

HB 2323-6
(LC 2254)
4/30/21 (DRG/ps)

Requested by HOUSE COMMITTEE ON RULES (at the request of Representative Barbara Smith Warner)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2323**

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

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

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

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

9 Delete line 28.

10 Delete pages 2 and 3 and insert:

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

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

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

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

8 “260.345. (1) Any elector may file with any filing officer a written com-
9 plaint alleging that a violation of an election law or rule adopted by the
10 Secretary of State under ORS chapters 246 to 260 has occurred and stating
11 the reason for believing that the violation occurred and any evidence relat-
12 ing to it. A complaint and any evidence relating to it may be filed electron-
13 ically. A complaint alleging a violation involving the Secretary of State, a
14 candidate for the office of Secretary of State, or any political committee or
15 person supporting the Secretary of State or a candidate for the office of
16 Secretary of State may be filed with the Attorney General. The Secretary of
17 State or Attorney General shall not accept an anonymous complaint.

18 “(2) The Secretary of State by rule shall prescribe the procedure for pro-
19 cessing a complaint filed with any person other than the Secretary of State.
20 If the complaint concerns the Secretary of State, any candidate for the office
21 of the Secretary of State, or any political committee or person supporting the
22 candidacy of the Secretary of State or of another person for the office of
23 Secretary of State, the complaint and any additional information relating to
24 the complaint shall be sent to the Attorney General.

25 “(3) Upon receipt of a complaint under subsection (1) or (2) of this section
26 the Secretary of State or Attorney General immediately shall examine the
27 complaint to determine whether a violation of an election law or rule has
28 occurred and shall make any investigation the Secretary of State or Attorney
29 General considers necessary. Except as provided in this subsection, within
30 48 hours of receiving a complaint under subsection (1) or (2) of this section,

1 the Secretary of State or Attorney General shall notify the person who is the
2 subject of the complaint that a complaint has been received. If the Secretary
3 of State or Attorney General receives a complaint or complaints involving
4 25 or more individuals, political committees or petition committees in any
5 24-hour period, the Secretary of State or Attorney General need not notify
6 the persons who are the subjects of those complaints within 48 hours of re-
7 ceiving the complaints but shall notify those persons not later than 10 busi-
8 ness days after receiving the complaint or complaints.

9 “(4) If the Secretary of State believes after an investigation under sub-
10 section (3) of this section that a violation of an election law or rule has
11 occurred, the secretary:

12 “(a) In the case of a violation that is subject to a penalty under ORS
13 260.993, immediately shall report the findings to the Attorney General and
14 request prosecution. If the violation involves the Attorney General, a candi-
15 date for that office or a political committee or person supporting or opposing
16 the Attorney General or a candidate for that office, the Secretary of State
17 shall appoint another prosecutor for that purpose; *[or]*

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

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

24 “(5) Upon receipt of a complaint or report under subsection (1), (2) or (4)
25 of this section involving an alleged violation subject to a penalty under ORS
26 260.993 **or an alleged violation of section 2 of this 2021 Act**, the Attorney
27 General or other prosecutor immediately shall examine the complaint or re-
28 port to determine whether a violation of an election law has occurred. If the
29 Attorney General or prosecutor determines that a violation has occurred, the
30 Attorney General or prosecutor immediately shall begin prosecution **or civil**

1 **proceedings** in the name of the state. The Attorney General or other
2 prosecutor shall have the same powers in any county of this state as the
3 district attorney for the county.

4 “(6) Upon receipt of a complaint under subsection (1) or (2) of this section
5 involving an alleged violation of an election law or rule not subject to a
6 penalty under ORS 260.993 **or section 2 of this 2021 Act**, the Attorney
7 General shall examine the complaint to determine whether a violation of an
8 election law or rule has occurred and shall make any investigation the At-
9 torney General considers necessary. If the Attorney General believes after
10 an investigation that a violation of an election law or rule has occurred, the
11 Attorney General may impose a civil penalty under ORS 260.995.

