

CHAPTER 758

AN ACT

SB 145

Relating to campaign finance; creating new provisions; amending ORS 260.005, 260.037, 260.044, 260.055, 260.057, 260.076, 260.112, 260.205, 260.215, 260.225, 260.232, 260.255, 260.315 and 260.407; and repealing ORS 260.045 and 260.102.

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

SECTION 1. ORS 260.005 is amended to read: 260.005. As used in this chapter:

(1)(a) "Candidate" means:

(A) An individual whose name is printed on a ballot, for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is expected to be or has been presented, with the individual's consent, for nomination or election to public office;

(B) An individual who has solicited or received and accepted a contribution, made an expenditure, or given consent to an individual, organization, political party or political committee to solicit or receive and accept a contribution or make an expenditure on the individual's behalf to secure nomination or election to any public office at any time, whether or not the office for which the individual will seek nomination or election is known when the solicitation is made, the contribution is received and retained or the expenditure is made, and whether or not the name of the individual is printed on a ballot; or

(C) A public office holder against whom a recall petition has been completed and filed.

(b) For purposes of this section and ORS 260.035 to 260.156, "candidate" does not include a candidate for the office of precinct committee person.

(2) "Committee director" means any person who directly and substantially participates in decision-making on behalf of a political committee concerning the solicitation or expenditure of funds and the support of or opposition to candidates or measures. The officers of a political party shall be considered the directors of any political party committee of that party, unless otherwise provided in the party's by-laws.

(3) Except as provided in ORS 260.007, "contribution" or "contribution" includes:

(a) The payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compensation or consideration, of money, services other than personal services for which no compensation is asked or given, supplies, equipment or any other thing of value:

(A) For the purpose of influencing an election for public office or an election on a measure, or of reducing the debt of a candidate for nomination or election to public office or the debt of a political committee; or

(B) To or on behalf of a candidate, political committee or measure;

(b) Any unfulfilled pledge, subscription, agreement or promise, whether or not legally enforceable, to make a contribution; and

(c) The excess value of a contribution made for compensation or consideration of less than equivalent value.

(4) "Controlled committee" means a political committee that, in connection with the making of contributions or expenditures:

(a) Is controlled directly or indirectly by a candidate or a controlled committee; or

(b) Acts jointly with a candidate or controlled committee.

(5) "Controlled directly or indirectly by a candidate" means:

(a) The candidate, the candidate's agent, a member of the candidate's immediate family or any other political committee that the candidate controls has a significant influence on the actions or decisions of the political committee; or

(b) The candidate's principal campaign committee and the political committee both have the candidate or a member of the candidate's immediate family as a treasurer or director.

(6) "County clerk" means the county clerk or the county official in charge of elections.

(7) "Elector" means an individual qualified to vote under section 2, Article II of the Oregon Constitution.

(8) Except as provided in ORS 260.007, "expend" or "expenditure" includes the payment or furnishing of money or anything of value or the incurring or repayment of indebtedness or obligation by or on behalf of a candidate, political committee or person in consideration for any services, supplies, equipment or other thing of value performed or furnished for any reason, including support of or opposition to a candidate, political committee or measure, or for reducing the debt of a candidate for nomination or election to public office. "Expenditure" also includes contributions made by a candidate or political committee to or on behalf of any other candidate or political committee.

(9) "Filing officer" means:

(a) The Secretary of State:

(A) Regarding a candidate for public office;

(B) Regarding a statement required to be filed under ORS 260.118;

(C) Regarding any measure; or

(D) Regarding any political committee.

(b) In the case of an irrigation district formed under ORS chapter 545, "filing officer" means:

(A) The county clerk, regarding any candidate for office or any measure at an irrigation district formation election where the proposed district is situated wholly in one county;

(B) The county clerk of the county in which the office of the secretary of the proposed irrigation district will be located, regarding any candidate for office or any measure at an irrigation district formation election where the proposed district is situated in more than one county; or

(C) The secretary of the irrigation district for any election other than an irrigation district formation election.

