

House Bill 2121

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice and Office of Regulatory Streamlining of Department of Consumer and Business Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies state agency rulemaking procedures. Provides that agency giving notice of intended rulemaking may refer persons entitled to notice to website for purpose of acquiring copies of proposed rule and copies of certain statutorily required information. Allows person to request paper copy of proposed rule and information.

Eliminates provision requiring agency to postpone date of intended action upon request of interested person.

Allows agency to correct rule references, addresses and phone numbers in administrative rules without formal rulemaking process.

A BILL FOR AN ACT

1
2 Relating to rulemaking procedures; amending ORS 183.330, 183.335, 183.355, 183.534, 183.538, 455.035,
3 459.045, 459A.485, 468.020, 496.138, 536.027, 696.385 and 722.024 and section 2, chapter 314,
4 Oregon Laws 2005.

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

6 **SECTION 1.** ORS 183.335 is amended to read:

7 183.335. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice
8 of its intended action:

9 (a) In the manner established by rule adopted by the agency under ORS 183.341 (4), which pro-
10 vides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

11 (b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

12 (c) At least 28 days before the effective date, to persons who have requested notice pursuant to
13 subsection *[(8)] (7)* of this section; and

14 (d) At least 49 days before the effective date, to the persons specified in subsection *[(15)] (14)*
15 of this section.

16 (2)(a) The notice required by subsection (1) of this section must include:

17 (A) A caption of not more than 15 words that reasonably identifies the subject matter of the
18 agency's intended action. The agency shall include the caption on each separate notice, statement,
19 certificate or other similar document related to the intended action.

20 (B) An objective, simple and understandable statement summarizing the subject matter and
21 purpose of the intended action in sufficient detail to inform a person that the person's interests may
22 be affected, and the time, place and manner in which interested persons may present their views on
23 the intended action.

24 (b) The agency shall include with the notice of intended action given under subsection (1) of this
25 section:

26 (A) A citation of the statutory or other legal authority relied upon and bearing upon the
27 promulgation of the rule;

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (B) A citation of the statute or other law the rule is intended to implement;

2 (C) A statement of the need for the rule and a statement of how the rule is intended to meet the
3 need;

4 (D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by
5 the agency in considering the need for and in preparing the rule, and a statement of the location
6 at which those documents are available for public inspection. The list may be abbreviated if neces-
7 sary, and if so abbreviated there shall be identified the location of a complete list;

8 (E) A statement of fiscal impact identifying state agencies, units of local government and the
9 public which may be economically affected by the adoption, amendment or repeal of the rule and
10 an estimate of that economic impact on state agencies, units of local government and the public. In
11 considering the economic effect of the proposed action on the public, the agency shall utilize avail-
12 able information to project any significant economic effect of that action on businesses which shall
13 include a cost of compliance effect on small businesses affected. For an agency specified in ORS
14 183.530, the statement of fiscal impact shall also include a housing cost impact statement as de-
15 scribed in ORS 183.534;

16 (F) If an advisory committee is not appointed under the provisions of ORS 183.333, an explana-
17 tion as to why no advisory committee was used to assist the agency in drafting the rule; and

18 (G) A request for public comment on whether other options should be considered for achieving
19 the rule's substantive goals while reducing the negative economic impact of the rule on business.

20 (c) The Secretary of State may omit the information submitted under paragraph (b) of this sub-
21 section from publication in the bulletin referred to in ORS 183.360.

22 (d) When providing notice of an intended action under subsection (1)(c) of this section, the
23 agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an
24 explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall
25 show all changes to the rule by striking through material to be deleted and underlining all new
26 material, or by any other method that clearly shows all new and deleted material.

27 (e) Notice of an intended action under subsection (1)(a), (c) and (d) of this section may be given
28 by regular mail or by electronic mail. **Unless a person entitled to notice requests that paper
29 copies be provided at the time of the mailing, the notice may refer the person to a website
30 for the purpose of acquiring copies of the proposed rule and copies of the information re-
31 quired to be given under paragraph (b) of this subsection.**

32 (3)(a) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons
33 reasonable opportunity to submit data or views. Opportunity for oral hearing shall be granted upon
34 request received from 10 persons or from an association having not less than 10 members before the
35 earliest date that the rule could become effective after the giving of notice pursuant to subsection
36 (1) of this section. An agency holding a hearing upon a request made under this subsection shall give
37 notice of the hearing at least 21 days before the hearing to the person who has requested the
38 hearing, to persons who have requested notice pursuant to subsection [(8)] (7) of this section and
39 to the persons specified in subsection [(15)] (14) of this section. The agency shall publish notice of
40 the hearing in the bulletin referred to in ORS 183.360 at least 14 days before the hearing. The
41 agency shall consider fully any written or oral submission.

