

HOUSE AMENDMENTS TO HOUSE BILL 2323

By COMMITTEE ON RULES

May 4

1 On page 1 of the printed bill, line 3, delete “260.345” and insert “250.048, 260.345, 260.532,
2 260.695, 260.993 and 260.995”.

3 In line 7, after “circulated,” insert “including by electronic or telephonic means,”.

4 In line 9, after “advertisement” insert “or circulate an advertisement by electronic or telephonic
5 means”.

6 In line 25, after “lated” insert “, including by electronic or telephonic means,”.

7 Delete line 28.

8 Delete pages 2 and 3 and insert:

9 “(4) The Secretary of State may institute proceedings to enjoin any violation of this section,
10 except that in the case of a violation by the Secretary of State or a candidate for the office of the
11 Secretary of State, the Attorney General may institute proceedings to enjoin any violation of this
12 section. In any action brought under this section, the circuit court may at any time enter such in-
13 junctions, prohibitions or restraining orders, or take any other actions as the court may deem
14 proper. A restraining order, prohibition or injunction may be issued under this section without proof
15 of injury or damage to any person. The circuit court shall give priority to the hearing and deter-
16 mination under this section. The court shall award the prevailing party reasonable attorney fees at
17 trial and on appeal.

18 “(5) Upon proof of any violation of this section, the court shall impose a civil penalty of not
19 more than \$10,000. All penalties recovered under this section shall be paid into the State Treasury
20 and credited to the General Fund.

21 “(6) The remedy provided by this section is the exclusive remedy for a violation of this section.

22 “**SECTION 3.** ORS 260.345 is amended to read:

23 “260.345. (1) Any elector may file with any filing officer a written complaint alleging that a vi-
24 olation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260
25 has occurred and stating the reason for believing that the violation occurred and any evidence re-
26 lating to it. A complaint and any evidence relating to it may be filed electronically. A complaint
27 alleging a violation involving the Secretary of State, a candidate for the office of Secretary of State,
28 or any political committee or person supporting the Secretary of State or a candidate for the office
29 of Secretary of State may be filed with the Attorney General. The Secretary of State or Attorney
30 General shall not accept an anonymous complaint.

31 “(2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed
32 with any person other than the Secretary of State. If the complaint concerns the Secretary of State,
33 any candidate for the office of the Secretary of State, or any political committee or person sup-
34 porting the candidacy of the Secretary of State or of another person for the office of Secretary of
35 State, the complaint and any additional information relating to the complaint shall be sent to the

1 Attorney General.

2 “(3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State
3 or Attorney General immediately shall examine the complaint to determine whether a violation of
4 an election law or rule has occurred and shall make any investigation the Secretary of State or
5 Attorney General considers necessary. Except as provided in this subsection, within 48 hours of
6 receiving a complaint under subsection (1) or (2) of this section, the Secretary of State or Attorney
7 General shall notify the person who is the subject of the complaint that a complaint has been re-
8 ceived. If the Secretary of State or Attorney General receives a complaint or complaints involving
9 25 or more individuals, political committees or petition committees in any 24-hour period, the Sec-
10 retary of State or Attorney General need not notify the persons who are the subjects of those
11 complaints within 48 hours of receiving the complaints but shall notify those persons not later than
12 10 business days after receiving the complaint or complaints.

13 “(4) If the Secretary of State believes after an investigation under subsection (3) of this section
14 that a violation of an election law or rule has occurred, the secretary:

15 “(a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall
16 report the findings to the Attorney General and request prosecution. If the violation involves the
17 Attorney General, a candidate for that office or a political committee or person supporting or op-
18 posing the Attorney General or a candidate for that office, the Secretary of State shall appoint an-
19 other prosecutor for that purpose; [or]

20 “(b) In the case of a violation not subject to a penalty under ORS 260.993 **or section 2 of this**
21 **2021 Act**, may impose a civil penalty under ORS 260.995; **or**

22 “(c) **In the case of a violation under section 2 of this 2021 Act, may institute civil pro-**
23 **ceedings in the manner described in section 2 of this 2021 Act.**

24 “(5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section in-
25 volving an alleged violation subject to a penalty under ORS 260.993 **or an alleged violation of**
26 **section 2 of this 2021 Act**, the Attorney General or other prosecutor immediately shall examine the
27 complaint or report to determine whether a violation of an election law has occurred. If the Attor-
28 ney General or prosecutor determines that a violation has occurred, the Attorney General or
29 prosecutor immediately shall begin prosecution **or civil proceedings** in the name of the state. The
30 Attorney General or other prosecutor shall have the same powers in any county of this state as the
31 district attorney for the county.