(10) "Independent expenditure" means an expenditure by a person for a communication in support of or in opposition to a clearly identified candidate or measure that is not made 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 the candidate, or any political committee or agent of a political committee supporting or opposing a measure. For purposes of this subsection:

(a) "Agent" means any person who has:

(A) Actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate or on behalf of a political committee supporting or opposing a measure; or

(B) Been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(b)(A) "Clearly identified" means, with respect to candidates:

(i) The name of the candidate involved appears;

(ii) A photograph or drawing of the candidate appears; or

(iii) The identity of the candidate is apparent by unambiguous reference.

(B) "Clearly identified" means, with respect to measures:

(i) The ballot number of the measure appears;

(ii) A description of the measure's subject or effect appears; or

(iii) The identity of the measure is apparent by unambiguous reference.

(c) "Communication in support of or in opposition to a clearly identified candidate or measure" means:

(A) The communication, taken in its context, clearly and unambiguously urges the election or defeat of a clearly identified candidate for nomination or election to public office, or the passage or defeat of a clearly identified measure;

(B) The communication, as a whole, seeks action rather than simply conveying information; and

(C) It is clear what action the communication advocates.

(d) "Made 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 the candidate, or any political committee or agent of a political committee supporting or opposing a measure":

(A) Means any arrangement, coordination or direction by the candidate or the candidate's agent, or by any political committee or agent of a political committee supporting or opposing a measure, prior to the publication, distribution, display or broadcast of the communication. An expenditure shall be presumed to be so made when it is:

(i) Based on information about the plans, projects or needs of the candidate, or of the political committee supporting or opposing a measure, and provided to the expending person by the candidate or by the candidate's agent, or by any political committee or agent of a political committee supporting or opposing a measure, with a view toward having an expenditure made; or

(ii) Made by or through any person who is or has been authorized to raise or expend funds, who is or has been an officer of a political committee authorized by the candidate or by a political committee or agent of a political committee supporting or opposing a measure, or who is or has been receiving any form of compensation or reimbursement from the candidate, the candidate's principal campaign committee or agent or from any political committee or agent of a political committee supporting or opposing a measure.

(B) Does not mean providing to the expending person upon request a copy of this chapter or any rules adopted by the Secretary of State relating to independent expenditures.

(11) "Initiative petition" means a petition to initiate a measure for which a prospective petition has been filed but that is not yet a measure.

(12) "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon Tax Court.

(13) "Mass mailing" means more than 200 substantially similar pieces of mail, but does not include a form letter or other mail that is sent in response to an unsolicited request, letter or other inquiry.

(14) "Measure" includes any of the following submitted to the people for their approval or rejection at an election:

(a) A proposed law.

(b) An Act or part of an Act of the Legislative Assembly.

(c) A revision of or amendment to the Oregon Constitution.

(d) Local, special or municipal legislation.

(e) A proposition or question.

(15) "Occupation" means:

(a) The nature of an individual's principal business; and

(b) If the individual is employed by another person, the business name and address, by city and state, of the employer.

(16) "Person" means an individual, corporation, limited liability company, labor organization, association, firm, partnership, joint stock company, club, organization or other combination of individuals having collective capacity.

(17) "Petition committee" means an initiative, referendum or recall petition committee organized under ORS 260.118.

(18) "Political committee" means a combination of two or more individuals, or a person other than an individual, that has:

(a) Received a contribution for the purpose of supporting or opposing a candidate, measure or political party; or

(b) Made an expenditure for the purpose of supporting or opposing a candidate, measure or political party. For purposes of this paragraph, an expenditure does not include:

(A) A contribution to a candidate or political committee that is required to report the contribution on a statement filed under ORS 260.057[,] or 260.076 [or 260.102] or a certificate filed under ORS 260.112; or

(B) An independent expenditure for which a statement is required to be filed by a person under ORS 260.044.

(19) "Public office" means any national, state, county, district, city office or position, except a political party office, that is filled by the electors.

(20) "Recall petition" means a petition to recall a public officer for which a prospective petition has been filed but that is not yet a measure.

(21) "Referendum petition" means a petition to refer a measure for which a prospective petition has been filed but that is not yet a measure.

(22) "Regular district election" means the regular district election described in ORS 255.335.

(23) "State office" means the office of Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, state Senator, state Representative, judge or district attorney.

SECTION 2. ORS 260.037 is amended to read:

260.037. [(1) A candidate may serve as the candidate's own treasurer or may appoint and certify to the filing officer the name and address of a treasurer.]