12 “(7) In the case of an alleged violation subject to a civil penalty under
13 ORS 260.995 **or an alleged violation of section 2 of this 2021 Act**, a com-
14 plaint shall be filed by an elector under this section no later than 90 days
15 following the election at which a violation of an election law or rule is al-
16 leged to have occurred, or 90 days following the date the violation of an
17 election law or rule is alleged to have occurred, whichever is later.

18 “(8) A filing officer having reason to believe that a violation of an
19 election law or rule has occurred shall proceed promptly as though the offi-
20 cer had received a complaint. Except as provided in ORS 260.234, a filing
21 officer shall proceed under this subsection no later than two years following
22 the election at which a violation of an election law or rule is alleged to have
23 occurred, or two years following the date the violation of an election law
24 or rule is alleged to have occurred, whichever is later. If a filing officer has
25 not proceeded within two years because of fraud, deceit, misleading repre-
26 sentation or the filing officer could not have reasonably discovered the al-
27 leged violation, the filing officer shall proceed no later than five years
28 following the election at which a violation of an election law or rule is al-
29 leged to have occurred, or five years following the date the violation of an
30 election law or rule is alleged to have occurred, whichever is later.

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

2 “260.532. (1) No person shall cause to be written, printed, published,
3 posted, communicated or circulated, **including by electronic or telephonic**
4 **means**, any letter, circular, bill, placard, poster, photograph or other publi-
5 cation, or cause any advertisement to be placed in a publication, or singly
6 or with others pay for any advertisement **or circulate an advertisement**
7 **by electronic or telephonic means**, with knowledge or with reckless dis-
8 regard that the letter, circular, bill, placard, poster, photograph, publication
9 or advertisement contains a false statement of material fact relating to any
10 candidate, political committee or measure.

11 “(2) As used in subsection (1) of this section, ‘cause’ does not include the
12 broadcast of an advertisement by a radio or television station or cable tele-
13 vision company unless the advertisement is for:

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

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

18 “(3) A candidate who knows of and consents to a publication or adver-
19 tisement prohibited by this section with knowledge or with reckless disre-
20 gard that it contains a false statement of material fact, violates this section
21 regardless of whether the candidate has participated directly in the publica-
22 tion or advertisement.

23 “(4) There is a rebuttable presumption that a candidate knows of and
24 consents to any publication or advertisement prohibited by this section
25 caused by a political committee over which the candidate exercises any di-
26 rection and control.

27 “(5) Any candidate or political committee aggrieved by a violation of this
28 section shall have a right of action against the person alleged to have com-
29 mitted the violation. The aggrieved party may file the action in the circuit
30 court for any county in this state in which a defendant resides or can be

1 found or, if the defendant is a nonresident of this state, in the circuit court
2 for any county in which the publication occurred. To prevail in such an
3 action, the plaintiff must show by clear and convincing evidence that the
4 defendant violated subsection (1) of this section.

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

14 “(7) A political committee has standing to bring an action provided by
15 subsection (5) of this section as plaintiff in its own name, if its purpose as
16 evidenced by its preelection activities, solicitations and publications has
17 been injured by the violation and if it has fully complied with the provisions
18 of this chapter. In an action brought by a political committee as provided
19 by subsection (5) of this section, the plaintiff may recover economic and
20 noneconomic damages for all injury to the purpose of the committee as pro-
21 vided in subsection (6) of this section.

22 “(8) If a judgment is rendered in an action under this section against a
23 defendant who has been nominated to public office or elected to a public
24 office other than state Senator or state Representative, and it is established
25 by clear and convincing evidence that the false statement was deliberately
26 made or caused to be made by the defendant, the finder of fact shall deter-
27 mine whether the false statement reversed the outcome of the election. If the
28 finder of fact finds by clear and convincing evidence that the false statement
29 reversed the outcome of the election, the defendant shall be deprived of the
30 nomination or election and the nomination or office shall be declared vacant.

