

HOUSE AMENDMENTS TO HOUSE BILL 4085

By COMMITTEE ON RULES

February 19

- 1 On page 1 of the printed bill, line 2, after the second semicolon delete the rest of the line and
2 line 3 and insert “and amending ORS 260.044, 260.055, 260.200, 260.218, 260.232 and 260.345.”.
- 3 In line 7, delete “\$50” and insert “\$250”.
- 4 In line 8, restore the bracketed material.
- 5 In line 9, delete “five” and delete “\$50” and insert “\$250”.
- 6 In line 15, delete “five” and insert “seven”.
- 7 On page 2, line 2, restore “seven” and delete “five”.
- 8 On page 3, line 15, delete the boldfaced material.
- 9 In line 16, restore the bracketed material.
- 10 In line 17, delete “10” and insert “40”.
- 11 In line 19, delete the boldfaced material.
- 12 In line 20, restore the bracketed material.
- 13 In line 21, restore the bracketed material and delete “10” and insert “40”.
- 14 In line 27, after the semicolon insert “or”.
- 15 In line 30, delete “; or” and insert a period.
- 16 Delete lines 31 and 32.
- 17 Delete lines 37 through 45.
- 18 On page 4, delete lines 1 through 8 and insert:
- 19 “**SECTION 3.** ORS 260.055 is amended to read:
- 20 “260.055. (1) Each candidate, other than a candidate for political party office, the treasurer of
21 each political committee and the treasurer of each petition committee shall keep detailed accounts.
22 The accounts shall be current as of not later than the seventh calendar day after the date of re-
23 ceiving a contribution or making an expenditure with respect to all contributions received and all
24 expenditures made by or on behalf of the candidate or committee that are required to be reported
25 under ORS **260.044**, 260.057, 260.076 or 260.078. Subject to ORS 260.085, the accounts shall list all
26 information required to be reported under ORS 260.083.
- 27 “(2) Accounts kept by a candidate or the treasurer of a political committee may be inspected
28 under reasonable circumstances at any time before the election to which the accounts refer or
29 during the period specified for retention of the accounts under subsection (3) of this section by any
30 opposing candidate or the treasurer of any political committee for the same electoral contest. The
31 right of inspection may be enforced by writ of mandamus issued by any court of competent juris-
32 diction. The treasurers of political committees supporting a candidate may be joined with the can-
33 didate as defendants in a mandamus proceeding.
- 34 “(3) Accounts kept by a candidate or treasurer shall be preserved by the candidate or treasurer
35 for at least two years after the date the statement of the contribution or expenditure is filed under

1 ORS 260.057.

2 **“SECTION 4.** Sections 5, 6 and 7 of this 2016 Act are added to and made a part of ORS
3 chapter 260.

4 **“SECTION 5.** (1) Unless otherwise required under ORS 260.055, each person that makes
5 independent expenditures in a total amount of more than \$250 in a calendar year shall keep
6 detailed accounts. The accounts shall be current as of not later than the seventh calendar
7 day after the date of making an independent expenditure that is required to be reported un-
8 der ORS 260.044. The accounts shall list all information required to be reported under ORS
9 260.083.

10 **“(2)** Accounts kept by a person that makes independent expenditures shall be preserved
11 by the person for at least two years after the date an independent expenditure is made.

12 **“(3)** In addition to the requirements of ORS 260.215, the Secretary of State shall review
13 statements of independent expenditures filed under ORS 260.044 or 260.057. For each review,
14 the secretary shall require the person making the independent expenditure to provide doc-
15 umentation of not more than 10 transactions. The requirement to provide documentation
16 may be enforced by writ of mandamus issued by any court of competent jurisdiction.

17 **“(4)** The secretary shall review statements of independent expenditures as provided under
18 subsection (3) of this section four times per calendar year.

19 **“(5)** The secretary by rule shall:

20 **“(a)** Designate a method by which statements of independent expenditures shall be se-
21 lected at random for review under subsection (3) of this section.

22 **“(b)** Designate the period of time within which a person must provide documentation if
23 required to do so under subsection (3) of this section. The secretary may impose a civil
24 penalty under ORS 260.995 on a person who fails to timely provide the documentation re-
25 quired under subsection (3) of this section.

26 **“(c)** Enhance the electronic filing system adopted under ORS 260.057 to provide additional
27 transparency for filed statements of independent expenditures.

