

## HONEST ELECTIONS: FIGHT POLITICAL CORRUPTION AND REQUIRE DISCLOSURE AND TRANSPARENCY

### SECTION 1. Legislative Findings.

- (1) The democratic process has not functioned properly in Oregon for decades, in large part due to the lack of reasonable limits on political campaign contributions in races for public office. All of the provisions of this Act, including its prohibitions, limits, reporting and disclosure requirements, and enforcement and bribery provisions, are reasonable and necessary to curb the reality and appearance of corruption, including quid pro quo corruption. The provisions of this Act also ensure the right of the people of Oregon to engage in democratic self-governance through full and effective participation in public debate and Oregon's electoral processes and ensure the right of the people of Oregon to elected officials who are responsive to their constituents.
- (2) The State Integrity Investigation of the Center for Public Integrity and Public Radio International in November 2015 graded Oregon an overall "F" in systems to avoid corruption by public officials. Oregon ranked 2nd worst of the 50 states in control of "Political Financing," better than only Mississippi. Oregon's political financing system has not improved since then, except for local public offices in Portland and Multnomah County.
- (3) The 2018 candidates for Governor spent over \$40 million, more than doubling the previous record. One individual gave \$3.45 million to the Republican candidate. Both major campaigns raised 70% of their funds from contributions of \$10,000 or more, only 10% from contributions of under \$500, and only 15% from contributions of under \$1,000.
- (4) THE OREGONIAN reported that candidates for the Oregon Legislature raise and spend more in their campaigns, per capita, than in any other state, except New Jersey. The average spent in 2020 by the top 10 Oregon Senate candidates rose to over \$953,000 each and by the top 10 Oregon House candidates rose to over \$925,000 each. Some candidates spent over \$1 million, amounting to over \$80 per vote received. The bigger spending candidate in races for the Oregon Legislature has won 94% of the time.
- (5) Candidates for the Oregon Legislature receive more money (per capita) from corporations than in any other state, as documented by the series in THE OREGONIAN: *Polluted by Money: How Corporate Cash Corrupted One of the Greenest States in America* (2019). The average corporate

contribution to winning candidates for the Oregon Legislature in 2018 was \$476,000 each.

- (6) During 2016-19, Oregon candidates for Governor and the Legislature received only 9% of their funds from contributions of \$1,000 or less from individuals--a lower percentage than in all but two states (California and Illinois).
- (7) The reasonable contribution limits in this Act will not prevent candidates, political committees, and political parties from amassing the resources necessary for effective advocacy or drive their voices below the level of public notice. Candidates, committees, and parties were able to amass sufficient funds to campaign effectively:
  - (a) During the 1996 election cycle under the lower contribution limits adopted by Oregon voters as Measure 9 of 1994;
  - (b) During the 2018, 2020, and 2022 election cycles under the lower contribution limits adopted by Multnomah County voters as Measure 26-184 of 2016 and upheld by the Oregon courts as meeting the requirements of the Oregon Constitution and U.S. Constitution; and
  - (c) During the 2020 and 2022 election cycles under the lower contribution limits adopted by City of Portland voters as Measure 26-200 of 2018 and upheld by the Oregon courts as meeting the requirements of the Oregon Constitution and U.S. Constitution.
- (8) The reasonable contribution limits in this Act will increase competition for public office, enhance opportunities for challengers to win public office, and foster a greater robustness and diversity of political debate in Oregon.
- (9) Small donor contributions present a reduced risk of corruption or the appearance of corruption to the people of Oregon; groups that contribute money raised from small donor contributions also present a reduced risk of corruption.
- (10) Candidates should not be allowed to carry over campaign funds from one election cycle to another, because the accumulation of such "war chests" corrupts the election process by deterring other candidates from competing for public office and thereby unfairly entrenching incumbents in future elections. It disadvantages first-time candidates who have no carryover funds. Further, the carried over funds do not necessarily

reflect the current views of the contributors on the merits of the candidates in the later race.

- (11) Existing Oregon law requiring the reporting and disclosure of election-related spending fails to provide the information needed by voters to evaluate election-related communications.
  - (a) Existing law sets overly high monetary thresholds for triggering reporting obligations for independent spenders, resulting in influential spending by outside groups not required to disclose information to the public about the sources for their spending.
  - (b) Existing law fails to provide the public with complete information about the sources of money being spent to influence their votes by requiring the disclosure of only direct contributors and not the original sources of the contributed funds. Such limited disclosure makes it easy for the original sources of election spending to hide behind nice-sounding committee, corporation, and association names and prevents the public from obtaining the information needed to evaluate the election messages they are receiving.
- (12) The people of Oregon have the right to know the original sources of all major contributions and expenditures used to pay, in whole or in part, for communications that influence elections. This right requires prompt, accessible, comprehensible, and public disclosure of the identity of top donors who give more than \$5,000 each to fund communications that influence elections and the original sources of those monies.
- (13) The disclosure and tagline "ad is paid for by" requirements of this Act will provide more information about candidates and the persons and groups supporting or opposing them, as well as persons and groups supporting or opposing ballot measures, and will enable voters to better evaluate the credibility of advertising about candidates and ballot measures.
- (14) The reporting and disclosure requirements of this Act will also assist law enforcement officials in obtaining the information necessary to enforce the prohibitions, limitations, and requirements of this Act and other campaign finance laws in Oregon.
- (15) Oregon law currently allows anyone, including dark money groups, to anonymously distribute political advertisements that generically promote, support, oppose, or attack the candidates of a political party. Current law does not (a) require the persons that paid to provide or present such advertisements to publicly disclose their contributions and expenditures or (b) require that such advertisements name those persons or their

sources of original funds. Research shows that most voters depend upon political party labels when choosing candidates to support or oppose in partisan races, so advertisements that generically promote, support, oppose, or attack the candidates of a political party can significantly influence the outcome of candidate elections. Such advertisements should be subject to reporting requirements and "ad is paid for by" tagline requirements.

- (16) Oregon law currently allows public officeholders to effectively choose their successors by (1) not requiring incumbents to file their candidacies for re-election any earlier than the deadline for anyone else to file to run for the same public office and (2) allowing incumbents to withdraw their candidacies up to three days after the candidacy filing deadline for anyone else. Potential candidates for the office are discouraged from filing, because it would mean running against a candidate with the enormous advantages of incumbency. Then the incumbent notifies only the favored successor that she is not going to file a candidacy for that office or is going to withdraw her candidacy, thus enabling the favored successor a clear path to nomination and election. This anti-competitive tactic should be eliminated by requiring incumbents to file their candidacy papers (or to withdraw their candidacies) seven days before the corresponding filing deadline for others for the same office.

**SECTION 2. Definitions.** Terms in this Act shall have the definitions provided in ORS Chapter 260, except as indicated in this section and in other sections of this Act.

- (1) "Business entity" means any entity which is legally separate from an individual and is operated for economic gain, including any such corporation, partnership, limited liability company, or proprietorship.
- (2) "Campaign media spending":
  - (a) Means spending monies to pay for:
    - (A) One or more political advertisements; or
    - (B) Research, design, production, polling, data analytics, mailing or social media list acquisition or any other activity conducted in preparation for or in conjunction with one or more political advertisements.
  - (b) Does not include spending monies for any communication a membership organization makes to its members, if the membership

organization is not organized primarily for the purpose of influencing one or more elections.

