

OFFICE OF THE SECRETARY OF STATE

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SECRETARY OF STATE

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DEPUTY SECRETARY OF STATE  
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ARCHIVES DIVISION

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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 165  
SECRETARY OF STATE  
ELECTIONS DIVISION

**FILED**

11/06/2024 11:30 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Repealing Covered Organization administrative rules.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/23/2024 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

CONTACT: Coline Benson  
503-986-1518  
elections.sos@sos.oregon.gov

255 Capitol St. NE  
Ste. 126  
Salem, OR 97310

Filed By:  
Coline Benson  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 12/18/2024

TIME: 11:00 AM - 11:30 AM

OFFICER: Coline Benson

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-503-446-4951

CONFERENCE ID: 871375168

NEED FOR THE RULE(S)

HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB 4024 (2024) available online at [oregonlegislature.gov](http://oregonlegislature.gov) or from the Elections Division.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This rule promotes racial equity. The terms of the rule promote racial equity by protecting against implicit bias and ensuring that the same guidelines and procedures apply consistently to all individuals, committees, and filers.

FISCAL AND ECONOMIC IMPACT:

The proposed amendments may have a minimal fiscal or economic impact on the Secretary of State, Elections Division.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) There may be a minimal fiscal impact for the Elections Division to answer questions regarding repeal this rule, or for other unanticipated reasons.

(2)(a)-(c) The Elections Division does not anticipate any costs for small businesses to comply with this rule because the filing requirements will no longer exist.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved as this rule does not directly affect small businesses.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The fiscal impact of the proposed amendments is expected to be minimal at most.

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RULES PROPOSED:

165-012-0500, 165-012-0505, 165-012-0510, 165-012-0515, 165-012-0520, 165-012-0530

REPEAL: 165-012-0500

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This permanent filing repeals the rule permanently. The Division is also filing temporary rules suspending the rule effective immediately.

CHANGES TO RULE:

~~165-012-0500~~

~~Applicability of Elections Divisions Rules~~

~~Unless otherwise provided in rules 165-012-0505 through 165-012-0530, the administrative rules set out in OAR Chapter 165, Division 001, apply to filings, notices, hearings, and other applications of Oregon election law to Covered Organizations and their Authorized Representative(s). In the event of a potential conflict, ORS 260.275, ORS 260.281, ORS 260.285 and these administrative rules OAR 165-012-0050 through 165-012-0530 will control.~~

~~Statutory/Other Authority: ORS 183.341, 246.150, 260.281~~

~~Statutes/Other Implemented: ORS 260.275, 260.281, 260.285~~

REPEAL: 165-012-0505

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This permanent filing repeals the rule permanently. The Division is also filing temporary rules suspending the rule effective immediately.

CHANGES TO RULE:

~~165-012-0505~~

~~Definitions~~

~~(1) "Address" means street number and name, or rural route number or post office box, and city and state, plus zip code if available, where the person may be found or receives mail. For individual donors, address means the physical place where the individual receives correspondence, which might include but is not limited to the following: personal residence, post office box, place of business, or place of employment. ¶¶~~

~~(2) An "anonymous donation" is one that the covered organization cannot reasonably attribute to or associate with a donor by virtue of any identifying information, including the donor's name, address or location. ¶¶~~

~~(3) "Authorized Representative" means any person who has: ¶¶~~

~~(a) actual oral or written authority, either express or implied, to make or to authorize the action of any person or entity, including but not limited to a covered organization; or ¶¶~~

~~(b) been placed in a position within entity or on behalf of a person where it would reasonably appear that in the ordinary course of business or political activities the person may authorize the conduct or action. ¶¶~~

~~(4) "Donation" has the meaning given in ORS 260.275(4). ¶¶~~

~~(5) "Name" means any identifying label or other information which a person or organization is known by or responds to. ¶¶~~

~~(6) The phrase "For a particular" means in support of, in opposition to, or stating a neutral position regarding a specified legislative race, measure, political committee, or statewide race or state office for purposes of complying with ORS 260.275, ORS 260.281 and ORS 260.285.~~

~~Statutory/Other Authority: ORS 246.150, 260.281~~

~~Statutes/Other Implemented: ORS 260.275, 260.281, 260.285~~

REPEAL: 165-012-0510

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This permanent filing repeals the rule permanently. The Division is also filing temporary rules suspending the rule effective immediately.