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

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

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

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

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

14 “260.695. (1)(a) If a person prints or circulates an imitation of the ballot
15 or sample ballot:

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

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

27 “(b) For purposes of this subsection, an imitation of the ballot or sample
28 ballot includes an imitation of a portion of the ballot or sample ballot.

29 **“(2)(a) As used in this subsection, ‘imitation voters’ pamphlet’**
30 **means a document that imitates the physical characteristics or ap-**

1 **pearance of a voters' pamphlet or a portion of a voters' pamphlet**
2 **published by the Secretary of State or county clerk, as defined in ORS**
3 **251.005, under ORS chapter 251 and likely misleads or confuses a rea-**
4 **sonable person as to whether the document is an official voters' pam-**
5 **phlet or a portion of an official voters' pamphlet in the absence of the**
6 **required statement.**

7 **“(b) If a person prints or circulates an imitation voters' pamphlet,**
8 **including by electronic means:**

9 **“(A)(i) The imitation voters' pamphlet shall state the following:**
10 **‘THIS IS NOT THE OFFICIAL VOTERS' PAMPHLET.’ Except as pro-**
11 **vided in sub-subparagraph (ii) of this subparagraph, the statement on**
12 **the imitation voters' pamphlet shall be in bold print that is at least**
13 **36-point type.**

14 **“(ii) For an imitation voters' pamphlet that is circulated electron-**
15 **ically, the statement described in sub-subparagraph (i) of this subpar-**
16 **agraph shall be in bold print in a typeface of contrasting color and in**
17 **a font size that is at least three times as large as the font size used**
18 **for the majority of the text in the imitation voters' pamphlet.**

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

24 **“[(2)] (3) A person may not do any electioneering, including circulating**
25 **any cards or handbills, or soliciting of signatures to any petition, within any**
26 **building in which any state or local government elections office designated**
27 **for the deposit of ballots under ORS 254.470 is located, or within 100 feet**
28 **measured radially from any entrance to the building. A person may not do**
29 **any electioneering by public address system located more than 100 feet from**
30 **an entrance to the building if the person is capable of being understood**

1 within 100 feet of the building. The electioneering need not relate to the
2 election being conducted. This subsection applies during the business hours
3 of the building or, if the building is a county elections office, during the
4 hours the office is open to the public, during the period beginning on the
5 date that ballots are mailed to electors as provided in ORS 254.470 and end-
6 ing on election day at 8 p.m. or when all persons waiting in line at the
7 building who began the act of voting as described in ORS 254.470 (10) by 8
8 p.m. have finished voting.

9 “[3] (4) A person may not obstruct an entrance of a building in which
10 ballots are issued or a place designated for the deposit of ballots under ORS
11 254.470 or any voting booth maintained under ORS 254.474 is located. This
12 subsection applies during the period beginning on the date that ballots are
13 mailed to electors as provided in ORS 254.470 and ending on election day at
14 8 p.m. or when all persons waiting in line at the building or location who
15 began the act of voting as described in ORS 254.470 (10) by 8 p.m. have fin-
16 ished voting.

17 “[4] (5) A person may not vote or offer to vote in any election knowing
18 the person is not entitled to vote.

19 “[5] (6) A person may not make a false statement about the person’s
20 inability to mark a ballot.

21 “[6] (7) A person, except an elections official in performance of duties
22 or another person providing assistance to an elector as described in ORS
23 254.445, may not ask a person at any place designated for the deposit of
24 ballots under ORS 254.470 or at any location described in ORS 254.472 or
25 254.474 for whom that person intends to vote, or examine or attempt to ex-
26 amine the person’s ballot.

27 “[7] (8) An elections official, other than in the performance of duties,
28 may not disclose to any person any information by which it can be ascer-
29 tained for whom any elector has voted.

30 “[8] (9) A person, except an elections official in performance of duties,

1 may not do anything to a ballot to permit identification of the person who
2 voted.