[(2) A candidate's treasurer shall perform all the duties prescribed for the candidate under ORS 260.005 and 260.035 to 260.156.]

[(3)] The candidate[, in addition to the treasurer,] is personally responsible for the performance of the duties referred to in [subsection (2) of this section] **ORS 260.035 (2).** Any default or violation by the treasurer shall be conclusively considered a default or violation by the candidate. Any default or violation by the [person] **individual** designated by the candidate or treasurer under ORS 260.039, 260.042 or 260.057 is conclusively considered a default or violation by the candidate [or treasurer].

SECTION 3. ORS 260.044 is amended to read:

260.044. (1) A person shall file a statement of independent expenditures if the person makes independent expenditures in a total amount of more than \$750 in a calendar year. The statement shall be filed with the Secretary of State.

(2) A statement described in subsection (1) of this section shall be filed not later than seven calendar days after the total amount of independent expenditures exceeds \$750 in a calendar year. The accounting period for the statement required by subsection (1) of this section begins on the date that an independent expenditure is made. The statement shall specify the candidate or measure supported or opposed by the independent expenditure. The secre-

tary by rule shall prescribe the form of the statement.

(3) Notwithstanding ORS 260.005 (18), a person who solicits and receives a contribution or contributions is a political committee and shall file a statement of organization under ORS 260.042 and the statements required by ORS 260.057 or 260.076.

(4) For purposes of this section:

(a) An independent expenditure does not include a contribution to a candidate or political committee that is required to report the contribution on a statement filed under ORS 260.057[,] or 260.076 [or 260.102] or a certificate filed under ORS 260.112;

(b) An independent expenditure does not include a contribution to a candidate who is not required to file a statement of organization under ORS 260.043; and

(c) A person is not a political committee under subsection (3) of this section if all contributions received by the person are:

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

(B) Delivered by the person to the designated candidate or political committee not later than seven business days after the contribution is received; and

(C) Required to be reported as contributions by a candidate or political committee on a statement filed under ORS 260.057[,] or 260.076 [or 260.102] or a certificate filed under ORS 260.112.

SECTION 4. ORS 260.055 is amended to read:

260.055. (1) Each candidate, other than a candidate for political party office, the treasurer of each political committee and the treasurer of each petition committee shall keep detailed accounts. The accounts shall be current as of not later than the seventh calendar day after the date of receiving a contribution or making an expenditure with respect to all contributions received and all expenditures made by or on behalf of the candidate or committee that are required to be reported under ORS 260.057, 260.076 or 260.078. Subject to ORS 260.085, the accounts shall list all information required to be reported under ORS 260.083.

(2) Accounts kept by a candidate or the treasurer of a political committee may be inspected under reasonable circumstances at any time before the election to which the accounts refer or during the period specified for retention of the accounts under subsection (3) of this section by any opposing candidate or the treasurer of any political committee for the same electoral contest. The right of inspection may be enforced by writ of mandamus issued by any court of competent jurisdiction. The treasurers of political committees supporting a candidate may be joined with the candidate as defendants in a mandamus proceeding.

(3) Accounts kept by a candidate or treasurer shall be preserved by the candidate or treasurer for at least two years after the date the statement of the contribution or expenditure is filed under ORS 260.057.

[(4)(a) If a candidate, political committee or petition committee intends to discontinue the statement of organization of the candidate or committee and close accounts, the candidate or committee shall file with the Secretary of State a notice of intent. Upon receipt of the notice, the secretary shall examine each statement filed by the candidate or committee under ORS 260.044, 260.057, 260.083, 260.102, 260.112 or 260.118 to determine whether the statement is sufficient.]

[(b) Not later than 90 days after receipt of the notice of intent, the secretary shall notify the candidate, political committee or petition committee that the statements are sufficient or that a statement is insufficient or otherwise may violate a law or rule. The notice shall include a description of the provisions of ORS 260.407.]

[(c) If, after a candidate, political committee or petition committee files a notice of intent to discontinue the statement of organization of the candidate or committee and close accounts, the candidate or committee files an additional statement under ORS 260.044, 260.057, 260.083, 260.102, 260.112 or 260.118, the secretary has 90 days following the date the additional statement is filed to examine the statement and send a notification described in paragraph (b) of this subsection.]