- (c) Includes spending, as defined by paragraphs (a) and (b) of this subsection, made by entities established, financed, maintained, or controlled by the person or by substantially the same group of persons.
- (3) "Candidate campaign media spending" means campaign media spending relating to:
- (a) one or more candidates for public office; or
  - (b) generically the candidates of a political party.
- (4) "Candidate committee" means a political committee that is the principal campaign committee of a candidate.
- (5) "Candidate election political committee" means a candidate committee, a multicandidate committee, a political party multicandidate committee, a legislative caucus committee, or a small donor committee. It does not include an independent expenditure political committee, a measure committee, a petition committee, or a recall committee.
- (6) "Contribute," "contribution," "expend" and "expenditure," notwithstanding ORS 260.005 and 260.007--
- (a) Do not include funds provided to a candidate committee by a public body as defined in ORS 174.109 pursuant to a system of public funding of campaigns in which the candidate participates; and
  - (b) Do include funds or in-kind services received for accounting, recordkeeping, or legal services.
- (7) "Election cycle" means:
- (a) Generally, the period beginning the first date after the date of an election at which a candidate is elected and ending at midnight of the date of the next such election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy;

- (b) For any recall election: the period beginning the date that the recall election is called or declared and ending at midnight of the date of the recall election; and
  - (c) For any special election called to fill a vacancy: the period beginning the date that the special election is called or declared and ending at midnight of the date of the election.
- (8) "Election period" means:
  - (a) Generally:
    - (A) The period beginning the first date after the date of an election at which a candidate is elected and ending at midnight of the date of the next primary election for that same office, disregarding any intervening recall or special election for that office; and
    - (B) The period beginning the first date after the date of a primary election for an office and ending at midnight of the date of the next general election for that same office, disregarding any intervening recall or special election for that office.
  - (b) For any recall election: the period beginning the date that the recall election is called or declared and ending at midnight of the date of the recall election; and
  - (c) For any special election called to fill a vacancy: the period beginning the date that the special election is called or declared and ending at midnight of the date of the election.
- (9) "Entity" means any corporation, partnership, limited liability company, proprietorship, candidate committee, political committee, labor organization, association, firm, partnership, joint stock company, club, proprietorship, firm, enterprise, franchise, association, organization or other combination of persons that has collective capacity and is legally separate from other persons.
- (10) "Independent expenditure political committee" means a political committee that makes independent expenditures and does not make contributions to or coordinated expenditures with any candidate election political committee, notwithstanding ORS 260.005(18)(b)(B).

- (11) "In-kind contribution" means a contribution of a good or service, other than money, having value.
- (12) "In-kind personal services" means providing paid staff time to:
- (a) Perform canvassing, phone banking, and text banking;
  - (b) Perform volunteer outreach, management, and coordination activities;
  - (c) Identify voter models for campaign communications;
  - (d) Provide interpretation and translation services;
  - (e) Provide security at events;
  - (f) Care for children or persons who are elderly, disabled, or ill; or
  - (g) Provide transportation of candidate and campaign staff.
- (13) "Individual" means a human being.
- (14) "Labor organization" means an organization of any kind, or an agency or an employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.
- (15) "Legislative caucus committee" means a political committee established by a caucus of a political party in the Oregon Senate or House of Representatives and controlled by an elected leader of the caucus by which it was established. A political party may not establish more than one legislative caucus committee in each chamber of the Oregon Legislature.
- (16) "Local public office" means any county, district, or city office or other government position that is filled by the electors, except a state public office, a national or federal office, or a political party office.
- (17) "Measure campaign media spending" means campaign media spending relating to one or measures.
- (18) "Measure committee" means a political committee that supports or opposes one or more ballot measures.

- (19) "Member of the household" shall have the definition provided by ORS 244.020(11).
- (20) "Membership organization" means an organization that:
- (a) Is tax-exempt under Internal Revenue Code § 501(c)(4) as a social welfare organization or § 501(c)(5) as a labor organization and has been in existence for at least 18 months;
  - (b) Complies with federal tax law governing the organization's ability to engage in political activity;
  - (c) If tax-exempt under Internal Revenue Code § 501(c)(4):
    - (A) Has received a determination letter from the Internal Revenue Service, designating it exempt from taxation under Internal Revenue Service Code § 501(c)(4);
    - (B) Has applied for such a determination letter not fewer than 18 months ago; or
    - (C) Is fiscally sponsored by an organization with a valid determination letter under Internal Revenue Service Code § 501(c)(4).
  - (d) If tax-exempt under Internal Revenue Code § 501(c)(4), has registered as an Oregon public benefit corporation and as a nonprofit organization regulated by the Oregon Department of Justice; and
  - (e) Has individuals as members, each of whom:
    - (A) Has taken action to join the organization; and
    - (B) For each year of membership has either paid monetary membership dues or has made a donation of money or volunteer time or other thing of value to demonstrate ongoing engagement with the organization.
- (21) "Miscellaneous committee" means a political committee that supports or opposes one or more candidates or measures or both.
- (22) "Multicandidate committee" means a political committee with a major purpose of supporting or opposing one or more candidates for election to public office in Oregon.



- (23) "Non-statewide state public office" means a non-statewide public office of the State of Oregon, including Representative and Senator in the Legislature, circuit court judge, and district attorney.
- (24) "Political party" means an entity that maintains legal status as a major political party under ORS 248.006 or as a minor political party under ORS 248.008, including the state central committee, all county or local committees, and any entity that is directly or indirectly established, financed, maintained, or controlled by such entity or its local subdivisions.
- (25) "Political party multicandidate committee" means a political committee that:
  - (a) Is established and maintained by a political party or a subdivision of a political party; and
  - (b) Exclusively supports or opposes one or more candidates for election to public office in Oregon.
- (26) "Public office," notwithstanding ORS 260.005, means any state, county, district, or city office or other government position that is filled by the electors, not including any national or federal office or political party office.
- (27) "Relative" shall have the definition provided by ORS 244.020(16).
- (28) "Small donor committee" means a political committee that has never accepted a contribution in excess of those allowed by subsection (9) of Section 3 of this Act. A political committee may continue to qualify as a small donor committee, if it has returned, unspent, every contribution in violation this subsection no later than thirty (30) calendar days after the contribution was received.
- (29) "State public office" means a non-statewide state public office or a statewide public office.
- (30) "Statewide public office" means a public office of the State of Oregon that is voted on by electors in all counties of the state.

### **SECTION 3. Contribution Limits.**

- (1)
  - (a) A candidate election political committee may accept contributions only from the sources and in the amounts authorized by this Act.
  - (b) No individual or entity shall make a contribution to a candidate election political committee, except as specifically allowed to be received under this Act.
  - (c) Political committees other than candidate election political committees may not make contributions to candidate election political committees.
- (2) A candidate committee may accept only the following contributions during any election period:
  - (a) From an individual, not more than:
    - (A) Two thousand dollars (\$2,000), if seeking statewide public office;
    - (B) One thousand dollars (\$1,000), if seeking non-statewide state public office; or
    - (C) Five hundred dollars (\$500), if seeking local public office.
  - (b) From any other candidate committee or multicandidate committee, not more than:
    - (A) Two thousand dollars (\$2,000), if seeking statewide public office;
    - (B) One thousand dollars (\$1,000), if seeking non-statewide state public office; or
    - (C) Five hundred dollars (\$500), if seeking local public office.
  - (c) From all of the multicandidate committees of any one political party in the aggregate, not more than:
    - (A) Fifty thousand dollars (\$50,000), if seeking statewide public office;
    - (B) Ten thousand dollars (\$10,000), if seeking non-statewide state public office; or