3 “[9] (10) An elector may not willfully leave at any place designated for
4 the deposit of ballots under ORS 254.470 or at any location described in ORS
5 254.472 or 254.474 anything that will show how the elector’s ballot was
6 marked.

7 “[10] (11) A person, except an elections official in performance of duties,
8 may not remove a ballot from any place designated for the deposit of ballots
9 under ORS 254.470 or any location described in ORS 254.472 or 254.474.

10 “[11] (12) A person, except an elections official in performance of duties
11 or a person authorized by that official, may not willfully deface, remove, al-
12 ter or destroy a posted election notice.

13 “[12] (13) A person, except an elections official in performance of duties,
14 may not willfully remove, alter or destroy election equipment or supplies,
15 or break the seal or open any sealed package containing election supplies.

16 “[13] (14) A person, except an elections official in performance of duties,
17 may not provide elections advice or attempt to collect voted ballots within
18 any building in which any state or local government elections office desig-
19 nated for the deposit of ballots under ORS 254.470 is located, or within 100
20 feet measured radially from any entrance to the building.

21 “[14] (15) A person, except an elections official in performance of duties,
22 may not establish a location to collect ballots voted by electors unless:

23 “(a) The person prominently displays at the location a sign stating: ‘NOT
24 AN OFFICIAL BALLOT DROP SITE’; and

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

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

27 “250.048. (1) A person may not pay money or other valuable consideration
28 to another person for obtaining signatures of electors on a state initiative,
29 referendum or recall petition or a prospective petition for a state measure
30 to be initiated, and a person may not receive money or other valuable con-

1 sideration for obtaining signatures of electors on a state initiative, referen-
2 dum or recall petition or a prospective petition for a state measure to be
3 initiated, unless the person obtaining the signatures:

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

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

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

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

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

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

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

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

16 “(f) If the applicant has been convicted for a criminal offense involving
17 fraud, forgery or identification theft, information relating to the circum-
18 stances of the conviction as required by the secretary;

19 “(g) A statement signed by the applicant acknowledging that the appli-
20 cant has read and understands Oregon law applicable to the gathering of
21 signatures on state initiative, referendum and recall petitions and prospec-
22 tive petitions for state measures to be initiated, as the law is summarized in
23 the training program established by the Secretary of State;

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

26 “(i) A photograph of the applicant;

27 “(j) A statement signed by a chief petitioner of each petition or prospec-
28 tive petition, or a person designated by a chief petitioner under this para-
29 graph, upon which the applicant will gather signatures acknowledging that
30 the chief petitioner is liable for violations of law or rule committed by the

1 person obtaining signatures as provided in ORS 260.561. A chief petitioner
2 may designate a person to sign a statement described in this paragraph on
3 behalf of the chief petitioner; and

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

5 “(3)(a) If an applicant complies with subsection (2) of this section, not
6 later than five business days after the applicant applies, the secretary shall
7 register the applicant and assign the applicant a registration number.

8 “(b) A person who is registered to obtain signatures on a prospective pe-
9 tition for a state measure to be initiated need not reapply for a registration
10 under this section in order to obtain signatures on a state initiative, refer-
11 endum or recall petition, except that the person shall submit a list of the
12 initiative, referendum and recall petitions on which the person will gather
13 signatures.

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

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

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

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

23 “(b) Has had a civil penalty imposed under ORS 260.995 for a violation
24 of this section, ORS 260.262, 260.555, 260.558, 260.575, 260.695 (1) **or** (2) or
25 260.715 (1) or Article IV, section 1b, of the Oregon Constitution; or

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

28 “(5)(a) Upon request of the secretary, the Department of State Police shall
29 furnish to the secretary any information that the department may have in
30 its possession regarding an applicant, including but not limited to the Law

1 Enforcement Data System established in ORS 181A.280, other computerized
2 information and any other information to which the department may have
3 access. Information obtained under this paragraph may be used to assist in
4 determining the identity of an applicant or whether an applicant has been
5 convicted of a criminal offense described in subsection (4) of this section.