[(d) When a candidate, political committee or petition committee files the last statement under ORS 260.057, the secretary shall conduct a final review. If the secretary determines that all statements filed are sufficient, the secretary shall notify the candidate, political committee or petition committee. Upon receipt of the notice, the candidate or committee may discontinue the statement of organization of the candidate, political committee or petition committee and close accounts.]

SECTION 5. ORS 260.057 is amended to read:
260.057. (1) The Secretary of State by rule shall adopt an electronic filing system to be used by:

(a) All candidates and political committees to file with the secretary statements of contributions received and expenditures made by the candidates and political committees, as described in ORS 260.083.

(b) Treasurers of a petition committee organized under ORS 260.118 to file with the secretary statements of contributions received and expenditures made by the treasurers *[and]* **or** chief petitioners as described in ORS 260.083.

(2)(a) A candidate for nomination or election at any primary or general election or a political committee supporting or opposing a candidate or measure at any primary or general election shall file a statement described in subsection (1) of this section not later than seven calendar days after a contribution is received or an expenditure is made. This paragraph applies to contributions received and expenditures made during the period beginning on the 42nd calendar day before the date of any primary election and ending on the date of the primary election and the period beginning on the 42nd calendar day before the date of any general election and ending on the date of the general election.

(b) For any special election, the secretary by rule may establish a period during which a candidate for nomination or election at the special election or a political committee supporting or opposing a candidate or measure at the special election must file a statement described in subsection (1) of this section not later than seven calendar days after a contribution is received or an expenditure is made.

(3) Except as provided in subsection (4) of this section, during a period not described in subsection (2) of this section, a candidate or political committee shall file a statement described in subsection (1) of this section not later than 30 calendar days after a contribution is received or an expenditure is made.

(4)(a) If a candidate for nomination or election at any primary election or a political committee supporting or opposing a candidate or measure at any primary election receives a contribution or makes an expenditure prior to the 42nd calendar day before the date of the primary election and the candidate or political committee has not filed a statement of the contribution or expenditure under subsection (3) of this section by the 43rd calendar day before the date of the primary election, the candidate or political committee shall file a statement described in subsection (1) of this section not later than the 35th calendar day before the date of the primary election.

(b) If a candidate for nomination or election at any general election or a political committee supporting or opposing a candidate or measure at any general election receives a contribution or makes an expenditure prior to the 42nd calendar day before the date of the general election and the candidate or political committee has not filed a statement of the contribution or expenditure under subsection (3) of this section by the 43rd calendar day before the date of the general election, the candidate or political committee shall file a statement described in subsection (1) of this section not later than the 35th calendar day before the date of the general election.

(5) The electronic filing system shall be provided free of charge by the secretary and:

(a) Accept electronic files that conform to the format prescribed by the secretary by rule; or

(b) Be compatible with any other electronic filing application provided or approved by the secretary.

(6)(a) Except as provided in paragraph (b) of this subsection, the secretary shall make all data filed electronically under this section and ORS 260.118 and all information filed with the secretary under ORS *[260.045,]* 260.049*[,] or* 260.085 *[or 260.102]* available on the Internet to the public free of charge according to a schedule adopted by the secretary by rule. The secretary shall make the data available in a searchable database that is easily accessible by the public. When the secretary makes data or information available on the Internet under this subsection, the secretary shall display any contribution received from a person or political committee with an out-of-state address in a different colored font than a con-

tribution received from a person or political committee with an in-state address.

(b) The secretary may not make data that are filed electronically under this section or ORS 260.118 available to the public under this section, unless the data are required to be listed under ORS 260.083. The secretary may not disclose under ORS 192.410 to 192.505 any data that are filed electronically under this section or ORS 260.118, unless the data are required to be listed under ORS 260.083.

(7)(a) Except as provided in paragraph (b) of this subsection, each statement required by this section shall be signed and certified as true by the candidate or treasurer required to file it. Signatures shall be supplied in the manner specified by the secretary by rule.

(b) A candidate or treasurer may designate an individual to sign and certify as true a statement required by this section. The designation must be filed in writing with the secretary and must be renewed for each two-year period beginning January 1 of an even-numbered year.