- (C) Ten thousand dollars (\$10,000), if seeking local public office.
  - (d) From any legislative caucus committee, not more than:
    - (A) Five thousand dollars (\$5,000), if seeking state public office;  
or
    - (B) One thousand dollars (\$1,000), if seeking local public office.
  - (e) From any small donor committee, not more than ten (10) times the limits on contributions from a multicandidate committee to the candidate.
- (3) A candidate committee may also accept the following contributions during any election period from any membership organization:
- (a) Monetary contributions in an aggregate amount not to exceed \$10,000, which may consist of any combination of:
    - (A) Up to ten thousand dollars (\$10,000) of actual membership dues or donations received by the membership organization from individuals who are members and who reside in Oregon, are enrolled at an institution of education in Oregon, or are employed to work in Oregon, not to exceed two hundred fifty dollars (\$250) from any member; and
    - (B) Up to five thousand dollars (\$5,000) from any source; and
  - (b) In-kind contributions consisting of in-kind personal services not exceeding a value of \$10,000.
- (4) A membership organization may substitute in-kind personal services of equivalent value in place of the monetary contribution allowed by subsection (3)(a) of this section, provided that the services consist of voter canvassing or coordination of volunteers.
- (5) All contributions made by membership organizations established, financed, maintained, or controlled, directly or indirectly, by the same person or the same coordinated group of persons shall be considered to have been made by the same membership organization. Such organizations shall be considered joint.
- (a) Two or more membership organizations shall be considered financed by the same person or the same coordinated group of persons, if such organizations have received, directly or indirectly,

more than 40% of their funding since the most recent general election from the same source of original funds or from the same coordinated group of sources of original funds. If a person or a coordinated group of persons provided original funds, directly or indirectly, constituting more than 50% of a membership organization's funds as of the day after the most recent general election, such funds shall be considered to have been provided since the most recent general election.

- (b) Any person or coordinated group of persons that holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares of 50% or more of the total equity or outstanding voting shares of any entity shall be considered to control such entity.
  - (c) When a membership organization makes a contribution (other than to a measure committee or petition committee), the organization shall make best efforts to identify all other joint organizations under this subsection to the recipient of the contribution. The recipient may rely on such information in determining whether the recipient may lawfully receive the contribution, unless the recipient has reason to know that such information is false or unreliable.
- (6) All of the political party multicandidate committees of any one political party may accept only the following aggregate contributions during any calendar year:
- (a) From any individual, not more than ten thousand dollars (\$10,000);
  - (b) From any candidate committee or multicandidate committee, not more than ten thousand dollars (\$10,000); and
  - (c) From any membership organization, not more than three thousand dollars (\$3,000).
- (7) A legislative caucus committee may accept only the following contributions during any calendar year:
- (a) From any individual, not more than one thousand dollars (\$1,000);
  - (b) From any candidate committee of a candidate seeking state public office or any multicandidate committee, not more than five thousand dollars (\$5,000); and

- (c) From any candidate committee of a candidate seeking local public office, not more than one thousand dollars (\$1,000).
- (8) A multicandidate committee may accept only the following contributions during any calendar year:
- (a) From any individual, not more than one thousand dollars (\$1,000); and
  - (b) From any candidate committee or other multicandidate committee, not more than one thousand dollars (\$1,000).
- (9) A small donor committee may accept contributions only from individuals and in an amount not exceeding two hundred fifty dollars (\$250) in a calendar year from any individual.
- (10) No individual under sixteen (16) years of age shall make a contribution in excess of five hundred dollars (\$500) per calendar year to any single candidate election political committee.
- (11) No foreign national, foreign corporation, or foreign entity shall, directly or indirectly, make or offer to make a donation or a disbursement for campaign media spending or a contribution or expenditure. A foreign national is a foreign principal, as defined by 22 U.S.C. § 611(b), but shall not include any individual who is a citizen of the United States, who is a national of the United States, who is lawfully admitted for permanent residence to the United States, or who resides in Oregon. A foreign corporation or foreign entity includes:
- (a) A corporation or other combination of persons of which one or more foreign nationals own more than 20% in aggregate of its equity or voting shares, disregarding equity or voting shares held through a United States widely-held diversified fund, such as a mutual fund that has more than 100 participants;
  - (b) A corporation or other combination of persons in which any foreign national participates in the decision-making process regarding the entity's contributions, campaign media spending disbursements, or expenditures; or
  - (c) An Internal Revenue Code § 501(c)(4) organization whose aggregate donations from foreign nationals is 20% or more of its gross receipts in the most recent taxable year.

- (12) The contribution limits in this section do not apply to a candidate's personal contributions or expenditures to assist the candidate's campaign.
- (13) All expenditures by a candidate in support of the candidate's election are contributions to the candidate's candidate committee.
- (14) All contributions to a candidate's campaign shall be made to the candidate's principal campaign committee. All expenditures by a candidate's campaign for public office shall be made by the candidate's principal campaign committee.
- (15) The contribution limits in this section do not apply to funds received and spent on accounting or recordkeeping or legal costs, at customary market rates, directly related to ensuring compliance with the requirements of this Act, ORS Chapter 259, ORS Chapter 260, or any local campaign finance requirements. Such funds must be:
  - (a) Accounted for separately and must be spent only on compliance expenses, including banking or merchant fees; and
  - (b) Must be included in statements of contributions and expenditures required of political committees and independent spenders by ORS Chapter 260 or other law.
- (16) A political committee shall not contribute to any other political committee any amount in accordance with instructions from a contributor that some or all of the contribution be contributed to the campaign of another candidate or to a political committee. The penalty for violation of this provision is forfeiture of the amount contributed, in addition to penalties that may be assessed under other provisions of law.
- (17) An entity may make independent expenditures in support of or opposition to a candidate, even if it makes coordinated expenditures with or in-kind contributions to a candidate who is supported by (or whose opponent is opposed by) its independent expenditures, so long as an effective firewall is maintained. An entity who relies upon a firewall bears the burden of proof of showing that the firewall was effective.
  - (a) Any firewall must:
    - (A) Separate the entity's staff and agents who provide in-kind contributions or coordinated expenditures from other staff and agents who make suggestions or decisions about

independent expenditures that promote or support a candidate or attack or oppose a candidate's opponent;

- (B) Forbid an entity's owners, executives, managers, and supervisors from simultaneously overseeing the strategy and decisions made by staff or agents separated by a firewall regarding contributions and expenditures, provided that the owners, executives, managers, and supervisors may participate in decisions to set overall budget allocations for the entity;
  - (C) Prohibit the flow of strategic non-public information between staff and agents who are separated by the firewall; and
  - (D) Be in writing and distributed to all relevant staff and agents before any relevant work is performed regarding both the general firewall policy and any specific firewall created pursuant to such a policy, and provided to the Secretary of State upon request.
- (b) Notwithstanding subparagraph (a)(A) of this subsection, a firewall need not separate the work of volunteers or non-supervisory staff engaged exclusively in direct voter contact, provided that they follow the instructions of, and do not share strategic non-public information with, their supervisors who are separated by a firewall.
- (18) On January 1 of each odd-numbered year, the Secretary of State shall adjust the dollar amounts set forth in this section by the cumulative change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor, since the previous adjustment. The adjustments shall be rounded to the nearest twenty dollar (\$20) increment.

#### **SECTION 4. Separate Segregated Political Committee Funds.**

Any business entity, labor organization, or nonprofit entity may establish or administer a separate, segregated fund that operates as a political committee, if:

- (1) The fund files as a multicandidate committee in the manner set forth in ORS 260.042 and files all reports required of a political committee;
- (2) The fund consists solely of voluntary contributions from the individual employees, officers, shareholders or members of the entity or labor

organization, with the aggregate amount contributed by each individual conforming to the limits set forth in Section 3 of this Act, including subsection (8) of Section 3; and

- (3) Any solicitation for contributions directed to employees of an entity states that there is no required contribution and that the employee's decision to contribute or not contribute will not affect the employee's employment and will not be disclosed to the employee's supervisors or managers.

