con-**
2 **tribution is \$1,000 or more.**

3 “(8) The Secretary of State, upon a showing of mitigating circumstances,
4 may reduce the amount of [*the*] **a civil** penalty described in subsection (7)
5 of this section.

6 “(9) Except as otherwise provided by this section, civil penalties under
7 this section shall be imposed as provided in ORS 183.745.

8 **“SECTION 4.** ORS 260.055 is amended to read:

9 “260.055. (1) Each candidate, other than a candidate for political party
10 office, the treasurer of each political committee, [*and*] the treasurer of each
11 petition committee **and each person that makes independent expendi-**
12 **tures in a total amount of more than \$250 in a calendar year** shall keep
13 detailed accounts. The accounts shall be current as of not later than the
14 seventh calendar day after the date of receiving a contribution or making
15 an expenditure **or independent expenditure** with respect to all contribu-
16 tions received and all expenditures **or independent expenditures** made by
17 or on behalf of the candidate or committee that are required to be reported
18 under ORS **260.044**, 260.057, 260.076 or 260.078. Subject to ORS 260.085, the
19 accounts shall list all information required to be reported under ORS 260.083.

20 “(2) Accounts kept by a candidate [*or the*], **a treasurer of a political**
21 **committee or a person that makes independent expenditures in a total**
22 **amount of more than \$250 in a calendar year** may be inspected under
23 reasonable circumstances at any time before the election to which the ac-
24 counts refer or during the period specified for retention of the accounts un-
25 der subsection (3) of this section by any opposing candidate or the treasurer
26 of any political committee for the same electoral contest. The right of in-
27 spection may be enforced by writ of mandamus issued by any court of com-
28 petent jurisdiction. The treasurers of political committees supporting a
29 candidate may be joined with the candidate as defendants in a mandamus
30 proceeding.

1 “(3) Accounts kept by a candidate [*or treasurer*], **a treasurer of a poli-**
2 **tical committee or a person that makes independent expenditures in**
3 **a total amount of more than \$250 in a calendar year** shall be preserved
4 by the candidate, [*or*] treasurer **or person** for at least two years after the
5 date the statement of the contribution or expenditure is filed under ORS
6 260.057 **or the independent expenditure is made.**

7 “SECTION 5. **The amendments to ORS 260.005, 260.044, 260.055 and**
8 **260.232 by sections 1 to 4 of this 2017 Act apply to independent ex-**
9 **penditures made on or after the effective date of this 2017 Act.”.**

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