42 (b) If an agency is required to conduct an oral hearing under paragraph (a) of this subsection,
43 and the rule for which the hearing is to be conducted applies only to a limited geographical area
44 within this state, or affects only a limited geographical area within this state, the hearing shall be
45 conducted within the geographical area at the place most convenient for the majority of the resi-

1 dents within the geographical area. At least 14 days before a hearing conducted under this para-
 2 graph, the agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 and
 3 in a newspaper of general circulation published within the geographical area that is affected by the
 4 rule or to which the rule applies. If a newspaper of general circulation is not published within the
 5 geographical area that is affected by the rule or to which the rule applies, the publication shall be
 6 made in the newspaper of general circulation published closest to the geographical area.

7 (c) Notwithstanding paragraph (a) of this subsection, the Department of Corrections and the
 8 State Board of Parole and Post-Prison Supervision may adopt rules limiting participation by inmates
 9 in the proposed adoption, amendment or repeal of any rule to written submissions.

10 (d) If requested by at least five persons before the earliest date that the rule could become ef-
 11 fective after the agency gives notice pursuant to subsection (1) of this section, the agency shall
 12 provide a statement that identifies the objective of the rule and a statement of how the agency will
 13 subsequently determine whether the rule is in fact accomplishing that objective.

14 (e) An agency that receives data or views concerning proposed rules from interested persons
 15 shall maintain a record of the data or views submitted. The record shall contain:

16 (A) All written materials submitted to an agency in response to a notice of intent to adopt,
 17 amend or repeal a rule.

18 (B) A recording or summary of oral submissions received at hearings held for the purpose of
 19 receiving those submissions.

20 (C) Any public comment received in response to the request made under subsection (2)(b)(G) of
 21 this section and the agency's response to that comment.

22 (D) Any statements provided by the agency under paragraph (d) of this subsection.

23 *[(4) Upon request of an interested person received before the earliest date that the rule could be-
 24 come effective after the giving of notice pursuant to subsection (1) of this section, the agency shall
 25 postpone the date of its intended action no less than 21 nor more than 90 days in order to allow the
 26 requesting person an opportunity to submit data, views or arguments concerning the proposed action.
 27 Nothing in this subsection shall preclude an agency from adopting a temporary rule pursuant to sub-
 28 section (5) of this section.]*

29 *[(5)]* (4) Notwithstanding subsections (1) to *[(4)]* (3) of this section, an agency may adopt, amend
 30 or suspend a rule without prior notice or hearing or upon any abbreviated notice and hearing that
 31 it finds practicable, if the agency prepares:

32 (a) A statement of its findings that its failure to act promptly will result in serious prejudice to
 33 the public interest or the interest of the parties concerned and the specific reasons for its findings
 34 of prejudice;

35 (b) A citation of the statutory or other legal authority relied upon and bearing upon the
 36 promulgation of the rule;

37 (c) A statement of the need for the rule and a statement of how the rule is intended to meet the
 38 need;

39 (d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by
 40 the agency in considering the need for and in preparing the rule, and a statement of the location
 41 at which those documents are available for public inspection; and

42 (e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS
 43 183.534.

44 *[(6)(a)]* (5)(a) A rule adopted, amended or suspended under subsection *[(5)]* (4) of this section is
 45 temporary and may be effective for a period of not longer than 180 days. The adoption of a rule

1 under this subsection does not preclude the subsequent adoption of an identical rule under sub-
2 sections (1) to [(4)] (3) of this section.

3 (b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary
4 period of suspension unless the rule is repealed under subsections (1) to [(4)] (3) of this section.

5 [(7)] (6) Notwithstanding subsections (1) to [(4)] (3) of this section, an agency may amend a rule
6 without prior notice or hearing if the amendment is solely for the purpose of:

7 (a) Changing the name of an agency by reason of a name change prescribed by law;

8 (b) Correcting spelling;

9 (c) Correcting grammatical mistakes in a manner that does not alter the scope, application or
10 meaning of the rule; [or]

11 (d) Correcting statutory **or rule** references; **or**

12 (e) **Correcting addresses or telephone numbers referred to in the rules.**

13 [(8)] (7) Any person may request in writing that an agency send to the person [*copies of its*]
14 notices of intended action [*given pursuant to*] **under** subsection (1) of this section. The person must
15 provide a mailing address or electronic mail address. Upon receipt of any request the agency shall
16 acknowledge the request, establish a mailing list and maintain a record of all mailings made pursu-
17 ant to the request. Agencies may establish procedures for establishing and maintaining the mailing
18 lists current and, by rule, establish fees necessary to defray the costs of mailings and maintenance
19 of the lists.