## **SECTION 5. Definitions for Disclosure and Tagline "Ad is Paid for by" Requirements.**

- (1) "Anonymous source" means any source of funds or contributions for which the recipient does not have the name and address of the person providing the funds or contributions.
- (2) "Business income" means funds received by a person in commercial transactions in the ordinary course of the person's regular trade, business, or investments. It does not include contributions or donations, except for membership or union dues or donations paid to the person to the extent such dues or donations do not exceed two thousand five hundred dollars (\$2,500) from any person in any calendar year.
- (3) "Covered person" means any person:
  - (a) Whose total campaign media spending or acceptance of in-kind contributions that enable campaign media spending, or a combination of both, in a calendar year is more than:
    - (A) Ten thousand dollars (\$10,000) relating to a candidate for statewide public office or an aggregate of fifty thousand dollars (\$50,000) relating to more than one candidate for statewide public office;
    - (B) Five thousand dollars (\$5,000) relating to a candidate for public office other than statewide public office or an aggregate of twenty-five thousand dollars (\$25,000) relating to more than one candidate for public office other than statewide public office;
    - (C) An aggregate of ten thousand dollars (\$10,000) relating to one or more measures in local government jurisdictions each of which has a population of less than 60,000;



- (D) An aggregate of thirty thousand dollars (\$30,000) relating to one or more measures in a local government jurisdiction each of which has a population of 60,000 or more;
  - (E) An aggregate of fifty thousand dollars (\$50,000) relating to one or more statewide measures or petitions; or
  - (F) An aggregate of fifty thousand dollars (\$50,000) relating to the candidates of a clearly identified political party; and
- (b) Who has received more than \$5,000 in the aggregate in a calendar year from any one person.
- (4) "Independent campaign spending" means campaign media spending undertaken independently, not with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of a candidate or any political committee or agent of a political committee supporting or opposing a candidate or a measure.
- (5) "Intermediary" means a person which contributes, donates, or transfers funds that are not the person's original funds.
- (6) "Major source" means any person which has provided more than five thousand dollars (\$5,000) of original funds during a calendar year to a covered person, either directly or through intermediaries.
- (7) "Original funds" means business income or personal funds.
- (8) "Personal funds" means:
- (a) Income received by an individual, including:
    - (A) Salary and other earned income from bona fide employment;
    - (B) Interest, dividends and proceeds from the individual's personal investments; and
    - (C) Bequests to the individual, including income from trusts established by bequests.
  - (b) Exception: "Personal funds" does not mean any asset or income received from any person for the purpose of influencing any election.

- (9) "Physical harm exception" means that the identity of a source of original funds is not subject to the requirements of the specified subsection, if:
- (a) The source's identity as a person making contributions or expenditures is otherwise protected from disclosure by law or a court order; or
  - (b) The source demonstrates to the Secretary of State that there is a reasonable probability that public knowledge of the source's identity would subject the source or the source's family to a serious risk of physical harm.
- (10) "Political advertisement" means a public communication that:
- (a) Expressly advocates for or against the nomination or election of a candidate or the approval or disapproval of a measure;
  - (b) Promotes, supports, attacks, or opposes a candidate preceding an election involving such candidate;
  - (c) Promotes, supports, attacks, or opposes generically a political party's candidates preceding an election involving such candidates;
  - (d) Refers to a clearly identified candidate and is published or disseminated to the relevant electorate within 60 calendar days before a primary election, 150 calendar days before a general election or 90 calendar days before an election other than a primary election or a general election;
  - (e) Refers generically to the candidates of a clearly identified political party and is published or disseminated to the relevant electorate within 150 calendar days before a general election or 90 calendar days before an election other than a primary election or a general election; or
  - (f) Promotes, supports, attacks, or opposes the placement of or approval of a measure before the voters of the state or any local jurisdiction, including any recall measure.
- (11) "Prominently disclose" means:
- (a) The disclosure is readily comprehensible to a person with average reading, vision and hearing faculties;

- (b) If the political advertisement appears or is distributed more than 14 days prior to the date of the election, the disclosure is current to within ten (10) days of the printing of printed material or within five (5) days of the sending of electronic text or email or the posting of information on the internet or the transmitting of a video or audio public communication;
- (c) If the political advertisement appears or is distributed during the 14-day period prior to the date of the election, the disclosure is current to within two (2) days of the printing of printed material or the sending of electronic text or email or the posting of information on the internet or the transmitting of a video or audio public communication; and
- (d) The disclosure meets these requirements:
  - (A) For a printed public communication, a printed disclosure in a typeface of clearly contrasting color and in a font size that is at least as large as the font size used for the majority of the text in the printed material;
  - (B) For an audio public communication, an auditory disclosure that is spoken clearly at a maximum rate of five words per second; however, live audio communications by an individual through a phone bank or canvas need only identify the name of the covered person responsible for the communication and the covered person's largest major source of funding during the current calendar year;
  - (C) For live audio public communication through a canvas, no script is required if the canvasser is delivering a printed public communication containing the "ad is paid for by" tagline required by subsections (7) - (13) of Section 6 of this Act, and the canvasser is an unpaid volunteer;
  - (D) For a video public communication, a visual disclosure that is readable without the use of closed captioning and is visible for four or more seconds with an auditory disclosure conforming to the requirements of subparagraph (B) of this paragraph;
  - (E) For an internet or electronic public communication:
    - (i) For a text or graphic communication, a visual disclosure that has a contrast ratio of at least 7:1 and

a font size that is at least as large as the font size used for the majority of the text used in the communication;

(ii) For an audio communication, an auditory disclosure that conforms to the requirements of subparagraph (B) of this paragraph (d);

(iii) For a video communication, a visual disclosure that conforms to the requirements of subparagraph (D) of this paragraph (d) with an auditory disclosure that conforms to the requirements of subparagraph (B) of this paragraph (d), except a video communication that is shorter than 10 seconds may omit the auditory disclosure; and

(F) For a billboard or printed sign, the disclosure appears in a typeface of clearly contrasting color and occupies not less than twenty percent (20%) of the space; and

(G) For any other type of communication, the disclosure at least as clear and conspicuous as the disclosure specified in the other subparagraphs of this paragraph (d).

(12) "Public communication" means a paid communication by means of:

(a) Broadcast, cable, satellite, or internet or other digital method, including web sites, text messages, mass emails, or social media posts; and

(b) Newspaper, magazine, outdoor advertising facility, signs, mass mailing, phone banking, text banking, robocalling, canvassing, or any other form of general public political advertising or marketing, regardless of medium.

(13) "Public communication" does not include:

(a) Small items worn or carried by persons (such as buttons, pins, stickers, or pens), bumper stickers, signs smaller than 8 square feet, or any communication where the required disclosure would violate federal law or regulations;

(b) Communications with a fair market value of less than one thousand dollars (\$1,000) for the entire placement of the communication plus substantially similar communications (not the

value or cost per view or per click or per action or per message or per email or per call or the like), if the person paying for or responsible for the content of the communication has spent less than five thousand dollars (\$5,000) during a calendar year on campaign media spending;

- (c) Communications between an organization or its affiliate and its employees, members, officers, board members, or stockholders;
- (d) Bona fide news stories, commentaries, or editorials distributed through the facilities of any media organization, including any television or radio station, newspaper, magazine, or other regularly published periodical; provided, that the media organization:
  - (A) Is not paid by any person or entity for distributing the news story, commentary, or editorial, apart from normal advertisers;
  - (B) Is not owned or controlled by one or more candidates or their relatives or members of their households or by one or more political committees or political parties; and
  - (C) Does not distribute the news story, commentary, or editorial by unsolicited mailings or other means of distribution not requested by the recipient, including any paid advertisement in any other medium; or
- (e) Phone banking or text banking, provided that at least 80 percent of such communications are made by unpaid volunteers and do not exceed more than ten thousand (10,000) substantially similar calls or text messages within any 10-day period. In applying this provision:
  - (A) The use of paid staff to support or supervise volunteers making such communications shall not cause such communications to be public communications.
  - (B) The disbursement of funds for technology or equipment, such as an autodialer, to assist individuals in making such live communications shall not cause such communications to be public communications.
  - (C) This exception does not include robocalls, automated text messages, or any other telephonic communications that are prerecorded in whole or in part.