32 “(6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged
33 violation of an election law or rule not subject to a penalty under ORS 260.993 **or section 2 of this**
34 **2021 Act**, the Attorney General shall examine the complaint to determine whether a violation of an
35 election law or rule has occurred and shall make any investigation the Attorney General considers
36 necessary. If the Attorney General believes after an investigation that a violation of an election law
37 or rule has occurred, the Attorney General may impose a civil penalty under ORS 260.995.

38 “(7) In the case of an alleged violation subject to a civil penalty under ORS 260.995 **or an al-**
39 **leged violation of section 2 of this 2021 Act**, a complaint shall be filed by an elector under this
40 section no later than 90 days following the election at which a violation of an election law or rule
41 is alleged to have occurred, or 90 days following the date the violation of an election law or rule
42 is alleged to have occurred, whichever is later.

43 “(8) A filing officer having reason to believe that a violation of an election law or rule has oc-
44 curred shall proceed promptly as though the officer had received a complaint. Except as provided
45 in ORS 260.234, a filing officer shall proceed under this subsection no later than two years following

1 the election at which a violation of an election law or rule is alleged to have occurred, or two years
2 following the date the violation of an election law or rule is alleged to have occurred, whichever is
3 later. If a filing officer has not proceeded within two years because of fraud, deceit, misleading
4 representation or the filing officer could not have reasonably discovered the alleged violation, the
5 filing officer shall proceed no later than five years following the election at which a violation of an
6 election law or rule is alleged to have occurred, or five years following the date the violation of an
7 election law or rule is alleged to have occurred, whichever is later.

8 “**SECTION 4.** ORS 260.532 is amended to read:

9 “260.532. (1) No person shall cause to be written, printed, published, posted, communicated or
10 circulated, **including by electronic or telephonic means**, any letter, circular, bill, placard, poster,
11 photograph or other publication, or cause any advertisement to be placed in a publication, or singly
12 or with others pay for any advertisement **or circulate an advertisement by electronic or tele-**
13 **phonic means**, with knowledge or with reckless disregard that the letter, circular, bill, placard,
14 poster, photograph, publication or advertisement contains a false statement of material fact relating
15 to any candidate, political committee or measure.

16 “(2) As used in subsection (1) of this section, ‘cause’ does not include the broadcast of an ad-
17 vertisement by a radio or television station or cable television company unless the advertisement
18 is for:

19 “(a) The candidacy of the owner, licensee or operator of the station or company; or

20 “(b) A ballot measure of which a chief petitioner is the owner, licensee or operator of the station
21 or company.

22 “(3) A candidate who knows of and consents to a publication or advertisement prohibited by this
23 section with knowledge or with reckless disregard that it contains a false statement of material fact,
24 violates this section regardless of whether the candidate has participated directly in the publication
25 or advertisement.

26 “(4) There is a rebuttable presumption that a candidate knows of and consents to any publica-
27 tion or advertisement prohibited by this section caused by a political committee over which the
28 candidate exercises any direction and control.

29 “(5) Any candidate or political committee aggrieved by a violation of this section shall have a
30 right of action against the person alleged to have committed the violation. The aggrieved party may
31 file the action in the circuit court for any county in this state in which a defendant resides or can
32 be found or, if the defendant is a nonresident of this state, in the circuit court for any county in
33 which the publication occurred. To prevail in such an action, the plaintiff must show by clear and
34 convincing evidence that the defendant violated subsection (1) of this section.

35 “(6) A plaintiff who prevails in an action provided by subsection (5) of this section may recover
36 economic and noneconomic damages, as defined in ORS 31.710, or \$2,500, whichever is greater. The
37 court may award such additional equitable relief as it considers necessary or proper. The equitable
38 relief may include, but is not limited to, a requirement that a retraction of the false statement be
39 disseminated in the manner directed by the court. Proof of entitlement to economic and noneconomic
40 damages must be by a preponderance of evidence. The court shall award the prevailing party rea-
41 sonable attorney fees at trial and on appeal.