(8) This section does not apply to:

(a) Candidates for federal office;

(b) Candidates who are not required to file a statement of organization under ORS 260.043; or

(c) Candidates, political committees or petition committees that file certificates under ORS 260.112.

SECTION 6. ORS 260.076 is amended to read:

260.076. (1) A legislative official, statewide official or candidate therefor, or the official's or candidate's principal campaign committee, shall file statements showing contributions received by or on behalf of the official, candidate or committee during the period beginning January 1 and ending upon adjournment of the regular session of the Legislative Assembly, or during any special session of the Legislative Assembly.

(2) The Governor, Governor-elect or a candidate for Governor, or the principal campaign committee of the Governor, Governor-elect or candidate, shall file statements showing contributions received by or on behalf of the Governor, Governor-elect, candidate or committee during the period beginning January 1 and ending 30 business days following adjournment of the regular session of the Legislative Assembly, or during any special session of the Legislative Assembly.

(3) A person or political committee affiliated with a political party, caucus of either house of the Legislative Assembly, legislative official, statewide official or the Governor, Governor-elect or candidate for Governor shall file statements showing contributions received by the person or committee on behalf of a legislative official, statewide official or candidate therefor, during the period beginning January 1 and ending upon adjournment of the regular session of the Legislative Assembly, or during any special session of the Legislative Assembly.

(4) A person or political committee affiliated with a political party, caucus of either house of the Legislative Assembly, legislative official, statewide

official or the Governor, Governor-elect or candidate for Governor shall file statements showing contributions received by the person or committee on behalf of the Governor, Governor-elect or candidate for Governor, during the period beginning January 1 and ending 30 business days following adjournment of the regular session of the Legislative Assembly, or during any special session of the Legislative Assembly.

(5) A statement described in subsections (1) to (4) of this section shall be filed with the Secretary of State on a form prescribed by the secretary. For contributions received during the period beginning on January 1 and ending on the first day of the regular session, a statement shall be filed not later than two business days after the first day of the regular session. For contributions received on or after the first day of the regular session, a statement shall be filed not later than two business days after the date a contribution is received. For contributions received during any special session of the Legislative Assembly, a statement shall be filed not later than two business days after the date a contribution is received.

[(6) If a statement has been filed under subsections (1) to (4) of this section, the next statement filed by the Governor, Governor-elect, official, candidate, principal campaign committee or other political committee under ORS 260.057 shall include the contributions reported in statements filed under this section.]

[(7) This section applies notwithstanding the filing of a certificate under ORS 260.112.]

[(8)] (6) As used in this section:

(a) "Legislative official" means any member or member-elect of the Legislative Assembly.

(b) "Statewide official" means the Secretary of State or Secretary of State-elect, State Treasurer or State Treasurer-elect, Attorney General or Attorney General-elect and the Commissioner of the Bureau of Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.

SECTION 7. ORS 260.112 is amended to read:

260.112. (1)(a) A candidate or a treasurer of a political committee who expects neither the aggregate contributions to be received nor the aggregate expenditures to be made by or on behalf of the candidate or political committee to exceed ~~[\$3,000]~~ **\$3,500** in total amount during the calendar year shall file a certificate to that effect with the Secretary of State. The candidate or treasurer shall make the certificate according to the best of the knowledge or belief of the candidate or treasurer. A candidate or treasurer filing a certificate under this section is not required to file statements under ORS 260.057.

(b) A treasurer of a petition committee organized under ORS 260.118 who expects neither the aggregate contributions to be received nor the aggregate expenditures to be made by a chief petitioner or the treasurer to exceed ~~[\$3,000]~~ **\$3,500** in total amount during the calendar year shall file a certificate to that effect with the Secretary of State. The treasurer

shall make the certificate according to the best of the knowledge or belief of the treasurer. A treasurer filing a certificate under this section is not required to file statements under ORS 260.118.

(2) A certificate described in subsection (1) of this section shall be filed:

(a) By a candidate, not sooner than the date [on which] **that** the candidate [files a declaration of candidacy or nominating petition, accepts a nomination or is nominated to fill a vacancy in a nomination or in a partisan elective office,] **files a statement of organization under ORS 260.039**, and not later than seven calendar days after the candidate receives a contribution or makes an expenditure.