## **SECTION 6. Disclosure and Tagline "Ad is Paid For by" Requirements.**

- (1) In addition to all applicable campaign finance reporting requirements, including those in ORS Chapter 260:
  - (a) Any person that has political campaign activity as a major purpose that (1) spends in excess of one thousand dollars (\$1,000) in a calendar year for independent campaign spending and (2) is not registered as an Oregon political committee shall register an "independent expenditure political committee," shall file a statement of organization under ORS 260.042, and shall file the statements of contributions and expenditures required of political committees by ORS 260.057 or 260.078 on the schedules required by those sections. Those statements shall include all of the independent expenditures made by the person during the calendar year.
  - (b) Any person not having political campaign activity as a major purpose that spends in excess of one thousand dollars (\$1,000) in a calendar year for independent campaign spending:
    - (A) May comply with subsection (1)(a) of this section; or
    - (B) Need not form a political committee but shall file the statements of contributions and expenditures required of political committees by ORS 260.057 or 260.078 on the schedules required by those sections for the calendar year in which the spending occurs.
- (2) Any person required to file statements of contributions that receives from a single source during a calendar year aggregate funds in excess of ten thousand dollars (\$10,000) shall file a statement for such contribution within seven (7) calendar days of receiving it.
- (3) Any statement of contributions filed by a covered person shall include the following information, if not previously reported:
  - (a) The identity of each person who contributed, directly or indirectly, more than \$5,000 in original funds in the calendar year to the reporting person and the date and amount of each such contributor's contributions; and
  - (b) The identity of persons who acted as intermediaries by transferring, in whole or part, original funds to the reporting person

and the date, amount, and source (original and intermediate) of such transferred funds.

- (c) This subsection (3) is subject to the physical harm exception.
- (4) Any person who makes a contribution in excess of five thousand dollars (\$5,000) in the aggregate during a calendar year to a covered person must inform the covered person of the identity of the sources of original funds being transferred exceeding two thousand five hundred dollars (\$2,500) from any source, the amount of such source's original funds being contributed, and any intermediaries who previously transferred the original funds.
- (a) The contributor must provide this information within ten (10) calendar days of the funds becoming available for campaign media spending. During the shortened seven (7) calendar day reporting period before an election, as set forth in ORS 260.057(3), the contributor must provide this information within four (4) calendar days of the funds becoming available for campaign media spending.
  - (b) The contributor must maintain these records for at least five (5) years and provide them, upon request, to appropriate government entities.
  - (c) The contributor must only disclose the identity of sources of original funds up to the amount contributed to the covered person which may be used for campaign media spending.
  - (d) For contributions made by membership organizations to candidate committees, the contributing membership organization shall be considered the source of original funds for such contributions, provided that the contributions do not exceed the limits on such contributions under Section 3(3) of this Act.
  - (e) The contributor is not required to disclose sources of original funds for contributions consisting of in-kind contributions of polling services or polling results, provided that the polling funded by the contributor contacts no more voters than the greater of 2,000 voters or one percent of the relevant electorate. This exception does not apply to any poll or series of contacts with voters that promotes, supports, attacks, or opposes a candidate for public office, even if the purpose of the poll or contacts purports to be measuring public opinion.

- (f) Original funds from the following sources may not be contributed to or transferred to a covered person for campaign media spending in support of or opposition to a candidate:
  - (A) Donations or grants received from charitable organizations that are tax exempt under Internal Revenue Code § 501(c)(3); or
  - (B) Donations or grants received from foundations and other persons that have prohibited the use of funds for candidate campaign media spending.
- (g) Original funds from the following sources may not be contributed to or transferred to a covered person for campaign media spending in support of or opposition to a measure: donations or grants received from foundations and other persons that have prohibited the use of funds for measure campaign media spending.
- (h) This subsection (4) is subject to the physical harm exception.
- (5) Except for a candidate election political committee that submits statements of contributions and expenditures required by ORS 260.057 or 260.078 and complies with the contribution limits set forth in this Act, before a covered person may use or transfer a donor's monies for campaign media spending:
  - (a) The person must have notified the donor that its donated monies may be used for campaign media spending in Oregon and that the donor may opt out of having the donation so used.
  - (b) The notice must:
    - (A) Inform donors that their monies may be used for campaign media spending in Oregon and that information about donors and the original sources of their donations may have to be reported to the appropriate government authorities in Oregon for public disclosure;
    - (B) Inform donors that they can each opt out of having monies used or transferred for candidate campaign media spending in Oregon, measure campaign media spending in Oregon, or both, by notifying the recipient of the donation in writing within ten (10) calendar days after receiving the notice; and



- (C) Comply with rules adopted by the Secretary of State to ensure that the notice is clear and that it accomplishes the purposes of this section.
  - (c) The notice need not be sent to a donor who has consented in writing to the use of the donated funds for candidate campaign media spending, measure campaign media spending, or both.
  - (d) The recipient may designate any donor as having opted out of having its funds used for either candidate or measure campaign media spending, or both, provided that such donor's funds are not used for the prohibited campaign media spending.
- (6) Funds for which the donor has opted out are not subject to the reporting requirements of subsections (3) - (5) of this section or the "ad is paid for by" tagline requirements of subsections (7) - (13) of this section.
- (7) Each political advertisement shall include an "ad is paid for by" tagline that prominently discloses the names of the persons that paid to provide or present it.
- (8) Each political advertisement by one or more covered persons shall include an "ad is paid for by" tagline that prominently discloses the information specified below for each of the four major sources providing the largest amounts of original funds during the current calendar year to the covered persons.
- (a) This information shall be introduced by language similar to "The top donors who helped pay for this ad are \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_."
  - (b) This subsection (8) is subject to the physical harm exception.
  - (c) The information shall include for each of the four major sources:
    - (A) The name of the major source; and
    - (B) The types of businesses from which the major source has obtained a majority of income over the previous 5 years, with each business identified by the most accurate name associated with its 6-digit code of the North American Industry Classification System (NAICS).
    - (C) Exception: Any such disclosure on a billboard or printed sign may include the required information only for the major

source providing the largest amount of funding to each of the advertisers during the current election cycle.

- (9) The four largest major sources shall be determined by calculating the four donors of the most original funds, directly or indirectly, during the calendar year to the covered persons that are paying for the political advertisement.
  - (a) If fewer than four sources of funds qualify as major sources, an intermediary who transferred, directly or indirectly, more than \$5,000 to the covered persons during the calendar year shall be treated as a source of original funds.
  - (b) Major sources which have contributed identical amounts shall be ranked in order of which most recently provided funds to the covered persons.
  - (c) A covered person and persons acting in concert with a covered person shall not create or use another political committee or entity to avoid the disclosure of any person, business entity, or committee as a major source.
- (10) Every political advertisement related to a candidate's campaign and for which the covered person is a candidate committee shall prominently disclose the amount that the candidate has contributed to the candidate committee during the election cycle, if that amount exceeds twenty thousand dollars (\$20,000) in a statewide contest or five thousand dollars (\$5,000) in any other contest.
- (11) In the case of any internet or electronic public communication which is disseminated through a medium in which the provision of all of the required information specified in subsection (8) of this section is not technologically possible, or the communication consists of a text message over a cellular telephone system, the communication shall, in a clear and conspicuous manner:
  - (a) state the name of the covered person paying for or responsible for the content of the political advertisement;
  - (b) state the name of the covered person's largest major source; and
  - (c) provide a means for the recipient of the communication to immediately obtain the remainder of the information required under subsection (8) of this section with minimal effort, not to exceed one

click, and without receiving or viewing any additional material other than such required information.