CHANGES TO RULE:

~~165-012-0510~~

~~Forms Required~~

~~Covered organizations shall use the forms designated by the Secretary of State's Office for use in complying with ORS 260.275, ORS 260.281 and ORS 260.285 and administrative rules OAR 165-012-0500 through 165-012-0530.~~

~~Statutory/Other Authority: ORS 246.150, 260.281~~

~~Statutes/Other Implemented: ORS 260.275, 260.281, 260.285~~

REPEAL: 165-012-0515

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This permanent filing repeals the rule permanently. The Division is also filing temporary rules suspending the rule effective immediately.

CHANGES TO RULE:

~~165-012-0515~~

~~Deadlines~~

~~(1) ORS 246.021 applies to the forms and other information that must be filed with the Secretary of State for purposes of complying with ORS 260.275, ORS 260.281 and ORS 260.285 and these administrative rules OAR 165-012-0500 through 165-012-0530.~~

~~(2) Any filings required under ORS 260.275, ORS 260.281 and ORS 260.285 or administrative rules OAR 165-012-0500 through 165-012-0530 may be filed as follows:~~

~~(a) by delivery, including but not limited to the use of the U.S. Postal Service, to the Elections Division at 255 Capitol Street NE, Suite 501; Salem, OR 97310;~~

~~(b) by email to orestar-support.sos@oregon.gov; or~~

~~(c) by facsimile to 503-373-7414.~~

~~(3) If any of the required information on the form received by the Secretary of State is incomplete, the Elections Division will notify the filer by phone, e-mail, or in writing of the deficiencies on the form(s). The form(s) will not be processed or considered filed until all the required information is provided.~~

~~(4) If a previously filed filing is retracted or otherwise withdrawn after the filing due date, it will be considered late from the filing due date to the date the filing is retracted or withdrawn.~~

~~(5) If a previously filed filing is corrected or otherwise amended after the filing due date, it will be considered late from the filing due date to the date the filing is corrected or otherwise amended.~~

~~Statutory/Other Authority: ORS 246.150, 260.281~~

~~Statutes/Other Implemented: ORS 260.275, 260.281, 260.285~~

REPEAL: 165-012-0520

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This permanent filing repeals the rule permanently. The Division is also filing temporary rules suspending the rule effective immediately.

CHANGES TO RULE:

~~165-012-0520~~

~~Application of ORS 260.281~~

~~(1) A donation is received for purposes of ORS 260.281 and administrative rules OAR 165-012-0500 through 165-012-0530 as follows:¶~~

~~(a) If made by financial instrument (e.g. cash, check, or other written instrument), when the instrument is received by an agent or authorized representative of a covered organization, or by the financial institution if made directly to a financial institution.¶~~

~~(b) If made by electronic transfer of funds or credit card, when the donation is credited to an account in the name of a covered organization.¶~~

~~(c) If made by stock the date when an agent or authorized representative of the covered organization receives notice either of the authorization or of the completion of the transfer, whichever notification occurs first.¶~~

~~(d) If made in the form of an item of value, the date an agent or authorized representative of a covered organization has knowledge of the in-kind contribution and the item of value has been purchased or provided.¶~~

~~(2) Where a donor has already donated more than \$10,000 in the aggregate to a covered organization as of the date ORS 260.275, ORS 260.281 and ORS 260.285 were effective, and the covered organization is required to file an initial donor list, the covered organization shall file its initial donor list using form SEL 240 no later than July 1, 2020.¶~~