20 [(9)] (8) This section does not apply to rules establishing an effective date for a previously ef-
21 fective rule or establishing a period during which a provision of a previously effective rule will ap-
22 ply.

23 [(10)] (9) This section does not apply to ORS 279.835 to 279.855, 279A.140 to 279A.155, 279A.250
24 to 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to 279B.240, 279B.270, 279B.275, 279B.280,
25 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545,
26 279C.550 to 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to 279C.670 and
27 279C.800 to 279C.870 relating to public contracts and purchasing.

28 [(11)(a)] (10)(a) Except as provided in paragraph (c) of this subsection, a rule is not valid unless
29 adopted in substantial compliance with the provisions of this section in effect on the date that the
30 notice required under subsection (1) of this section is delivered to the Secretary of State for the
31 purpose of publication in the bulletin referred to in ORS 183.360.

32 (b) In addition to all other requirements with which rule adoptions must comply, a rule is not
33 valid if the rule has not been submitted to the Legislative Counsel in the manner required by ORS
34 183.715.

35 (c) A rule is not subject to judicial review or other challenge by reason of failing to comply with
36 subsection (2)(a)(A) of this section.

37 [(12)(a)] (11)(a) Notwithstanding the provisions of subsection [(11)] (10) of this section, but sub-
38 ject to paragraph (b) of this subsection, an agency may correct its failure to substantially comply
39 with the requirements of subsections (2) and [(5)] (4) of this section in adoption of a rule by an
40 amended filing, as long as the noncompliance did not substantially prejudice the interests of persons
41 to be affected by the rule.

42 (b) An agency may use an amended filing to correct a failure to include a fiscal impact state-
43 ment in a notice of intended action, as required by subsection (2)(b)(E) of this section, or to correct
44 an inaccurate fiscal impact statement, only if the agency developed the fiscal impact statement with
45 the assistance of an advisory committee or fiscal impact advisory committee appointed under ORS

1 183.333.

2 [(13)] (12) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by
 3 an agency need not be based upon or supported by an evidentiary record.

4 [(14)] (13) When an agency has established a deadline for comment on a proposed rule under the
 5 provisions of subsection (3)(a) of this section, the agency may not extend that deadline for another
 6 agency or person unless the extension applies equally to all interested agencies and persons. An
 7 agency shall not consider any submission made by another agency after the final deadline has
 8 passed.

9 [(15)] (14) The notices required under subsections (1) and (3) of this section must be given by the
 10 agency to the following persons:

11 (a) If the proposed adoption, amendment or repeal results from legislation that was passed
 12 within two years before notice is given under subsection (1) of this section, notice shall be given to
 13 the legislator who introduced the bill that subsequently was enacted into law, and to the chair or
 14 cochairs of all committees that reported the bill out, except for those committees whose sole action
 15 on the bill was referral to another committee.

16 (b) If the proposed adoption, amendment or repeal does not result from legislation that was
 17 passed within two years before notice is given under subsection (1) of this section, notice shall be
 18 given to the chair or cochairs of any interim or session committee with authority over the subject
 19 matter of the rule.

20 (c) If notice cannot be given under paragraph (a) or (b) of this subsection, notice shall be given
 21 to the Speaker of the House of Representatives and to the President of the Senate who are in office
 22 on the date the notice is given.

23 [(16)(a)] (15)(a) Upon the request of a member of the Legislative Assembly or of a person who
 24 would be affected by a proposed adoption, amendment or repeal, the committees receiving notice
 25 under subsection [(15)] (14) of this section shall review the proposed adoption, amendment or repeal
 26 for compliance with the legislation from which the proposed adoption, amendment or repeal results.

27 (b) The committees shall submit their comments on the proposed adoption, amendment or repeal
 28 to the agency proposing the adoption, amendment or repeal.

29 **SECTION 2.** ORS 183.330 is amended to read:

30 183.330. (1) In addition to other rulemaking requirements imposed by law, each agency shall
 31 publish a description of its organization and the methods whereby the public may obtain information
 32 or make submissions or requests.

33 (2) Each state agency that adopts rules shall appoint a rules coordinator and file a copy of that
 34 appointment with the Secretary of State. The rules coordinator shall:

35 (a) Maintain copies of all rules adopted by the agency and be able to provide information to the
 36 public about the status of those rules;

37 (b) Provide information to the public on all rulemaking proceedings of the agency; and

38 (c) Keep and make available the mailing list required by ORS 183.335 [(8)] (7).