42 “(7) A political committee has standing to bring an action provided by subsection (5) of this
43 section as plaintiff in its own name, if its purpose as evidenced by its preelection activities, solici-
44 tations and publications has been injured by the violation and if it has fully complied with the
45 provisions of this chapter. In an action brought by a political committee as provided by subsection

1 (5) of this section, the plaintiff may recover economic and noneconomic damages for all injury to the
2 purpose of the committee as provided in subsection (6) of this section.

3 “(8) If a judgment is rendered in an action under this section against a defendant who has been
4 nominated to public office or elected to a public office other than state Senator or state Represen-
5 tative, and it is established by clear and convincing evidence that the false statement was delib-
6 erately made or caused to be made by the defendant, the finder of fact shall determine whether the
7 false statement reversed the outcome of the election. If the finder of fact finds by clear and con-
8 vincing evidence that the false statement reversed the outcome of the election, the defendant shall
9 be deprived of the nomination or election and the nomination or office shall be declared vacant.

10 “(9) An action under this section must be filed not later than the 30th day after the election
11 relating to which a publication or advertisement in violation of this section was made. Proceedings
12 on a complaint filed under this section shall have precedence over all other business on the docket.
13 The courts shall proceed in a manner which will ensure that:

14 “(a) Final judgment on a complaint which relates to a primary election or nominating election
15 is rendered before the 30th day before the general election; and

16 “(b) Final judgment on a complaint which relates to an election to an office is rendered before
17 the term of that office begins.

18 “(10) The remedy provided by this section is the exclusive remedy for a violation of this section.

19 “**SECTION 5.** ORS 260.695 is amended to read:

20 “260.695. (1)(a) If a person prints or circulates an imitation of the ballot or sample ballot:

21 “(A) The imitation ballot or sample ballot and the back of any return envelope enclosed with
22 the ballot or sample ballot shall state the following: ‘THIS IS NOT A REAL BALLOT. DO NOT USE
23 TO VOTE.’ The statement on the imitation ballot or sample ballot shall be in bold print that is at
24 least two times as large as the majority of the text on the ballot or sample ballot or 20-point type,
25 whichever is larger. The statement on the back of a return envelope shall be in bold print that is
26 at least 36-point type.

27 “(B) The word ‘UNOFFICIAL’ must be superimposed on the imitation ballot or sample ballot so
28 that the word extends diagonally across the ballot from one margin of the text to the other. The
29 superimposed word may be printed in lighter ink than other text on the ballot or sample ballot.

30 “(b) For purposes of this subsection, an imitation of the ballot or sample ballot includes an im-
31 itation of a portion of the ballot or sample ballot.

32 “(2)(a) **As used in this subsection, ‘imitation voters’ pamphlet’ means a document that**
33 **imitates the physical characteristics or appearance of a voters’ pamphlet or a portion of a**
34 **voters’ pamphlet published by the Secretary of State or county clerk, as defined in ORS**
35 **251.005, under ORS chapter 251 and likely misleads or confuses a reasonable person as to**
36 **whether the document is an official voters’ pamphlet or a portion of an official voters’**
37 **pamphlet in the absence of the required statement.**

38 “(b) **If a person prints or circulates an imitation voters’ pamphlet, including by electronic**
39 **means:**

40 “(A)(i) **The imitation voters’ pamphlet shall state the following: ‘THIS IS NOT THE OF-**
41 **FICIAL VOTERS’ PAMPHLET.’ Except as provided in sub-subparagraph (ii) of this subpara-**
42 **graph, the statement on the imitation voters’ pamphlet shall be in bold print that is at least**
43 **36-point type.**

44 “(ii) **For an imitation voters’ pamphlet that is circulated electronically, the statement**
45 **described in sub-subparagraph (i) of this subparagraph shall be in bold print in a typeface of**

1 **contrasting color and in a font size that is at least three times as large as the font size used**
2 **for the majority of the text in the imitation voters' pamphlet.**

3 **“(B) The word ‘UNOFFICIAL’ must be superimposed on each page of the imitation**
4 **voters' pamphlet so that the word extends diagonally across the imitation voters' pamphlet**
5 **from one margin of text to the other. The superimposed word may be printed or displayed**
6 **in lighter ink than other text on the imitation voters' pamphlet.**

7 “[2] (3) A person may not do any electioneering, including circulating any cards or handbills,
8 or soliciting of signatures to any petition, within any building in which any state or local govern-
9 ment elections office designated for the deposit of ballots under ORS 254.470 is located, or within
10 100 feet measured radially from any entrance to the building. A person may not do any
11 electioneering by public address system located more than 100 feet from an entrance to the building
12 if the person is capable of being understood within 100 feet of the building. The electioneering need
13 not relate to the election being conducted. This subsection applies during the business hours of the
14 building or, if the building is a county elections office, during the hours the office is open to the
15 public, during the period beginning on the date that ballots are mailed to electors as provided in
16 ORS 254.470 and ending on election day at 8 p.m. or when all persons waiting in line at the building
17 who began the act of voting as described in ORS 254.470 (10) by 8 p.m. have finished voting.