~~(3) When a covered organization discloses a donation from a donor which was previously reported, the covered organization shall report the updated total amount of the aggregate donation(s), not the amount of the change in donations.¶~~

~~(4) The signature provided by the authorized representative on an initial or updated donor identification list must be an original signature, although it may be submitted via a scanned document.¶~~

~~(5) Signatures on forms used to comply with ORS 260.281, ORS 260.285 or administrative rules OAR 165-012-0500 through 165-012-0530 that are filed using paper forms will be converted to an electronic document and will become the official record.¶~~

~~(6) For purposes of delivering the initial donor identification lists and updated donor identification lists to persons who request those lists, it shall be sufficient to direct the requestor to a website where such documents are available if such a website exists.~~

~~Statutory/Other Authority: ORS 246.150, 260.281~~

~~Statutes/Other Implemented: ORS 260.275, 260.281, 260.285~~

REPEAL: 165-012-0530

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This permanent filing repeals the rule permanently. The Division is also filing temporary rules suspending the rule effective immediately.

CHANGES TO RULE:

~~165-012-0530~~

~~Civil Penalties~~

~~(1) For purposes of assessing civil penalties in connection with violations of ORS 260.281, and these administrative rules OAR 165-012-0500 through 165-012-0530, the Authorized Representative identified on the SEL 240 form shall be financially responsible for those civil penalties. ¶~~

~~(2) Civil penalties assessed in connection with violations of ORS 260.281 and these administrative rules OAR 165-012-0500 through 165-012-0530, may be assessed during the Election Cycle and are not required to be held in abeyance until the end of an Election Cycle. ¶~~

~~(3) Subject to the cap set out in ORS 260.285, civil penalties assessed in connection with violations of ORS 260.281 and these administrative rules OAR 165-012-0500 through 165-012-0530, for late filings of initial donor identification list(s) shall be 2.5% of the total cost for political communications made by the covered organization for the applicable race, measure, or committee for each business day that the filing was late. The penalty will be calculated based on the total cost of political communications made by the covered organization for the applicable race, measure, or committee from the beginning of the election cycle up to the date the initial donor identification list was due. ¶~~

~~(4) Subject to the cap set out in ORS 260.285, civil penalties assessed in connection with violations of ORS 260.281 and these administrative rules (OAR 165-012-0500 through 165-012-0530) for late filings of updated donor identification list(s) shall be .5% per day of the aggregate donations not properly identified by the covered organization for the applicable race, measure, or committee for each business day that the filing was late. ¶~~

~~(5) For an initial or updated donor identification list that is amended after the due date to change the name of a donor resulting in a different donor, subject to the cap set out in ORS 260.285, the civil penalties assessed shall be .5% per day of the total donations received from donors whose names were not correctly identified for each business day that the filing was late. ¶~~

~~(6) For an initial or updated donor identification list that is amended after the due date to change the amount of a previously reported donation, subject to the cap set out in ORS 260.285, the civil penalties assessed shall be .5% per day of the net change or .5% of the updated amount, whichever is less, for each business day that the filing was late. ¶~~

~~(7) For an initial or updated donor identification list that is amended after the due date to add a new donor, subject to the cap set out in ORS 260.285, the civil penalties assessed shall be .5% per day of the total donations received from all donors whose donations were not correctly identified on the initial or updated donor identification list for each business day that the filing was late. ¶~~

~~(8) For an initial or updated donor identification list that is amended after the due date to remove a previously identified donor, subject to the cap set out in ORS 260.285, the civil penalties assessed shall be \$100.00 for each donor that was removed. ¶~~

~~(9) The administrative rules set out in OAR Chapter 165, Division 1 shall apply to hearings requested and held related to civil penalties assessed for violations of ORS 260.281 and these administrative rules OAR 165-012-0050 through 165-012-0530. In the event a potential conflict, ORS 260.285 and these administrative rules OAR 165-012-0050 through 165-012-0530 will control. ¶~~