39 (3) An order shall not be effective as to any person or party unless it is served upon the person
 40 or party either personally or by mail. This subsection is not applicable in favor of any person or
 41 party who has actual knowledge of the order.

42 (4) An order is not final until it is reduced to writing.

43 **SECTION 3.** ORS 183.355 is amended to read:

44 183.355. (1)(a) Each agency shall file in the office of the Secretary of State a certified copy of
 45 each rule adopted by it.

1 (b) Notwithstanding the provisions of paragraph (a) of this subsection, an agency adopting a rule
 2 incorporating published standards by reference is not required to file a copy of those standards with
 3 the Secretary of State if:

4 (A) The standards adopted are unusually voluminous and costly to reproduce; and

5 (B) The rule filed with the Secretary of State identifies the location of the standards so incor-
 6 porated and the conditions of their availability to the public.

7 (2) Each rule is effective upon filing as required by subsection (1) of this section, except that:

8 (a) If a later effective date is required by statute or specified in the rule, the later date is the
 9 effective date.

10 (b) A temporary rule becomes effective upon filing with the Secretary of State, or at a desig-
 11 nated later date, only if the statement required by ORS 183.335 [(5)] (4) is filed with the rule. The
 12 agency shall take appropriate measures to make temporary rules known to the persons who may be
 13 affected by them.

14 (3) When a rule is amended or repealed by an agency, the agency shall file a certified copy of
 15 the amendment or notice of repeal with the Secretary of State who shall appropriately amend the
 16 compilation required by ORS 183.360 (1).

17 (4) A certified copy of each executive order issued, prescribed or promulgated by the Governor
 18 shall be filed in the office of the Secretary of State.

19 (5) No rule of which a certified copy is required to be filed shall be valid or effective against
 20 any person or party until a certified copy is filed in accordance with this section. However, if an
 21 agency, in disposing of a contested case, announces in its decision the adoption of a general policy
 22 applicable to such case and subsequent cases of like nature the agency may rely upon such decision
 23 in disposition of later cases.

24 (6) The Secretary of State shall, upon request, supply copies of rules, or orders or designated
 25 parts of rules or orders, making and collecting therefor fees prescribed by ORS 177.130. All receipts
 26 from the sale of copies shall be deposited in the State Treasury to the credit of the Secretary of
 27 State Miscellaneous Receipts Account established under ORS 279A.290.

28 **SECTION 4.** ORS 183.534 is amended to read:

29 183.534. (1) A housing cost impact statement is an estimate of the effect of a proposed rule or
 30 ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200
 31 square foot detached single family dwelling on that parcel. The State Housing Council shall adopt
 32 rules prescribing the form to be used when preparing the estimate and other such rules necessary
 33 to the implementation of this section and ORS 183.530 and 183.538.

34 (2) A housing cost impact statement:

35 (a) For an agency listed in ORS 183.530 shall be incorporated in the:

36 (A) Fiscal impact statement required by ORS 183.335 (2)(b)(E) for permanent rule adoption; or

37 (B) Statements required by ORS 183.335 [(5)] (4) for temporary rule adoption.

38 (b) Shall not be required for the adoption of any procedural rule by an agency listed in ORS
 39 183.530.

40 **SECTION 5.** ORS 183.538 is amended to read:

41 183.538. (1) Notwithstanding ORS 183.335 [(12)] (11), 183.400 (4) or any other provision of law,
 42 the failure to prepare a housing cost impact statement shall not affect the validity or effective date
 43 of any rule or ordinance or any amendment to a rule or ordinance.

44 (2) If a rule or ordinance or any amendment to a rule or ordinance is challenged based on the
 45 failure to prepare a housing cost impact statement, the court or other reviewing authority shall re-

1 mand the proposed rule or ordinance or any amendment to a rule or ordinance to the adopting or
 2 repealing entity if it determines that a housing cost impact statement is required.

3 (3) The court or other reviewing authority shall determine only whether a housing cost impact
 4 statement was prepared and shall not make any determination as to the sufficiency of the housing
 5 cost impact statement.

6 **SECTION 6.** Section 2, chapter 314, Oregon Laws 2005, is amended to read:

7 **Sec. 2.** In addition to the notices required under ORS 183.335 [(15)] (14), the Oregon Department
 8 of Administrative Services shall give notice to the individual members of any interim or session
 9 committee with authority over the subject matter of the rule if the department proposes to adopt a
 10 rule under ORS 414.320.