- (12) A covered person shall not use funds from anonymous sources to pay for a political advertisement. An intermediary shall not convey funds from anonymous sources to a covered person.
- (13) Any local government may adopt disclosure and "ad is paid for by" tagline requirements that are more stringent than those required by this Act. Such local government requirements shall not reduce the applicability of the requirements of this Act.

## **SECTION 7. Voters' Pamphlet.**

- (1) The Secretary of State shall maintain an online internet website voters' pamphlet that displays all of the information that appears in the printed voters' pamphlet. The online voters' pamphlet shall appear not later than 45 days prior to the pertinent election.
- (2) The Secretary of State shall maintain an online internet website:
  - (a) The website shall continuously display the top ten major sources of original funds, in aggregate during the current calendar year and during the previous calendar year, to:
    - (A) Each candidate committee, petition committee, multicandidate committee, legislative caucus committee, political party multicandidate committee, and measure committee; and
    - (B) Each independent expenditure political committee and maker of independent expenditures.
  - (b) The website shall also display for each such independent expenditure political committee or maker of independent expenditures:
    - (A) The candidates, petitions, and measures supported or opposed by each such committee or maker; and
    - (B) The amounts expended regarding each such candidate, petition, or measure.

- (c) For each major source listed the website shall display the information required by subsection (8) of Section 6 of this Act.
  - (d) The statement of each candidate in the online voters' pamphlet shall link to this information about the candidate.
  - (e) The printed voters' pamphlet shall refer to this website at the bottom of each candidate statement.
- (3) Any candidate for public office who agrees that the candidate's committee shall expend less than five thousand dollars (\$5,000) during the election period shall be entitled to file a statement for the corresponding primary, general, or special election voters' pamphlet without payment of a fee. If expenditures by the candidate's committee exceed that amount, the committee shall remit to the proper filing officer the fee that would otherwise have been required.
- (4) A candidate statement for the state voters' pamphlet or county voters' pamphlet under ORS Chapter 251 may include up to 650 words of text or, in the alternative, may consist of a one-page PDF file (printed area 7.5 inches width by 10 inches height) containing the candidate's portrait, all of the required information, and the additional information provided by the candidate.

## **SECTION 8. Carryover of Campaign Funds Across Election Cycles.**

- (1) As of the end of the applicable election cycle, any unexpended moneys that remain in the accounts of a candidate committee may be used only as follows:
- (a) To refund contributions to contributors in amounts not exceeding the aggregate contribution received from each during the election cycle;
  - (b) To transfer any amount to the Campaign Finance Regulation Fund;  
or
  - (c) To pay for legitimate expenses allowed by ORS 260.407, except as provided in subsection (2) of this section.
- (2) Notwithstanding ORS 260.407, any unexpended moneys may not be used to:

- (a) Pay compensation to the candidate or any relative the candidate or any member of the candidate's household;
  - (b) Make a purchase from a business or entity owned by the candidate or a relative of the candidate or any member of the candidate's household;
  - (c) Make a contribution to the campaign of another candidate or candidate election political committee, except as allowed by Section 3 of this Act;
  - (d) Make a contribution to any political party, except as allowed by Section 3(6) of this Act;
  - (e) Pay any legal expenses incurred by the candidate in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of the duties of the person as a candidate or public official; or
  - (f) Make a donation to any non-governmental person or entity, except a donation of \$10,000 or less to an organization that is tax exempt under Internal Revenue Code § 501(c)(3) or a donation to cover the cost to attend an event sponsored by a nonprofit organization, up to the reasonable advertised cost for ten (10) persons to attend the event.
- (3) As of 60 calendar days after the end of the applicable election cycle, no candidate committee shall carry forward unexpended funds in excess of:
- (a) \$40,000 for a candidate for statewide public office;
  - (b) \$20,000 for a candidate for state senate;
  - (c) \$10,000 for a candidate for state representative; or
  - (d) for a candidate for any other public office, the greater of \$5,000 or five cents per registered voter in the relevant electorate.
- (4) At the time a candidate files a declaration of candidacy for any public office or otherwise again becomes a candidate for public office, the funds carried over from a previous election cycle by that candidate's candidate committee shall not exceed five hundred dollars (\$500). The committee shall dispose of any funds carried over from a previous election cycle in excess of five hundred dollars (\$500) in accordance with subsection (1) of this section.

- (5) A successful candidate for public office who has not become a candidate for any public office in a future election shall dispose of any funds carried over from previous election cycles by that candidate's committee, in accordance with subsection (1) of this section, no later than the time that the candidate's term as a public official expires.
- (6) An unsuccessful candidate for public office who has not become a candidate for any public office in a future election shall dispose of any funds carried over from a previous election cycle by that candidate's committee, in accordance with subsection (1) of this section, no later than two years after the date of that previous election.

### **SECTION 9. Other Provisions.**

- (1) The Secretary of State may adopt rules to implement this Act. Such rules may not reduce or relax any of the requirements stated by this Act.
- (2) Notwithstanding any filings made under ORS 260.042 or any other provision of law, for purposes of the contribution limits and other requirements established in this Act:
  - (a) All political committees established, financed, maintained, or controlled by the same corporation, or substantially the same group of corporations, including all corporate affiliates and subsidiaries, are considered to be a single political committee;
  - (b) All political committees established, financed, maintained, or controlled by the same labor organization unit, at any level, if the organization unit has the authority to make an independent decision as to which candidates to support or oppose, are considered to be a single political committee; and
  - (c) All political committees not described in paragraph (a) or (b) of this subsection that are established, financed, maintained, or controlled by the same person or substantially the same group of persons or entities or combinations thereof are considered to be a single political committee.
- (3) Notwithstanding subsection (2) of this section, any person, corporation, labor organization, or entity, or substantially the same group thereof, may maintain both a small donor committee and a multicandidate committee.

- (4) Except for contribution limits applicable to small donor committees, any local government may adopt contribution limits that are lower than those required by this Act for elections of local government public officials.
- (5) No person or entity shall make a contribution anonymously or in any name other than that of the individual or entity that provides the source of funds for the contribution.
- (6) No person or entity may, directly or indirectly:
  - (a) Require an employee or contractor to make a contribution or independent expenditure to support or oppose any candidate; or
  - (b) Provide or promise any benefit or impose or threaten any detriment due to a decision by an employee or contractor on whether to make a contribution or independent expenditure to support or oppose a candidate.
- (7) No person shall structure or attempt or assist in an attempt to structure any solicitation, contribution, donation, expenditure, disbursement, or other transaction so as to avoid any requirement of this Act or any rule or regulation prescribed thereunder.
- (8) ORS 162.005 is amended to read:

**162.005 Definitions for ORS 162.005 to 162.425.** As used in ORS 162.005 to 162.425, unless the context requires otherwise:

- (1) "Pecuniary benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary, in the form of money, property, commercial interests or economic gain, ~~but does not include a political campaign contribution reported in accordance with ORS chapter 260.~~
- (2) "Public servant" means:
  - (a) A public official as defined in ORS 244.020;
  - (b) A person serving as an advisor, consultant or assistant at the request or direction of the state, any political subdivision thereof or of any governmental instrumentality within the state;

- (c) A person nominated, elected or appointed to become a public servant, although not yet occupying the position; and
  - (d) Jurors.
- (9) Any bill that would amend the provisions of this Act or their applicability shall receive a minimum of ten public hearings. At least five of those public hearings shall be preceded by not less than 5 days notice to the public published in newspapers throughout the state and on the home page of the website of the Oregon Legislature. Any such bill may proceed through legislative committees only by means of recorded votes. Any amendment proposed to such a bill shall receive a minimum of two public hearings, each preceded by not less than 5 days notice to the public, as specified above. At all such public hearings, all remote video and audio testimony offered by the public shall be accepted.
- (10) For any incumbent public officeholder, the filing deadline for a nominating petition or a declaration of candidacy for an additional term of the same public office, or for filing a withdrawal of such petition or declaration, shall be seven days prior to the corresponding filing deadline for non-incumbent candidates for that public office.

