

# D R A F T

## SUMMARY

Lowers threshold for required filing of statement of independent expenditures to \$50 per calendar year and requires statement to be filed within five days of reaching threshold.

Increases penalties for incorrectly identifying expenditure as independent expenditure, failing to timely file accurate statements of independent expenditures and failing to timely file accurate statements for in-kind contributions.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to campaign finance; creating new provisions; amending ORS  
3 260.044 and 260.232; and declaring an emergency.

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

5 **SECTION 1.** ORS 260.044 is amended to read:

6 260.044. (1) If a person makes independent expenditures in a total amount  
7 of more than [~~\$750~~] **\$50** in a calendar year, the person shall use the electronic  
8 filing system adopted under ORS 260.057 to file with the Secretary of State  
9 a statement of independent expenditures not later than [*seven*] **five** calendar  
10 days after the total amount of independent expenditures exceeds [~~\$750~~] **\$50**  
11 in a calendar year.

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

16 (3) Except as provided in [*subsections*] **subsection** (4) [*and (5)*] of this  
17 section, a person shall file a statement described in subsection (2) of this

1 section not later than [30] **five** calendar days after an independent expendi-  
2 ture is made.

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

6 [(A) During the period beginning on the 42nd calendar day before the date  
7 of any primary election and ending on the date of the primary election; and]

8 [(B) During the period beginning on the 42nd calendar day before the date  
9 of any general election and ending on the date of the general election.]

10 [(b) If the person makes an independent expenditure prior to the 42nd cal-  
11 endar day before the date of the primary or general election and the person  
12 has not filed a statement under subsection (3) of this section by the 43rd cal-  
13 endar day before the date of the primary or general election, the person shall  
14 file a statement described in subsection (2) of this section not later than the  
15 35th calendar day before the date of the primary or general election.]

16 [(5)] (4) For any special election, the secretary by rule may establish a  
17 period during which a person must file a statement described in subsection  
18 (2) of this section. The period may not extend beyond [seven] **five** calendar  
19 days after an independent expenditure is made.

20 [(6)] (5) Notwithstanding ORS 260.005 (18), a person who solicits and re-  
21 ceives a contribution or contributions is a political committee and shall file  
22 a statement of organization under ORS 260.042 and the statements required  
23 by ORS 260.057, 260.076 or 260.078.

24 [(7)] (6) For purposes of this section:

25 (a) An independent expenditure does not include a contribution to a can-  
26 didate or political committee that is required to report the contribution on  
27 a statement filed under ORS 260.057, 260.076 or 260.078 or a certificate filed  
28 under ORS 260.112;

29 (b) An independent expenditure does not include a contribution to a can-  
30 didate who is not required to file a statement of organization under ORS  
31 260.043; and

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

3 (A) Designated to an identified candidate or political committee;

4 (B) Delivered by the person to the designated candidate or political com-  
5 mittee not later than seven business days after the contribution is received;  
6 and

7 (C) Required to be reported as contributions by a candidate or political  
8 committee on a statement filed under ORS 260.057, 260.076 or 260.078 or a  
9 certificate filed under ORS 260.112.

10 **SECTION 2.** ORS 260.232 is amended to read:

11 260.232. (1) The Secretary of State may impose a civil penalty as provided  
12 in this section, in addition to any other penalty that may be imposed, for:

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

15 (b) Failure to include in a statement filed under ORS 260.044, 260.057,  
16 260.076, 260.078, 260.083, 260.112 or 260.118 the information required under  
17 ORS 260.044, 260.057, 260.076, 260.083 or 260.118.

18 (c) **Incorrectly identifying as an independent expenditure an ex-**  
19 **penditure that was made with the cooperation or with the prior con-**  
20 **sent of, or in consultation with, or at the request or suggestion of, a**  
21 **candidate or any agent or authorized committee of the candidate, or**  
22 **any political committee or agent of a political committee supporting**  
23 **or opposing a measure.**

24 (2)(a) If a person required to file has not filed [a] **an accurate** statement  
25 or certificate complying with applicable provisions of ORS 260.044, 260.057,  
26 260.076, 260.078, 260.083, 260.085, 260.112 or 260.118 within the time specified  
27 in ORS 260.044, 260.057, 260.076, 260.078 or 260.118, the Secretary of State by  
28 first class mail shall notify the person that a penalty may be imposed and  
29 that the person has 20 days from the service date on the notice to request  
30 a hearing before the Secretary of State.