(b) By a treasurer of a political committee, not sooner than the date that the political committee files a statement of organization under ORS 260.042, and not later than seven calendar days after the political committee receives a contribution or makes an expenditure.

(c) By a treasurer of a petition committee, not sooner than the date that [a chief petitioner or the treasurer] **the petition committee** files a statement of organization under ORS 260.118, and not later than seven calendar days after [a chief petitioner or the treasurer] **the petition committee** receives a contribution or makes an expenditure.

(3) A candidate, political committee or petition committee under this section must keep contribution and expenditure records during the calendar year.

(4) If at any time following the filing of a certificate under this section and during the calendar year either the aggregate contributions or aggregate expenditures exceed [\$3,000] **\$3,500**, the candidate or treasurer shall do all of the following:

(a) File a statement under ORS 260.057 or 260.118 within seven calendar days after either the aggregate contributions or aggregate expenditures exceed [\$3,000] **\$3,500**. The statement must reflect all contributions received and expenditures made by or on behalf of the candidate, political committee or petition committee to that date, beginning January 1 of the calendar year.

(b) If necessary, file additional statements under ORS 260.057 or 260.118.

(5) This section does not apply to a candidate for federal office.

(6) As used in this section, "contribution" and "expenditure" include a contribution or expenditure to or on behalf of an initiative, referendum or recall petition.

SECTION 8. ORS 260.205 is amended to read:

260.205. (1) A filing officer shall inspect each statement filed under ORS 260.057, 260.083, [260.102,] 260.112 or 260.118 not later than the 10th business day after the filing deadline or the 10th business day after the statement is filed, whichever is later.

(2) A filing officer immediately shall notify a person required to file a statement with the filing officer under ORS 260.057, 260.083, [260.102,] 260.112 or 260.118 if:

(a) Upon examination of relevant materials, it appears to the filing officer that the person has failed to file a required statement or that a statement filed with the filing officer by the person is insufficient; or

(b) A complaint is filed with the filing officer under subsection (3) of this section.

(3) An elector may file with a filing officer a complaint that a statement filed with the filing officer is insufficient or that a person has failed to file a required statement. The complaint shall be in writing, shall state in detail the reasons for complaint and shall be filed with the filing officer not later than the 90th day after the date the statement of which it complains is filed or should have been filed.

(4) If upon receiving notification under subsection (2) of this section a person responds by filing a statement or submitting information to correct an insufficient statement, the filing officer shall confirm whether the person's response is sufficient not later than 90 days after receiving the response. If, within 90 days, the filing officer does not confirm whether a response is sufficient under this subsection, the person is not subject to civil penalty under ORS 260.232 for failure to file or failure to include the required information in the statement.

SECTION 9. ORS 260.215 is amended to read:

260.215. (1) For statements filed during each calendar year, each filing officer shall examine each statement filed with the filing officer under ORS 260.044, 260.057, 260.083, [260.102,] 260.112 or 260.118 (4) to determine whether the statement is sufficient. The filing officer shall examine statements under this section not later than 90 days after the end of each calendar quarter for statements filed during the previous calendar quarter.

(2) The filing officer may require any person to answer in writing and upon oath or affirmation before a judge, justice of the peace, county clerk or notary public any question within the knowledge of that person concerning the source of any contribution. The filing officer shall advise the person of the penalty for failure to answer.

[(3)(a) For statements filed during each calendar year, in addition to the requirements of this section and ORS 260.205, the Secretary of State shall review statements filed with the secretary under ORS 260.057 by a candidate, political committee or petition committee. For each review, the secretary shall require a candidate, treasurer of a political committee or treasurer of a petition committee to provide documentation of not more than 10 transactions.]

[(b) The secretary by rule shall designate a method by which the statements filed by a candidate or committee shall be randomly selected for review under this subsection. The secretary shall review statements under this subsection twice in a calendar year.]

SECTION 10. ORS 260.225 is amended to read:

260.225. (1) Upon the petition of the Secretary of State or an elector, or of any other filing officer with whom a statement is required to be filed, the circuit court for the county in which the principal office of the filing officer is located may compel a candidate, treasurer or person who fails to file a statement required to be filed with the filing officer under ORS 260.044, 260.057, 260.076, 260.083, [260.102,] 260.112 or 260.118, or who files with the filing officer an insufficient statement, to file with the filing officer a proper statement. The petition shall be filed with the circuit court not later than the 90th day after the date the statement is filed or should have been filed.

