To: Government Ethics Work Group and Interested Persons
Re: Staff Analysis and Recommendation on LC 186
   Regarding Campaign Finance Ethics Issues
From: Wendy J. Johnson, Deputy Director, Oregon Law Commission
Date: October 2, 2006

LC 186 would make changes to the election law statutes found in ORS Chapter 260. The
provisions focus on the use of political contributions and the treasure requirements of principal
campaign committees, as these two issues relate to government ethics.

Oregon Law Commission staff has reviewed the text of the draft statutory provisions in LC 186.
Staff finds that the statutory draft generally reflects the decisions and recommendations made by
the Administration of Government Ethics Sub-Work Group (Group #1). Group #1 now
forwards the draft to the full Government Ethics Work Group for consideration and action.

Staff Note: The substance of the work group’s decisions regarding campaign finance ethics
issues can be found in sections 1 and 2 of the draft bill (LC 186). Sections 3-7 of the draft have
LC form and style provisions and effective date provisions.

The Sub-Work Group agreed to make the following recommendations at its meetings on January
30, February 14, March 24, and May 8, and September 25, 2006:

1. Campaign contributions received by a candidate, principal campaign committee, or other
   political committee may only be used for campaign expenses. Campaign contributions, therefore,
   may no longer be used to defray expenses incurred in connection with the recipient’s duties as a
   holder of public office. This also resolves the issue of a candidate using campaign contributions
   to pay for expenses incurred in connection with the official’s duties as a holder of public office,
   that are currently covered by per diem. That is, there will no longer be double-dipping. (See p.
   2-3, Section 1, ORS 260.407(1), (2)(c) 5(b))

2. Campaign contributions may not be used for personal use. This is also implicit as a result of
   restricting the use of campaign contributions for only campaign expenses. (See p. 2, Section 1,
   ORS 260.407(2)(a), (5)(a))

3. A candidate may designate only one political committee as the candidate’s principal
   campaign committee. And a political committee may not be designated as the principal campaign
   committee of more than one candidate. (Continuation of existing law—See ORS 260.041)

4. Lawful use of campaign contributions should be defined in statute to clarify what is
   prohibited or allowed; however, the Secretary of State should have clear rule making authority to
   further interpret what is considered a campaign expense. (See p. 4, Section 1, ORS 260.407(6)
   (providing rulemaking authority)) Note that the draft does provide a listing of 5 key
   prohibitions on use of campaign contributions. (See p. 2-3, Section 1, ORS 260.407(2))

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1 As is currently allowed under ORS 260.407(1)(a).
2 Use of campaign contributions for personal use is currently prohibited under ORS 260.407(2).
3 ORS 260.041.
5. Create an exception to the prohibition on the use of campaign contributions for anything other than campaign expenses, to allow the following:
   a. If the candidate is running for a different office or reelection, then allow the transfer of the money to the candidate’s principal campaign committee for reelection or election to a different public office. (See p. 3, Section 1, ORS 260.407(3))
   b. Allow excess campaign contributions at the end of a campaign and where the candidate is no longer running for election or reelection, to be:
      i. Contributed to charitable organizations; (See p. 3, Section 1, ORS 240.407(4)(a))
      ii. Transferred to a caucus or political party PAC; and (See p. 3, Section 1, ORS 240.407(4)(b),(c))
      iii. (For legislators only) Transferred to a legislative fund which would then be used by the legislature to defray costs incurred in connection with legislators’ duties as holders of public office. (See p. 3-4, Section 1, ORS 240.407(4)(d))

6. The transfer of campaign contributions from a candidate or principal campaign committee to another candidate’s principal campaign committee, or to any miscellaneous political committee or ballot measure committee is prohibited. This is probably also resolved by the proposed general prohibition on use of campaign contributions for anything other than campaign expenses. (See p. 2-3, Section 1, ORS 240.407(2)(b))

7. In conjunction with the prohibition on using campaign contributions to defray expenses incurred in connection with the recipient’s duties as a holder of public office, recommend to the legislature and the Public Commission on the Oregon Legislature that legislators have adequate support for their services, and expenses, which may or may not be in the form of a salary. (No statutory provision required.)

8. The use of campaign contributions to pay money awards or civil penalties is prohibited. (See p. 3, Section 1, ORS 260.407(2)(d)) Staff note: this would mean that Secretary of State office’s election fines could no longer be paid with campaign funds.

9. Generally, a candidate for office may not serve as the treasurer of his or her own candidate campaign committee. (See p. 4, Section 2, ORS 260.037(1))

10. Both the candidate and the treasurer have the same duties and are legally responsible for any violations relating to the candidate’s principal campaign committee. (See p. 5, Section 2, ORS 260.037(2), (3))

11. Create an exception to the prohibition on a candidate serving as his or her own treasurer if:
   a. The total combined campaign activity is $2,000 or less; or

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4 ORS 260.407(1)(c) allows campaign contributions to be contributed to a charitable organization defined in ORS 128.620.
5 ORS 260.037.
b. All contributions to the candidate’s campaign are from the candidate’s own money. (See p. 5, Section 2, ORS 260.037(4),(5))

13. Recommend that the Secretary of State’s office provide clear notice to political campaign committee treasurers and candidates of their legal responsibility and liability regarding reporting and use of campaign funds

14. Prohibit use of campaign contribution to pay license fees, professional membership fees, other civic organizational membership dues, etc. (See p. 3, Section 1, ORS 260.407(2)(e))