31 (b) If the person required to file is a candidate or the principal campaign

1 committee of a candidate, the Secretary of State shall send the notice de-  
2 scribed in paragraph (a) of this subsection by first class mail to the candi-  
3 date. The notice shall be used for purposes of determining the deadline for  
4 requesting a hearing under subsection (3) of this section.

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

7 (a) Upon request of the person against whom the penalty may be assessed,  
8 if the request is made not later than the 20th day after the person received  
9 the notice sent under subsection (2) of this section;

10 (b) Upon request of the filing officer with whom a statement or certificate  
11 was required to be filed but was not filed; or

12 (c) Upon the Secretary of State's own motion.

13 (4) A hearing under subsection (3) of this section shall be held not later  
14 than 45 days after the deadline for the person against whom the penalty may  
15 be assessed to request a hearing. However, if requested by the person  
16 against whom the penalty may be assessed, a hearing under subsection (3)  
17 of this section shall be held not later than 60 days after the deadline for the  
18 person against whom the penalty may be assessed to request a hearing.

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

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

28 (7) A civil penalty imposed under this section may not be more than the  
29 following:

30 (a) **Except as provided in paragraphs (c), (d) and (e) of this sub-**  
31 **section,** for failure to file a statement or certificate required to be filed

1 under ORS [260.044,] 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118, 10  
2 percent of the total amount of the contribution or expenditure required to  
3 be included in the statement or certificate; [or]

4 (b) **Except as provided in paragraphs (c), (d) and (e) of this sub-**  
5 **section,** for each failure to include in a statement filed under ORS  
6 [260.044,] 260.057, 260.076, 260.078, 260.083, 260.112 or 260.118 the information  
7 required under ORS [260.044,] 260.057, 260.076, 260.083 or 260.118, 10 percent  
8 of the total amount of the contribution or expenditure required to be in-  
9 cluded in the statement[.];

10 (c) **For each instance of incorrectly identifying as an independent**  
11 **expenditure an expenditure that was made with the cooperation or**  
12 **with the prior consent of, or in consultation with, or at the request**  
13 **or suggestion of, a candidate or any agent or authorized committee**  
14 **of the candidate, or any political committee or agent of a political**  
15 **committee supporting or opposing a measure, 40 percent of the incor-**  
16 **rectly identified expenditure;**

17 (d) **For each failure to timely file an accurate statement for an in-**  
18 **kind contribution made to a candidate, political committee or petition**  
19 **committee, 40 percent of the total amount of the contribution; or**

20 (e) **For each failure to timely file an accurate statement of inde-**  
21 **pendent expenditures required under ORS 260.044, 40 percent of the**  
22 **total amount of the independent expenditure.**

23 (8) The Secretary of State, upon a showing of mitigating circumstances,  
24 may reduce the amount of the penalty described in subsection (7) of this  
25 section.

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

28 **SECTION 3. In addition to and not in lieu of any other appropri-**  
29 **ation, there is appropriated to the Secretary of State, for the biennium**  
30 **beginning July 1, 2015, out of the General Fund, the amount of \$\_\_\_\_\_**  
31 **for the purposes of hiring additional employees in order to implement**

1 the amendments to ORS 260.044 and 260.232 by sections 1 and 2 of this  
2 2016 Act.

3 **SECTION 4.** (1) The amendments to ORS 260.044 and 260.232 by  
4 sections 1 and 2 of this 2016 Act become operative on January 1, 2017.

5 (2) The amendments to ORS 260.044 and 260.232 by sections 1 and 2  
6 of this 2016 Act apply to any independent expenditures made or cam-  
7 paign finance statements filed on or after the operative date specified  
8 in subsection (1) of this section.

9 (3) The Secretary of State may take any action before the operative  
10 date specified in subsection (1) of this section that is necessary to en-  
11 able the Secretary of State to exercise, on and after the operative date  
12 specified in subsection (1) of this section, all of the duties, functions  
13 and powers conferred on the Secretary of State by the amendments  
14 to ORS 260.044 and 260.232 by sections 1 and 2 of this 2016 Act.

15 **SECTION 5.** This 2016 Act being necessary for the immediate pres-  
16 ervation of the public peace, health and safety, an emergency is de-  
17 clared to exist, and this 2016 Act takes effect on its passage.

18