## **SECTION 10. Reorganization of Existing Committees.**

- (1) The Secretary of State shall by rule provide to any political committee that is not organized as a small donor political committee an opportunity to reorganize as a small donor political committee before the end of twelve (12) months after the operative date of this Act.
  - (a) This opportunity will be available only if, during the previous 24-month period, not less than 90 percent of the total amount of moneys contributed to the political committee was contributed by individuals in amounts not exceeding \$250 per individual donor per calendar year.
  - (b) Any moneys held by the reorganized committee may be used in the same manner as any other moneys lawfully contributed to a small donor political committee.
- (2) The Secretary of State shall by rule provide to any miscellaneous committee an opportunity to reorganize, before the end of six (6) months after the operative date of this Act, as:
  - (a) A measure committee;



- (b) A multicandidate committee; or
  - (c) Both a separate measure committee and a separate multicandidate committee.
- (3) The miscellaneous committee may choose how to divide its funds among the reorganized committees. Funds held by such reorganized committee may be used in the same manner as any other funds contributed to that type of committee.
- (4) The Secretary of State shall reorganize as a multicandidate committee any miscellaneous committee that exists as of the end of six (6) months after the operative date of this Act. Prior to such reorganization, any miscellaneous political committee shall comply with the requirements of this Act, as if it were a multicandidate committee.

## **SECTION 11. Penalties.**

- (1) Penalties shall be proportionate to the offenses. Small, infrequent, and accidental violations shall receive light penalties. Large, frequent, or willful violations shall receive larger penalties to deter violations.
- (2) Penalties for Contribution Limits Violations.
- (a) Except as provided in subsection (4) of this section, each violation of any contribution limit in this Act shall be penalized by imposition of a civil fine which is not less than the amount of the unlawful contribution.
  - (b) The recipient of any contribution that violates the contribution limits of this Act may remedy the violation by refunding to the contributor, within ten (10) calendar days of receiving the contribution, an amount that renders the contribution in compliance with this Act.
  - (c) The recipient of any contribution that violates the contribution limits of this Act may reduce the otherwise applicable penalty by fifty percent (50%) by refunding to the contributor an amount that renders the contribution in compliance with this Act within ten (10) calendar days of the date upon which the recipient reasonably should have known that the violation occurred.

- (3) Penalties for Disclosure or Tagline "Ad is Paid For by" Requirement Violations.

Except as provided in subsection (4) of this section, each violation of any disclosure requirement or tagline "ad is paid for by" requirement in this Act or elsewhere in ORS Chapter 260 shall be penalized by imposition of a civil fine which is not less than one-tenth, nor more than two times, the total amount of the contribution or expenditure, or both, that was not properly disclosed or disclaimed.

- (4) Enhanced Penalties.

- (a) Each successive knowing, willful, or reckless violation of a provision of this Act involving a contribution or expenditure of five thousand dollars (\$5,000) or more by any person during a calendar year shall be penalized by imposition of a civil fine which is not less than the otherwise applicable minimum penalty multiplied by the number of such prior violations. The Secretary of State shall notify any person who is found to have violated this Act that subsequent reckless or heedless violations during the calendar year shall carry this enhanced minimum penalty. Such notice shall be deemed delivered when receipt by electronic mail is confirmed or three days after it is deposited into the United States mail system, with first class postage prepaid, with the date of mailing confirmed by postmark or by the records of the Secretary of State.
- (b) A knowing and willful violation of any provision of this Act, involving a contribution or expenditure of twenty thousand dollars (\$20,000) or more, shall be penalized by imposition of a civil fine which is not less than two times the otherwise applicable minimum penalty.

## **SECTION 12. Enforcement Processes.**

- (1) The provisions of this Act shall be administered and enforced by the Secretary of State, the Attorney General, and Oregon electors.
- (2) The Secretary of State shall establish an Office of Candidate and Community Services to provide to any person assistance with complying with the requirements of this Act and other campaign finance regulations.
- (3) ORS 260.345 is repealed.
- (4) A new section designated ORS 260.345 is added to Chapter 260 of Oregon Revised Statutes as follows:

**260.345 Complaints or other information regarding violations; action by Secretary of State and Attorney General.**

- (1) Any elector may file with any filing officer a written complaint alleging that a violation of an election law or rule adopted by the Secretary of State under this Act or ORS chapters 246 to 260 has occurred and stating the reason for believing that the violation occurred and any evidence relating to it. A complaint and any evidence relating to it may be filed electronically. A complaint alleging a violation involving the Secretary of State, a candidate for the office of Secretary of State, or any political committee or person supporting the Secretary of State or a candidate for the office of Secretary of State may be filed with the Attorney General. The Secretary of State or Attorney General shall not accept an anonymous complaint.
- (2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed with any person other than the Secretary of State. If the complaint concerns the Secretary of State, any candidate for the office of the Secretary of State, or any political committee or person supporting the candidacy of the Secretary of State or of another person for the office of Secretary of State, the complaint and any additional information relating to the complaint shall be sent to the Attorney General.
- (3) Upon receipt of a complaint under subsection (1) or (2) of this section, the Secretary of State or Attorney General immediately shall examine the complaint to determine whether a violation of an election law or rule has occurred and shall make any investigation the Secretary of State or Attorney General considers necessary.
- (4) If the Secretary of State believes after an investigation under subsection (3) of this section that a violation of an election law or rule has occurred, the Secretary:
  - (a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall report the findings to the Attorney General and request prosecution. If the violation involves the Attorney General, a candidate for that office or a political committee or person supporting or opposing the Attorney General or a candidate for that office, the Secretary of State shall appoint another prosecutor for that purpose; or

- (b) In the case of a violation not subject to a penalty under ORS 260.537 or 260.993, may impose a civil penalty under ORS 260.995 or this Act; or
  - (c) In the case of a violation under ORS 260.537, may institute civil proceedings in the manner described in ORS 260.537.
- (5) Upon receipt of a complaint or report involving an alleged violation subject to a penalty under ORS 260.993 or an alleged violation of ORS 260.537, the Attorney General or other prosecutor immediately shall examine the complaint or report to determine whether a violation of an election law has occurred. If the Attorney General or prosecutor has reason to believe that a violation has occurred, the Attorney General or prosecutor immediately shall begin prosecution or civil proceedings in the name of the state. The Attorney General or other prosecutor shall have the same powers in any county of this state as the district attorney for the county.
- (6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged violation of an election law or rule not subject to a penalty under ORS 260.537 or 260.993, the Attorney General shall examine the complaint to determine whether a violation of an election law or rule has occurred and shall make any investigation the Attorney General considers necessary. If the Attorney General believes after an investigation that a violation of an election law or rule has occurred, the Attorney General may impose a civil penalty under ORS 260.995.
- (7) A filing officer having reason to believe that a violation of an election law or rule has occurred shall proceed promptly as though the officer had received a complaint. Except as provided in ORS 260.234, a filing officer shall proceed under this subsection no later than two years following the election at which a violation of an election law or rule is alleged to have occurred, or two years following the date the violation of an election law or rule is alleged to have occurred, whichever is later. If a filing officer has not proceeded within two years because of fraud, deceit, misleading representation or the filing officer could not have reasonably discovered the alleged violation, the filing officer shall proceed no later than five years following the election at which a violation of an election law or rule is alleged to have occurred, or five years following the date

the violation of an election law or rule is alleged to have occurred, whichever is later.

(8) Processing of Complaints.