18 “[3] (4) A person may not obstruct an entrance of a building in which ballots are issued or a
19 place designated for the deposit of ballots under ORS 254.470 or any voting booth maintained under
20 ORS 254.474 is located. This subsection applies during the period beginning on the date that ballots
21 are mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all
22 persons waiting in line at the building or location who began the act of voting as described in ORS
23 254.470 (10) by 8 p.m. have finished voting.

24 “[4] (5) A person may not vote or offer to vote in any election knowing the person is not en-
25 titled to vote.

26 “[5] (6) A person may not make a false statement about the person's inability to mark a ballot.

27 “[6] (7) A person, except an elections official in performance of duties or another person pro-
28 viding assistance to an elector as described in ORS 254.445, may not ask a person at any place
29 designated for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472
30 or 254.474 for whom that person intends to vote, or examine or attempt to examine the person's
31 ballot.

32 “[7] (8) An elections official, other than in the performance of duties, may not disclose to any
33 person any information by which it can be ascertained for whom any elector has voted.

34 “[8] (9) A person, except an elections official in performance of duties, may not do anything
35 to a ballot to permit identification of the person who voted.

36 “[9] (10) An elector may not willfully leave at any place designated for the deposit of ballots
37 under ORS 254.470 or at any location described in ORS 254.472 or 254.474 anything that will show
38 how the elector's ballot was marked.

39 “[10] (11) A person, except an elections official in performance of duties, may not remove a
40 ballot from any place designated for the deposit of ballots under ORS 254.470 or any location de-
41 scribed in ORS 254.472 or 254.474.

42 “[11] (12) A person, except an elections official in performance of duties or a person authorized
43 by that official, may not willfully deface, remove, alter or destroy a posted election notice.

44 “[12] (13) A person, except an elections official in performance of duties, may not willfully re-
45 move, alter or destroy election equipment or supplies, or break the seal or open any sealed package

1 containing election supplies.

2 “[13] (14) A person, except an elections official in performance of duties, may not provide
3 elections advice or attempt to collect voted ballots within any building in which any state or local
4 government elections office designated for the deposit of ballots under ORS 254.470 is located, or
5 within 100 feet measured radially from any entrance to the building.

6 “[14] (15) A person, except an elections official in performance of duties, may not establish a
7 location to collect ballots voted by electors unless:

8 “(a) The person prominently displays at the location a sign stating: ‘NOT AN OFFICIAL BAL-
9 LOT DROP SITE’; and

10 “(b) The sign is printed in all capital letters in bold 50-point type.

11 “**SECTION 6.** ORS 250.048 is amended to read:

12 “250.048. (1) A person may not pay money or other valuable consideration to another person for
13 obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective
14 petition for a state measure to be initiated, and a person may not receive money or other valuable
15 consideration for obtaining signatures of electors on a state initiative, referendum or recall petition
16 or a prospective petition for a state measure to be initiated, unless the person obtaining the signa-
17 tures:

18 “(a) Registers with the Secretary of State in the manner prescribed by this section and by rule
19 of the secretary; and

20 “(b) Completes the training program prescribed by rule of the secretary.

21 “(2) A person may apply to the secretary for a registration required under subsection (1) of this
22 section. The application shall include:

23 “(a) The full name and any assumed name of the applicant;

24 “(b) The residential street address of the applicant;

25 “(c) An example of the signature of the applicant;

26 “(d) A list of the prospective petitions on which the applicant will gather signatures;

27 “(e) A list of the initiative, referendum and recall petitions on which the applicant will gather
28 signatures;

29 “(f) If the applicant has been convicted for a criminal offense involving fraud, forgery or iden-
30 tification theft, information relating to the circumstances of the conviction as required by the sec-
31 retary;

