

House Bill 2908

Sponsored by Representative RAYFIELD; Representatives MARSH, SOLLMAN, Senators DEMBROW, TAYLOR
(Presession 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 **as introduced**.

Requires Secretary of State to randomly select for examination accounts of political committees. Requires that examinations occur four times per calendar year and determine whether committee accurately and timely complied with filing requirements during three months immediately preceding examination.

Permits Secretary of State or Attorney General, upon reasonable suspicion of violation, to examine accounts of person, political committee or petition committee being investigated as result of elector filing complaint alleging violation of election law or rule.

A BILL FOR AN ACT

1
2 Relating to campaign finance; creating new provisions; and amending 260.345.

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

4 **SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS**
5 **chapter 260.**

6 **SECTION 2. (1) In addition to the requirements of ORS 260.055 and 260.215, the Secretary**
7 **of State shall examine the accounts of political committees and petition committees selected**
8 **at random as provided in subsections (4) and (5) of this section. For each examination, the**
9 **secretary shall require that the political committee or petition committee provide access to**
10 **all committee bank account records and other documentation the secretary determines is**
11 **necessary to successfully conduct the examination. The requirement to provide access to**
12 **committee bank account records and other documentation under this subsection may be**
13 **enforced by writ of mandamus issued by any court of competent jurisdiction.**

14 **(2)(a) Each examination conducted by the secretary under this section must determine**
15 **whether, during the three months immediately preceding the examination, the political**
16 **committee or petition committee accurately and timely complied with all of the filing re-**
17 **quirements set forth in this chapter and rules adopted by the secretary.**

18 **(b) If an examination indicates discrepancies between the filings made by the political**
19 **committee or petition committee and the filing requirements set forth in this chapter and**
20 **rules adopted by the secretary, the secretary may extend the scope of the examination to**
21 **determine whether, during the two years immediately preceding the examination, the poli-**
22 **tical committee or petition committee accurately and timely complied with all of the filing**
23 **requirements.**

24 **(3) Committee bank account records and other documentation provided by a political**
25 **committee or petition committee to the secretary under this section may be used only for**
26 **purposes of the examination and, in order to protect the confidentiality of sensitive infor-**
27 **mation, may not be disclosed as a public record under ORS 192.311 to 192.478.**

28 **(4) The secretary shall conduct examinations of political committees and petition com-**

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 **mittees under this section four times per calendar year.**

2 **(5) The secretary by rule shall:**

3 **(a) Designate a method by which political committees and petition committees shall be**
 4 **selected at random for examination under this section.**

5 **(b) Designate the period of time within which a political committee or petition committee**
 6 **must provide access to committee bank account records and other documentation if required**
 7 **to do so under this section. The secretary may impose a civil penalty under ORS 260.995**
 8 **against a person that fails to timely provide the access to committee bank account records**
 9 **and other documentation required under this section.**

10 **SECTION 3. (1) When conducting an investigation under ORS 260.345 of a written com-**
 11 **plaint alleging that a violation of election law or rule adopted by the Secretary of State under**
 12 **ORS chapters 246 to 260 has occurred, the secretary or the Attorney General may, upon**
 13 **reasonable suspicion that a violation has occurred and in addition to any other action per-**
 14 **mitted by law, examine the accounts of the person, political committee or petition committee**
 15 **alleged to have committed the violation.**

16 **(2) When investigating the accounts of a person, political committee or petition com-**
 17 **mittee under this section, the secretary or the Attorney General may require that the per-**
 18 **son, political committee or petition committee provide access to bank account records and**
 19 **other documentation the secretary or Attorney General determines is necessary to success-**
 20 **fully conduct the investigation. The requirement to provide access to bank account records**
 21 **and other documentation may be enforced by writ of mandamus issued by any court of**
 22 **competent jurisdiction.**

23 **(3) Bank account records and other documentation provided by a person, political com-**
 24 **mittee or petition committee to the secretary or Attorney General under this section may**
 25 **be used only for purposes of the investigation and, in order to protect the confidentiality of**
 26 **sensitive information, may not be disclosed as a public record under ORS 192.311 to 192.478.**

27 **(4) The secretary by rule shall designate the period of time within which a person, poli-**
 28 **tical committee or petition committee must provide access to bank account records and**
 29 **other documentation if required to do so under this section. The secretary or Attorney**
 30 **General may impose a civil penalty under ORS 260.995 against a person that fails to timely**
 31 **provide the access to bank account records and other documentation required under this**
 32 **section.**