- (a) Within two business days of receiving a complaint, the filing officer shall deliver to the subject or subjects of the complaint, via mail and electronic mail, a notice that the complaint has been filed and a copy of the complaint. The notice and copy of the complaint shall be deemed delivered when receipt by electronic mail is confirmed or three days after they are deposited into the United States mail system, with first class postage prepaid, with the date of mailing confirmed by postmark or by the records of the filing officer.
- (b) The notice shall specify the alleged violation, include a copy of the complaint, describe any opportunity for the subject or subjects of the complaint to cure or mitigate the alleged violation under the provisions of this Act, state that any subject of the complaint may require a contested case hearing before the Office of Administrative Hearings, and require that each subject of the complaint file an answer to the allegations within ten (10) days.
- (c) The complaint shall be dismissed, if the filing officer determines that the alleged violation has been promptly and fully cured or that the complaint is without basis in fact or law. A complainant may obtain judicial review in Circuit Court of a dismissal as an agency decision in an other than contested case under ORS 183.484, if the alleged violation involves one thousand dollars (\$1,000) or more.
- (d) If the filing officer determines that the complaint should not be dismissed, the filing officer shall determine whether a violation occurred and issue a proposed order setting forth findings of fact, conclusions of law and civil penalty, accompanied by a notice of a right to a hearing as required by ORS 183.415 and ORS 183.745. That order will become final, unless the complainant or subject of the complaint requests a contested case hearing with the Office of Administrative Hearings within ten (10) calendar days of the issuance of the order. The Office of

Administrative Hearings shall conduct such hearing, if it is requested. The parties may agree to engage in alternative dispute resolution, but it shall not be required.

- (e) A contested case hearing at the Office of Administrative Hearings shall occur within forty-five (45) calendar days of the filing of the complaint. The complainant shall be accorded opportunity to be a party. All discovery by parties shall be regulated by the Hearing Officer and not by the filing officer. The office shall render a final decision within ten (10) business days of the close of the hearing. The decision shall include any appropriate order, sanction, or relief.
  - (f) A party to the contested case hearing may appeal the decision of the Office of Administrative Hearings to the Court of Appeals as an agency decision in a contested case under ORS 183.482.
  - (g) If the Office of Administrative Hearings does not render a final decision within the allowed period, any party may appeal the case to a Circuit Court and obtain a decision on the complaint. The Circuit Court shall base its decision upon on the evidence presented to the Office of Administrative Hearings and additional evidence from the parties. Such decision by the Circuit Court is subject to appellate review under ORS 183.500.
  - (h) The final decision, after resolution of any appeal, shall be enforced by the Secretary of State and the Attorney General. If neither enforces the decision within thirty (30) days of the decision becoming final (including judicial review), the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the State of Oregon.
- (9) Any person subjected to a violation of subsection (6) of Section 9 of this Act shall have a civil cause of action against the violator and shall, upon proof of violation, recover a civil penalty of not less than \$20,000 per incident of violation.

### **SECTION 13. Conflicts, Severability, and Jurisprudence.**

- (1) To the extent any conflict exists, the provisions of this Act shall supersede any other law.
- (2) For purposes of determining the constitutionality of the provisions of this Act, every section, subsection, paragraph, subparagraph, and subdivision thereof shall be evaluated separately. If any such provision is held invalid, the remaining sections, subsections, paragraphs, subparagraphs, and subdivisions thereof shall remain in full force and effect. The courts shall sever any sections, subsections, paragraphs, subparagraphs, or subdivisions thereof necessary to render this Act consistent with the United States Constitution, Oregon Constitution and federal law. Each section, subsection, paragraph, subparagraph, and subdivision thereof shall be considered severable, individually or in any combination.
- (3) If, in the absence of this subsection, a court would determine that any numeric limit or threshold, percentage limit or threshold, time period, or age limits otherwise set forth in this Act are in conflict with the United States Constitution or the Oregon Constitution, then:
  - (a) Any conflicting numeric limit or threshold shall be increased by increments of \$100 as many times as necessary to render it consistent with the relevant Constitution;
  - (b) Any conflicting percentage limit or threshold shall be increased by increments of one percent as many times as necessary to render it consistent with the relevant Constitution;
  - (c) Any conflicting time period shall be increased or decreased by increments of one day as many times as necessary to render it consistent with the relevant Constitution; and
  - (d) Any conflicting age limit shall be decreased by increments of one year as many times as necessary to render it consistent with the relevant Constitution.
- (4) A prohibition that is set forth in this Act is considered a numeric limit of zero.
- (5) If, in the absence of this subsection, a court would determine that any part of this Act may not be fully implemented on the ground that applicable constitutional law does not allow a provision of this Act to apply exclusively to individuals who reside in Oregon, are enrolled at

institutions of education in Oregon, or are employed to work in Oregon, then such provision shall apply to all individuals except foreign nationals.

- (6) If, in the absence of this subsection, a court would determine that any part of Act may not be fully implemented on the ground that applicable constitutional law requires that any individual or entity be wholly or partially exempt from any of the prohibitions or limitations contained in this Act, then such part of this Act shall be given a narrowing interpretation so as to avoid invalidation of any provision of this Act and to preserve the effectiveness of this Act to the maximum degree permissible under the United States Constitution and Oregon Constitution.
- (7) If, in the absence of this subsection, a court would determine that any part of Act may not be fully implemented on the ground that a prohibition, limitation, or required disclosure does not comply with applicable constitutional law, then such part of this Act shall be given a narrowing interpretation so as to avoid invalidation of any provision of this Act and to preserve the effectiveness of this Act to the maximum degree permissible under the United States Constitution and Oregon Constitution.
- (8) If a court makes a determination described in subsections (3), (5), (6) or (7) of this section and for any reason declines to adopt the adjustment described in the applicable subsection, then the Secretary of State shall immediately adopt temporary rules to preserve the requirements of this Act to the maximum extent possible. Such rules need not comply with the provisions of this Act found by the court to be inconsistent with applicable constitutional law. The Secretary of State may amend such rules, if necessary. The rules shall remain in place until the Secretary of State adopts permanent rules to make the adjustment specified in the applicable subsection. The rules shall be repealed, if the court determination is removed by further litigation, including appellate review, so that the original provision of this Act continues in effect.
- (9) Chapter 636, Oregon Laws 2019 (ORS 260.266) is repealed as of the first day of June following the effective date of this Act.
- (10) ORS 260.266, ORS 260.275, ORS 260.281, and ORS 260.285 are repealed as of the first day of June following the effective date of this Act.



## **SECTION 14. Funding.**

- (1) The Campaign Finance Regulation Fund is established in the General Fund for the purposes of administering the provisions of this Act. The Legislative Assembly shall appropriate, allocate or otherwise make available to the fund an amount not less than \$1 million per biennium. The fund is continuously appropriated to the Secretary of State for the purposes of this Act.
- (2) To the extent that administering the provisions of this Act requires funding in excess of amounts currently provided to the Secretary of State, the additional funding shall be provided by:
  - (a) Revenue from fines assessed for violations of this Act and other provisions of ORS Chapter 260;
  - (b) Voluntary transfers of unexpended moneys that remain in the accounts of candidate committees after the end of the applicable election cycle; and
  - (c) The General Fund, if necessary.

## **SECTION 15. Operative Dates and Effective Date.**

- (1) Unless indicated otherwise, all provisions of this Act become operative on the first day of January following the effective date of this Act.
- (2) The requirements of Section 6 (Disclosure and Tagline "Ad is Paid For by" Requirements) of this Act become operative on the first day of June following the effective date of this Act.
- (3) The Secretary of State may take any action before the operative dates specified in this Act that is necessary for the Secretary of State to exercise, on and after the operative dates specified in this Act, all of the duties, functions, and powers conferred on the Secretary of State by this Act.
- (4) A political committee may take any action before the operative dates set forth in this Act that is necessary for the political committee to be in compliance with the requirements set forth in ORS 260.042, as amended by this Act.
- (5) This Act takes effect on the first date allowed under the Oregon Constitution.