32 “(g) A statement signed by the applicant acknowledging that the applicant has read and under-
33 stands Oregon law applicable to the gathering of signatures on state initiative, referendum and re-
34 call petitions and prospective petitions for state measures to be initiated, as the law is summarized
35 in the training program established by the Secretary of State;

36 “(h) Evidence indicating that the applicant has completed the training required by the secretary
37 by rule;

38 “(i) A photograph of the applicant;

39 “(j) A statement signed by a chief petitioner of each petition or prospective petition, or a person
40 designated by a chief petitioner under this paragraph, upon which the applicant will gather signa-
41 tures acknowledging that the chief petitioner is liable for violations of law or rule committed by the
42 person obtaining signatures as provided in ORS 260.561. A chief petitioner may designate a person
43 to sign a statement described in this paragraph on behalf of the chief petitioner; and

44 “(k) A copy of the applicant’s criminal records check.

45 “(3)(a) If an applicant complies with subsection (2) of this section, not later than five business

1 days after the applicant applies, the secretary shall register the applicant and assign the applicant
2 a registration number.

3 “(b) A person who is registered to obtain signatures on a prospective petition for a state meas-
4 ure to be initiated need not reapply for a registration under this section in order to obtain signa-
5 tures on a state initiative, referendum or recall petition, except that the person shall submit a list
6 of the initiative, referendum and recall petitions on which the person will gather signatures.

7 “(c) A registration to obtain signatures on a state initiative petition or a prospective petition
8 for a state measure to be initiated is valid until the date that is four months before the next general
9 election.

10 “(d) A registration to obtain signatures on a referendum or recall petition is valid until the date
11 the petition is filed for signature verification.

12 “(4) A person may not apply for registration under this section if, during the five-year period
13 prior to the date of application, the person:

14 “(a) Has been convicted for a criminal offense involving fraud, forgery or identification theft in
15 any state;

16 “(b) Has had a civil penalty imposed under ORS 260.995 for a violation of this section, ORS
17 260.262, 260.555, 260.558, 260.575, 260.695 (1) **or** (2) or 260.715 (1) or Article IV, section 1b, of the
18 Oregon Constitution; or

19 “(c) Has had a civil or criminal penalty imposed for violation of a statute subject to a criminal
20 penalty under ORS 260.993.

21 “(5)(a) Upon request of the secretary, the Department of State Police shall furnish to the sec-
22 retary any information that the department may have in its possession regarding an applicant, in-
23 cluding but not limited to the Law Enforcement Data System established in ORS 181A.280, other
24 computerized information and any other information to which the department may have access.
25 Information obtained under this paragraph may be used to assist in determining the identity of an
26 applicant or whether an applicant has been convicted of a criminal offense described in subsection
27 (4) of this section.

28 “(b) For purposes of receiving the information described in paragraph (a) of this subsection, the
29 office of the Secretary of State is a ‘criminal justice agency’ under ORS 181A.010 to 181A.350 and
30 the rules adopted under ORS 181A.230.

31 “(c) Upon submitting an application for registration described in subsection (2) of this section,
32 an applicant is deemed to have given the consent necessary for purposes of this subsection.

33 “(6)(a) A chief petitioner shall ensure that a criminal records check is conducted for each ap-
34 plicant seeking registration under this section to determine whether the applicant has been con-
35 victed of any of the crimes described in subsection (4)(a) of this section, or was subject to any of
36 the penalties described in subsection (4)(b) and (c) of this section.

37 “(b) The secretary by rule shall prescribe the scope of the criminal records check to be per-
38 formed pursuant to this subsection. The applicant’s criminal records check may be conducted by
39 either the chief petitioner or the applicant.

40 “(c) An applicant seeking registration under this section is required to have only one criminal
41 records check conducted for each period beginning the day the applicant registers with the Secre-
42 tary of State under this section and ending four months before the next general election.

43 “(7) If a person receives money or other valuable consideration for obtaining signatures of
44 electors on a state initiative, referendum or recall petition or a prospective petition for a state
45 measure to be initiated and the person was not registered as required under this section at the time

1 the signatures were obtained, the secretary may not include any signatures obtained by the person
2 in a count under ORS 250.045 (3) or 250.105 or ORS chapter 249 for purposes of determining whether
3 the petition or prospective petition contains the required number of signatures of electors.

4 “(8) A person registered under this section shall carry evidence of registration with the person
5 while the person is obtaining signatures on a state initiative, referendum or recall petition or a
6 prospective petition for a state measure to be initiated. The evidence of registration shall contain
7 the photograph and registration number of the person. The secretary by rule shall designate the
8 form of the evidence of registration.