(2) If the court determines that a petition filed under this section is frivolous or the court does not compel the filing of any statement, the candidate, treasurer or person against whom the petition was filed is entitled to recover reasonable attorney fees at trial and on appeal.

SECTION 11. ORS 260.232 is amended to read:

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

(a) Failure to file a statement or certificate required to be filed under ORS 260.044, 260.057, 260.076, 260.078, 260.083, [260.102,] 260.112 or 260.118.

(b) Failure to include in a statement filed under ORS 260.057, 260.076, 260.078, 260.083, [260.102,] 260.112 or 260.118 the information required under ORS 260.057, 260.076, 260.083, [260.102] or 260.118.

(2)(a) If a person required to file has not filed a statement or certificate complying with applicable provisions of ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.085, [260.102,] 260.112 or 260.118 within the time specified in ORS 260.044, 260.057, 260.076, 260.078 or 260.118, the Secretary of State by first class mail shall notify the person that a penalty may be imposed and that the person has 20 days from the service date on the notice to request a hearing before the Secretary of State.

(b) If the person required to file is a candidate or the principal campaign committee of a candidate, the Secretary of State shall send the notice described in paragraph (a) of this subsection by first class mail to the candidate [*and to the candidate's treasurer or the treasurer of the candidate's principal campaign committee*]. The notice [*sent to the candidate*] shall be used for purposes of determining the deadline for requesting a hearing under subsection (3) of this section. [*The Secretary of State is not required to send two notices if the candidate serves as the treasurer of the candidate's principal campaign committee.*]

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

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

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

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

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

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

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

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

(a) For failure to file a statement or certificate required to be filed under ORS 260.044, 260.057, 260.076, 260.078, 260.083, [260.102,] 260.112 or 260.118, 10 percent of the total amount of the contribution or expenditure required to be included in the statement or certificate; or

(b) For each failure to include in a statement filed under ORS 260.057, 260.076, 260.078, 260.083, [260.102,] 260.112 or 260.118 the information required under ORS 260.057, 260.076, 260.083, [260.102] or 260.118, 10 percent of the total amount of the contribution or expenditure required to be included in the statement.

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

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

SECTION 12. ORS 260.255 is amended to read:

260.255. (1) Except as provided in subsection (2) of this section, a filing officer shall preserve each statement filed with the officer under ORS 260.057, 260.076, 260.083, [260.102,] 260.112 or 260.118, or an accurate copy of it, for at least six calendar years.

(2) The Secretary of State shall maintain all data filed electronically under ORS 260.057 on the Internet for at least six calendar years after the date the secretary first makes the data available. After six calendar years, if the data are not maintained on the Internet, the secretary shall retain and dispose of the data in a manner prescribed by the State Archivist. The State Archivist shall consider the

value of the data for legal, administrative or research purposes and shall establish rules for procedures for the retention and disposition of data described in this section.

SECTION 13. ORS 260.315 is amended to read:

260.315. (1) The Secretary of State, at the expense of the state, shall furnish to the other filing officers copies of this chapter.

(2) A filing officer shall deliver a copy of this chapter to each candidate or person whom the officer has reason to believe is required to file a statement with the officer under ORS 260.057, 260.076, 260.083, [260.102,] 260.112 or 260.118.

SECTION 14. ORS 260.407 is amended to read:

260.407. (1)(a) Except as provided in paragraph (b) of this subsection, amounts received as contributions by a candidate or the principal campaign committee of a candidate for public office that are in excess of any amount necessary to defray expenditures and any other funds donated to a holder of public office may be:

(A) Used to defray any expenses incurred in connection with the recipient's duties as a holder of public office;

(B) Transferred to any national, state or local political committee of any political party;

(C) Contributed to any organization described in section 170(c) of the Internal Revenue Code or to any charitable corporation as defined in ORS 128.620; or

(D) Used for any other lawful purpose.