28 **“SECTION 6.** (1) In addition to the requirements of ORS 260.055 and 260.215 and section
29 5 of this 2016 Act, the Secretary of State shall examine the accounts of political committees
30 selected at random as provided in subsection (4) of this section. For each examination, the
31 secretary shall require that the political committee provide access to all committee bank
32 accounts and other documentation the secretary determines is necessary to successfully
33 conduct the examination. The requirement to provide access to committee bank accounts
34 and other documentation may be enforced by writ of mandamus issued by any court of
35 competent jurisdiction.

36 **“(2)(a)** Each examination conducted by the secretary under this section shall determine
37 whether, during the three months immediately preceding the examination, the political
38 committee accurately and timely complied with all filing requirements set forth in this
39 chapter.

40 **“(b)** If an examination indicates discrepancies between the filings made by the political
41 committee and the filing requirements set forth in this chapter, the secretary may extend
42 the scope of the examination to determine whether, during the two years immediately pre-
43 ceding the examination, the political committee accurately and timely complied with all filing
44 requirements set forth in this chapter.

45 **“(3)** Committee bank account records and other documentation provided by a political

1 committee to the secretary under this section shall be used only for purposes of the exam-
2 ination and may not be disclosed as a public record under ORS 192.410 to 192.505.

3 “(4) The secretary shall conduct examinations of political committees under subsection
4 (1) of this section four times per calendar year.

5 “(5) The secretary by rule shall:

6 “(a) Designate a method by which political committees shall be selected at random for
7 examination under subsection (1) of this section.

8 “(b) Designate the period of time within which a political committee must provide access
9 to committee bank accounts and other documentation if required to do so under subsection
10 (1) of this section. The secretary may impose a civil penalty under ORS 260.995 on a person
11 who fails to timely provide the access to committee bank accounts and other documentation
12 required under subsection (1) of this section.

13 “SECTION 7. (1) When conducting an investigation under ORS 260.345 of a written com-
14 plaint alleging that a violation of election law or rule adopted by the Secretary of State under
15 ORS chapters 246 to 260 has occurred, the secretary or the Attorney General may, upon
16 reasonable suspicion that a violation has occurred and in addition to any other action per-
17 mitted by law, examine the accounts of the person, political committee or petition committee
18 alleged to have committed the violation.

19 “(2) When investigating the accounts of a person, political committee or petition com-
20 mittee under this section, the secretary or Attorney General may require that the person,
21 political committee or petition committee provide access to bank accounts and other doc-
22 umentation the secretary or Attorney General determines is necessary to successfully con-
23 duct the investigation. The requirement to provide access to bank accounts and other
24 documentation may be enforced by writ of mandamus issued by any court of competent ju-
25 risdiction.

26 “(3) Bank accounts and other documentation provided by a person, political committee
27 or petition committee to the secretary or Attorney General under this section shall be used
28 only for purposes of the investigation and may not be disclosed as a public record under ORS
29 192.410 to 192.505.

30 “(4) The secretary by rule shall designate the period of time within which a person, pol-
31 itical committee or petition committee must provide access to bank accounts and other
32 documentation if required to do so under subsection (1) of this section. The secretary or
33 Attorney General may impose a civil penalty under ORS 260.995 on a person who fails to
34 timely provide the access to committee bank accounts and other requested documentation
35 required under subsection (1) of this section.

36 “SECTION 8. ORS 260.200 is amended to read:

37 “260.200. The Secretary of State by rule shall:

38 “(1) Prescribe a uniform system for accounts required by ORS 260.055 **or section 5 of this 2016**
39 **Act.**

40 “(2) Prescribe forms for statements and other information required under this chapter to be filed
41 with filing officers, and furnish those forms to persons required to file those statements and other
42 information.

43 “(3) Prescribe materials, including financial institution account statements and copies of checks,
44 that a candidate, political committee or petition committee must retain or provide to the secretary
45 for purposes of administering or enforcing the provisions of this chapter. The secretary shall pre-

1 scribe personal or confidential information that is not required to be disclosed under this subsection.

2 “**SECTION 9.** ORS 260.218 is amended to read:

3 “260.218. (1) The Secretary of State, **or Attorney General acting under ORS 260.345**, may is-
4 sue subpoenas to compel the production of records, documents, books, papers, memoranda or other
5 information necessary to determine compliance with the provisions of this chapter.