9 “(9) A photograph of an applicant submitted under subsection (2) of this section shall:

10 “(a) Be a conventional photograph with a plain background;

11 “(b) Show the face or the face, neck and shoulders of the applicant; and

12 “(c) Be prepared and processed for printing as prescribed by the secretary.

13 “(10) A person registered under this section may not obtain signatures on a petition or pro-
14 spective petition for which the person is being paid and, at the same time, obtain signatures on a
15 petition or prospective petition for which the person is not being paid. The secretary may not in-
16 clude any signatures obtained in violation of this subsection in a count under ORS 250.045 (3) or
17 250.105 or ORS chapter 249 for purposes of determining whether a state initiative, referendum or
18 recall petition or a prospective petition for a state measure to be initiated contains the required
19 number of signatures of electors.

20 “(11) An organization or entity that pays money or other valuable consideration to a person for
21 obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective
22 petition for a state measure to be initiated shall register with the Secretary of State by:

23 “(a) Submitting the name and address of the organization or entity;

24 “(b) Selecting one or more individuals who represent the organization or entity to complete the
25 training program prescribed in subsection (1) of this section; and

26 “(c) Submitting a statement signed by each individual selected:

27 “(A) Acknowledging that the individual has read and understands Oregon law applicable to the
28 gathering of signatures on state initiative, referendum and recall petitions and prospective petitions
29 for state measures to be initiated, as the law is summarized in the training program established by
30 the secretary; and

31 “(B) Affirming that the organization or entity operates in compliance with the law.

32 “(12) The secretary shall adopt rules necessary to implement this section, including rules:

33 “(a) Establishing procedures for registering persons or organizations or entities as described in
34 this section; and

35 “(b) Establishing a training program prescribed in subsection (1) of this section.

36 “**SECTION 7.** ORS 260.993 is amended to read:

37 “260.993. (1) The penalty for violation of ORS 260.532 is limited to that provided in ORS 260.532
38 (6) and (8).

39 “(2) Violation of ORS 247.125 (1), 247.171 (5), 247.420 (2), 253.710, 260.402, 260.555, 260.558,
40 260.575, 260.645 or 260.665 (2) or (3) involving any action described in ORS 260.665 (2)(d) to (f) or
41 260.715 is a Class C felony.

42 “(3) Violation of ORS 260.695 [(4)] (5) is a Class A misdemeanor.

43 “(4) Violation of ORS 247.171 (6) is a Class C misdemeanor.

44 “**SECTION 8.** ORS 260.995, as amended by section 3, chapter 636, Oregon Laws 2019, is
45 amended to read:

1 “260.995. (1) Except as provided in subsection (2) of this section, following an investigation un-
2 der ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to ex-
3 ceed \$1,000 for each violation of any provision of Oregon Revised Statutes relating to the conduct
4 of any election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other
5 matter preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

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

7 “(a)(A) Except as provided in subparagraph (B) of this paragraph, \$1,000 plus the amount con-
8 verted to personal use for each violation of ORS 260.407;

9 “(B) Two times the amount of the penalty provision for violating a nondisclosure agreement that
10 is contained within each nondisclosure agreement entered into in violation of ORS 260.407 or
11 260.413;

12 “(b) 150 percent of the total cost of printing, transmitting or distributing a communication in
13 support of or in opposition to a clearly identified candidate if the disclosure requirements set forth
14 in ORS 260.266 are not met; or

15 “(c) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1) **or** (2) or 260.715 (1)
16 or section 1b, Article IV of the Oregon Constitution.

17 “(3) Except as otherwise provided by this section, civil penalties under this section shall be
18 imposed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall
19 include:

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

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

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

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

30 “(b) Upon the secretary’s or Attorney General’s own motion.

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

36 “(6) All hearings under this section shall be held not later than 45 days after the deadline for
37 the person against whom the penalty may be assessed to request a hearing. However, if requested
38 by the person against whom the penalty may be assessed, a hearing under subsection (4) of this
39 section shall be held not later than 60 days after the deadline for the person against whom the
40 penalty may be assessed to request a hearing.

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

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

45 “(9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the

1 person against whom the penalty is assessed:

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

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

4 “(c) May not pay the civil penalty from contributions received by a candidate, a candidate’s
5 principal campaign committee, a political committee or a petition committee.”.

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