(b) Amounts received as contributions by a candidate or the principal campaign committee of a candidate for public office that are in excess of any amount necessary to defray expenditures and other funds donated to a holder of public office may not be:

(A) Converted by any person to any personal use other than to defray any expenses incurred in connection with the person's duties as a holder of public office or to repay to a candidate any loan the proceeds of which were used in connection with the candidate's campaign;

(B) Except as provided in this subparagraph, used to pay any money award as defined in ORS 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116. Contributions described in this paragraph may be used to pay a civil penalty imposed under this chapter, other than a civil penalty imposed for a violation of this section or ORS 260.409; or

(C) Except as provided in this subparagraph, used to pay any legal expenses incurred by the candidate or public official 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. Contributions described in this paragraph may be used to pay legal expenses incurred by the candidate or

public official in connection with a legal proceeding brought under this chapter, other than a proceeding brought under this section or ORS 260.409.

(2)(a) Except as provided in paragraph (b) of this subsection, amounts received as contributions by a political committee that is not a principal campaign committee that are in excess of any amount necessary to defray expenditures may be:

(A) Used to repay to the political committee any loan the proceeds of which were used in connection with the campaign;

(B) Transferred to any national, state or local political committee of any political party;

(C) Contributed to any organization described in section 170(c) of the Internal Revenue Code or to any charitable corporation as defined in ORS 128.620; or

(D) Used for any other lawful purpose.

(b) Amounts received as contributions by the political committee may not be:

(A) Converted by any person to any personal use;

(B) Except as provided in this subparagraph, used to pay any money award as defined in ORS 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116. Contributions described in this subsection may be used to pay a civil penalty imposed under this chapter, other than a civil penalty imposed for a violation of this section or ORS 260.409; or

(C) Except as provided in this subparagraph, used to pay any legal expenses incurred by a treasurer or director of a political committee 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 treasurer or director. Contributions described in this subsection may be used to pay legal expenses incurred by a treasurer or director in connection with a legal proceeding brought under this chapter, other than a proceeding brought under this section or ORS 260.409.

(3)(a) Except as provided in paragraph (b) of this subsection, amounts received as contributions by a chief petitioner or treasurer of a petition committee [organized under ORS 260.118] that are in excess of any amount necessary to defray expenditures may be:

(A) Used to repay to the chief petitioner any loan the proceeds of which were used in connection with the initiative, referendum or recall petition;

(B) Transferred to any national, state or local political committee of any political party;

(C) Contributed to any organization described in section 170(c) of the Internal Revenue Code or to any charitable corporation as defined in ORS 128.620; or

(D) Used for any other lawful purpose.

(b) Amounts received as contributions by a chief petitioner or treasurer of a petition committee may not be:

(A) Converted by any person to any personal use;

(B) Except as provided in this subparagraph, used to pay any money award as defined in ORS 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116. Contributions described in this subsection may be used to pay a civil penalty imposed under this chapter, other than a civil penalty imposed for a violation of this section or ORS 260.409; or

(C) Except as provided in this subparagraph, used to pay any legal expenses incurred by a chief petitioner or **the treasurer of a petition committee** 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 chief petitioner or treasurer. Contributions described in this subsection may be used to pay legal expenses incurred by a chief petitioner or treasurer in connection with a legal proceeding brought under this chapter, other than a proceeding brought under this section or ORS 260.409.

(4) As used in this section:

(a) "Contribution" and "expenditure" include a contribution or expenditure to or on behalf of an initiative, referendum or recall petition.

(b) "Funds donated" means all funds, including but not limited to gifts, loans, advances, credits or

deposits of money that are donated for the purpose of supporting the activities of a holder of public office. "Funds donated" does not mean funds appropriated by the Legislative Assembly or another similar public appropriating body or personal funds of the office holder donated to an account containing only those personal funds.

(c) "Public office" does not include national or political party office.

SECTION 15. ORS 260.045 and 260.102 are repealed.

SECTION 16. (1) The amendments to ORS 260.037 by section 2 of this 2013 Act apply to defaults or violations by a treasurer occurring before, on or after the effective date of this 2013 Act.

(2) The amendments to ORS 260.112 by section 7 of this 2013 Act apply to contributions received or expenditures made on or after the effective date of this 2013 Act.

(3) The amendments to ORS 260.232 by section 11 of this 2013 Act apply to notices sent on or after the effective date of this 2013 Act.

Approved by the Governor August 14, 2013

Filed in the office of Secretary of State August 14, 2013

Effective date January 1, 2014