6 “(b) For purposes of receiving the information described in paragraph (a)
7 of this subsection, the office of the Secretary of State is a ‘criminal justice
8 agency’ under ORS 181A.010 to 181A.350 and the rules adopted under ORS
9 181A.230.

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

13 “(6)(a) A chief petitioner shall ensure that a criminal records check is
14 conducted for each applicant seeking registration under this section to de-
15 termine whether the applicant has been convicted of any of the crimes de-
16 scribed in subsection (4)(a) of this section, or was subject to any of the
17 penalties described in subsection (4)(b) and (c) of this section.

18 “(b) The secretary by rule shall prescribe the scope of the criminal re-
19 cords check to be performed pursuant to this subsection. The applicant’s
20 criminal records check may be conducted by either the chief petitioner or the
21 applicant.

22 “(c) An applicant seeking registration under this section is required to
23 have only one criminal records check conducted for each period beginning
24 the day the applicant registers with the Secretary of State under this section
25 and ending four months before the next general election.

26 “(7) If a person receives money or other valuable consideration for ob-
27 taining signatures of electors on a state initiative, referendum or recall pe-
28 tition or a prospective petition for a state measure to be initiated and the
29 person was not registered as required under this section at the time the
30 signatures were obtained, the secretary may not include any signatures ob-

1 tained by the person in a count under ORS 250.045 (3) or 250.105 or ORS
2 chapter 249 for purposes of determining whether the petition or prospective
3 petition contains the required number of signatures of electors.

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

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

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

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

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

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

24 “(11) An organization or entity that pays money or other valuable con-
25 sideration to a person for obtaining signatures of electors on a state initi-
26 ative, referendum or recall petition or a prospective petition for a state
27 measure to be initiated shall register with the Secretary of State by:

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

29 “(b) Selecting one or more individuals who represent the organization or
30 entity to complete the training program prescribed in subsection (1) of this

1 section; and

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

3 “(A) Acknowledging that the individual has read and understands Oregon
4 law applicable to the gathering of signatures on state initiative, referendum
5 and recall petitions and prospective petitions for state measures to be initi-
6 ated, as the law is summarized in the training program established by the
7 secretary; and

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

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

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

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

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

17 “260.993. (1) The penalty for violation of ORS 260.532 is limited to that
18 provided in ORS 260.532 (6) and (8).

19 “(2) Violation of ORS 247.125 (1), 247.171 (5), 247.420 (2), 253.710, 260.402,
20 260.555, 260.558, 260.575, 260.645 or 260.665 (2) or (3) involving any action
21 described in ORS 260.665 (2)(d) to (f) or 260.715 is a Class C felony.

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

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

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

26 “260.995. (1) Except as provided in subsection (2) of this section, following
27 an investigation under ORS 260.345, the Secretary of State or Attorney
28 General may impose a civil penalty not to exceed \$1,000 for each violation
29 of any provision of Oregon Revised Statutes relating to the conduct of any
30 election, any rule adopted by the secretary under ORS chapters 246 to 260

1 or any other matter preliminary to or relating to an election, for which a
2 civil penalty is not otherwise provided.

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

5 “(a)(A) Except as provided in subparagraph (B) of this paragraph, \$1,000
6 plus the amount converted to personal use for each violation of ORS 260.407;

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

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

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

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

19 “(a) A statement of the authority and jurisdiction under which the hear-
20 ing is to be held; and

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

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

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

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

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

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

14 “(7) The secretary or Attorney General shall issue an order not later than
15 90 days after a hearing or after the deadline for requesting a hearing if no
16 hearing is held.

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

19 “(9) In the case of a civil penalty imposed under this section for a vio-
20 lation of ORS 260.407, the person against whom the penalty is assessed:

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

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

23 “(c) May not pay the civil penalty from contributions received by a can-
24 didate, a candidate’s principal campaign committee, a political committee or
25 a petition committee.”.

26