6 “(2) If a person fails to comply with any subpoena issued under subsection (1) of this section, a
7 judge of the circuit court of any county, on application of the Secretary of State **or Attorney**
8 **General** shall compel obedience by proceedings for contempt as in the case of disobedience of the
9 requirements of a subpoena issued from the circuit court.

10 “**SECTION 10.** ORS 260.345 is amended to read:

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

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

25 “(3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State
26 or Attorney General immediately shall examine the complaint to determine whether a violation of
27 an election law or rule has occurred and shall make any investigation the Secretary of State or
28 Attorney General considers necessary, **including but not limited to conducting an examination**
29 **of the accounts of a person, political committee or petition committee in the manner set**
30 **forth in section 7 of this 2016 Act.** Except as provided in this subsection, within 48 hours of re-
31 ceiving a complaint under subsection (1) or (2) of this section, the Secretary of State or Attorney
32 General shall notify the person who is the subject of the complaint that a complaint has been re-
33 ceived. If the Secretary of State or Attorney General receives a complaint or complaints involving
34 25 or more individuals, political committees or petition committees in any 24-hour period, the Sec-
35 retary of State or Attorney General need not notify the persons who are the subjects of those
36 complaints within 48 hours of receiving the complaints but shall notify those persons not later than
37 10 business days after receiving the complaint or complaints.

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

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

45 “(b) In the case of a violation not subject to a penalty under ORS 260.993, may impose a civil

1 penalty under ORS 260.995.

2 “(5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section in-
3 volving an alleged violation subject to a penalty under ORS 260.993, the Attorney General or other
4 prosecutor immediately shall examine the complaint or report to determine whether a violation of
5 an election law has occurred. If the Attorney General or prosecutor determines that a violation
6 has occurred, the Attorney General or prosecutor immediately shall begin prosecution in the name
7 of the state. The Attorney General or other prosecutor shall have the same powers in any county
8 of this state as the district attorney for the county.

9 “(6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged
10 violation of an election law or rule not subject to a penalty under ORS 260.993, the Attorney Gen-
11 eral shall examine the complaint to determine whether a violation of an election law or rule has
12 occurred and shall make any investigation the Attorney General considers necessary, **including but**
13 **not limited to conducting an examination of the accounts of a person, political committee**
14 **or petition committee in the manner set forth in section 7 of this 2016 Act.** If the Attorney
15 General believes after an investigation that a violation of an election law or rule has occurred, the
16 Attorney General may impose a civil penalty under ORS 260.995.

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

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

31 “**SECTION 11. In addition to and not in lieu of any other appropriation, there is appro-**
32 **riated to the Secretary of State, for the biennium beginning July 1, 2015, out of the General**
33 **Fund, the amount of \$_____ for the purposes of preparing to implement the provisions of**
34 **sections 5 to 7 of this 2016 Act and the amendments to ORS 260.044, 260.055, 260.200, 260.218,**
35 **260.232 and 260.345 by sections 1 to 3 and 8 to 10 of this 2016 Act.**

36 “**SECTION 12. (1) Sections 5 to 7 of this 2016 Act and the amendments to ORS 260.044,**
37 **260.055, 260.200, 260.218, 260.232 and 260.345 by sections 1 to 3 and 8 to 10 of this 2016 Act**
38 **become operative on January 1, 2018.**

39 “(2) Sections 5 to 7 of this 2016 Act and the amendments to ORS 260.044, 260.055, 260.200,
40 260.218, 260.232 and 260.345 by sections 1 to 3 and 8 to 10 of this 2016 Act apply to any inde-
41 pendent expenditures made or campaign finance statements filed on or after the operative
42 date specified in subsection (1) of this section.

43 “(3) The Secretary of State and the Attorney General may take any action before the
44 operative date specified in subsection (1) of this section that is necessary to enable the Sec-
45 retary of State and the Attorney General to exercise, on and after the operative date speci-

1 **fied in subsection (1) of this section, all of the duties, functions and powers conferred on the**
2 **Secretary of State and the Attorney General by sections 5 to 7 of this 2016 Act and the**
3 **amendments to ORS 260.044, 260.055, 260.200, 260.218, 260.232 and 260.345 by sections 1 to 3**
4 **and 8 to 10 of this 2016 Act.”.**

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