33 **SECTION 4. ORS 260.345 is amended to read:**

34 **260.345. (1) Any elector may file with any filing officer a written complaint alleging that a vio-**
 35 **lation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260**
 36 **has occurred and stating the reason for believing that the violation occurred and any evidence re-**
 37 **lating to it. A complaint and any evidence relating to it may be filed electronically. A complaint**
 38 **alleging a violation involving the Secretary of State, a candidate for the office of Secretary of State,**
 39 **or any political committee or person supporting the Secretary of State or a candidate for the office**
 40 **of Secretary of State may be filed with the Attorney General. The Secretary of State or Attorney**
 41 **General [shall] may not accept an anonymous complaint.**

42 **(2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed**
 43 **with any person other than the Secretary of State. If the complaint concerns the Secretary of State,**
 44 **any candidate for the office of the Secretary of State, or any political committee or person sup-**
 45 **porting the candidacy of the Secretary of State or of another person for the office of Secretary of**

1 State, the complaint and any additional information relating to the complaint shall be sent to the
 2 Attorney General.

3 (3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State
 4 or Attorney General immediately shall examine the complaint to determine whether a violation of
 5 an election law or rule has occurred and shall make any investigation the Secretary of State or
 6 Attorney General considers necessary, **including conducting an examination of the bank ac-
 7 count records and other documentation of a person, political committee or petition commit-
 8 tee in the manner set forth in section 3 of this 2021 Act.** Except as provided in this subsection,
 9 within 48 hours of receiving a complaint under subsection (1) or (2) of this section, the Secretary
 10 of State or Attorney General shall notify the person who is the subject of the complaint that a
 11 complaint has been received. If the Secretary of State or Attorney General receives a complaint or
 12 complaints involving 25 or more individuals, political committees or petition committees in any
 13 24-hour period, the Secretary of State or Attorney General need not notify the persons who are the
 14 subjects of those complaints within 48 hours of receiving the complaints but shall notify those per-
 15 sons not later than 10 business days after receiving the complaint or complaints.

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

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

23 (b) In the case of a violation not subject to a penalty under ORS 260.993, may impose a civil
 24 penalty under ORS 260.995.

25 (5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section involving
 26 an alleged violation subject to a penalty under ORS 260.993, the Attorney General or other
 27 prosecutor immediately shall examine the complaint or report to determine whether a violation of
 28 an election law has occurred. If the Attorney General or prosecutor determines that a violation
 29 has occurred, the Attorney General or prosecutor immediately shall begin prosecution in the name
 30 of the state. The Attorney General or other prosecutor shall have the same powers in any county
 31 of this state as the 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, the Attorney Gen-
 34 eral shall examine the complaint to determine whether a violation of an election law or rule has
 35 occurred and shall make any investigation the Attorney General considers necessary, **including
 36 conducting an examination of the bank account records and other documentation of a per-
 37 son, political committee or petition committee in the manner set forth in section 3 of this
 38 2021 Act.** If the Attorney General believes after an investigation that a violation of an election law
 39 or rule has occurred, the Attorney General may impose a civil penalty under ORS 260.995.

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

44 (8) A filing officer having reason to believe that a violation of an election law or rule has oc-
 45 curred shall proceed promptly as though the officer had received a complaint. Except as provided

1 in ORS 260.234, a filing officer shall proceed under this subsection no later than two years following
2 the election at which a violation of an election law or rule is alleged to have occurred, or two years
3 following the date the violation of an election law or rule is alleged to have occurred, whichever is
4 later. If a filing officer has not proceeded within two years because of fraud, deceit, misleading
5 representation or the filing officer could not have reasonably discovered the alleged violation, the
6 filing officer shall proceed no later than five years following the election at which a violation of an
7 election law or rule is alleged to have occurred, or five years following the date the violation of an
8 election law or rule is alleged to have occurred, whichever is later.

9 **SECTION 5. Sections 2 and 3 of this 2021 Act and the amendments to ORS 260.345 by**
10 **section 4 of this 2021 Act apply to any independent expenditures made or campaign finance**
11 **statements filed on or after the effective date of this 2021 Act.**

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