~~(10) For purposes of requesting a hearing in conjunction with penalty notices issued for violations of ORS 260.281 and these administrative rules OAR 165-012-0050 through 165-012-0530, unless otherwise reflected in the record or in USPS information, notices shall be deemed received by the person against whom the penalties were assessed three days after mailing if mailed to a last known address within the state, or seven days after mailing if mailed to a last known address outside the state. ¶~~

~~(11) If a hearing is requested, it will be held as provided by ORS 260.285, which is not later than 45 calendar days after the deadline for requesting a hearing. A 15-calendar-day extension may be granted if requested in writing by the person subject to the civil penalty. ¶~~

~~(12) A request for hearing must be made by using the Hearing Request Form provided by the Secretary of State's Office, Elections Division. The Hearing Request Form, and testimony (if applicable) may be mailed, faxed, or attached to an email sent to orestar-support.sos@oregon.gov. ¶~~

~~(13) Proposed Civil Penalties assessed pursuant to ORS 260.285 may only be mitigated as follows: ¶~~

~~(a) The lateness or insufficiency of an initial or updated donor list is the direct result of clearly established fraud;~~

embezzlement, or other criminal activity against the Covered Organization, or Authorized Representative of a Covered Organization, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer, or the sworn testimony or affidavit of an accountant or bookkeeper or the person who actually engaged in the criminal activity. ¶¶

(A) This mitigating circumstance does not apply to any person who was the perpetrator of the wrongdoing described above. ¶¶

(B) If the criminal or civil action in a court of law results in a monetary judgment (including restitution) in favor of the Covered Organization or the Authorized Representative of a Covered Organization the Elections Division civil penalty must be paid if the judgment is collected. ¶¶

(b) The lateness or insufficiency of an initial or updated donor list is the direct result of fire, flood, utility failure, or other calamitous event, resulting in physical destruction of, or inaccessibility to necessary records. "Calamitous event" means a phenomenon of an exceptional character, the effects of which could not have been reasonably prevented or avoided by the exercise of due care or foresight. ¶¶

(c) The lateness or insufficiency of an initial or updated donor list is the direct result of failure of a professional delivery service to deliver documents in the time guaranteed for delivery by written receipt of the service provider. This does not include delivery by fax. ¶¶

(d) The lateness or insufficiency of an initial or updated donor list is the direct result of an error by the elections filing officer. If an initial or updated donor list is late or insufficient as the direct result of an error by the elections filing officer, the violation is waived and no penalty is assessed. ¶¶

(e) The lateness of an initial or updated donor list is the direct result of a valid personal emergency of the Authorized Representative or other individual authorized to make election-related filings on behalf of the Covered Organization. In this case, independent written verification must be provided. A valid personal emergency is an emergency, such as a serious personal illness or death in the immediate family of Authorized Representative or other individual authorized to make election-related filings on behalf of the Covered Organization which caused the transaction to be late. Personal emergency does not include a common cold or flu, or a long-term illness where other arrangements could have been made. ¶¶

(f) Only the circumstances listed above, if proven, may be considered in reducing a penalty. ¶¶

(14) Payment of civil penalties may be made as follows: ¶¶

(a) by credit card over the phone; or ¶¶

(b) by check payable to the Oregon Secretary of State, and Mailed to the Elections Division. ¶¶

(c) Payment may be made at any time after the proposed penalty notice is issued, but must be received not later than 30 calendar days after the service date of the final order. ¶¶

(d) If necessary, the person may contact the Elections Division to discuss payment plan options. ¶¶

(15) If the calculated penalty for an initial or updated donor list is less than \$50, a proposed penalty will not be issued.

Statutory/Other Authority: ORS 183.341, 246.150, 260.281, 260.285

Statutes/Other Implemented: ORS 260.275, 260.281, 260.285