11 **SECTION 7.** ORS 455.035 is amended to read:

12 455.035. (1) Any rule adopted under this chapter or ORS 447.010 to 447.156 [and 447.992] or
 13 479.510 to 479.945 [and 479.995 shall] **may** not become effective on a date other than January 1,
 14 April 1, July 1 or October 1.

15 (2) Notwithstanding subsection (1) of this section, a rule adopting construction standards, ma-
 16 terials, practices or provisions under the state building code may become effective on any date.

17 (3) The provisions of subsection (1) of this section do not apply to temporary rules adopted under
 18 ORS 183.335 [(5)] (4).

19 **SECTION 8.** ORS 459.045 is amended to read:

20 459.045. (1) The Environmental Quality Commission shall adopt reasonable and necessary solid
 21 waste management rules governing the:

22 (a) Accumulation, storage, collection, transportation and disposal of solid wastes to prevent
 23 vector production and sustenance, transmission of diseases to humans or animals, air pollution,
 24 pollution of surface or ground waters, and hazards to service or disposal workers or to the public.

25 (b) Location of disposal sites, giving consideration to:

26 (A) The adaptability of each disposal site to the population served, topography and geology of
 27 the area and other characteristics as they affect protection of ground and surface waters and air
 28 pollution;

29 (B) Minimum standards of design, management and operation of disposal sites; and

30 (C) Salvage operations at disposal sites.

31 (c) Construction, loading and operation of vehicles used in performing collection service to
 32 prevent the contents of the vehicles from dropping, sifting, leaking or escaping onto public highways.

33 (d) Definition of other “wastes” subject to regulation under ORS 459.005 to 459.105, 459.205 to
 34 459.385 and 459.992 (1) and (2).

35 (e) Closure and post-closure maintenance of land disposal sites.

36 (2) The commission may by rule:

37 (a) Exempt a class of land disposal sites other than those receiving domestic solid waste from
 38 the requirement to provide financial assurance under ORS 459.272; or

39 (b) Establish criteria that a land disposal site must meet to be exempted from the requirement
 40 to provide financial assurance under ORS 459.272.

41 (3) The commission shall adopt rules on other subjects as necessary to carry out:

42 (a) ORS 459.005 to 459.105 and 459.205 to 459.385.

43 (b) ORS 646.608 (1)(y). Rules adopted under this paragraph shall, to the greatest extent practi-
 44 cable, be consistent with the labeling requirements of other states.

45 (4) The commission shall adopt rules which have modified or limited application in different ge-

1 ographic areas of the state when special conditions prevail in specified geographic areas. Special
 2 conditions that shall be considered include, but are not limited to, climatic conditions, zone classi-
 3 fication of the area, population characteristics, methods and costs of solid waste management, solid
 4 waste management plans and other conditions in the area. Modifications or limitations shall not be
 5 unreasonable, arbitrary or inimical to the policy and purposes of ORS 459.005 to 459.105 and 459.205
 6 to 459.385.

7 (5) All rules adopted under this section shall be adopted after public hearing and in accordance
 8 with ORS chapter 183.

9 (6) Unless a rule adopted under this section is adopted pursuant to the authority granted by
 10 ORS 183.335 [(5)] (4), the commission shall mail copies of the proposed rules to all persons who have
 11 requested such copies. The copies shall be mailed at least 30 days prior to the hearing required by
 12 subsection (5) of this section.

13 **SECTION 9.** ORS 459A.485 is amended to read:

14 459A.485. (1) Notwithstanding ORS 183.335 [(5)] (4), the Oregon Department of Administrative
 15 Services shall adopt rules pursuant to ORS chapter 183 that:

16 (a) Establish procedures for the separation of solid waste generated by state agencies that can
 17 be recycled or reused.

18 (b) Establish a system for the collection of solid waste generated by state agencies that can be
 19 recycled or reused. The system shall ensure that the material is made available to appropriate
 20 agencies or private industries for reuse or recycling at the greatest economic value and to the
 21 greatest extent feasible for recycling.

22 (2) All state agencies shall comply with the procedures and systems established under subsection
 23 (1) of this section.

24 (3) The Governor may exempt any single activity or facility of any state agency from compliance
 25 under this section if the Governor determines it to be in the paramount interest of the state. Any
 26 exemption shall be for a period not in excess of one year, but additional exemptions may be granted
 27 for periods not to exceed one year. The Governor shall make public all exemptions together with
 28 the reasons for granting such exemptions.

29 **SECTION 10.** ORS 468.020 is amended to read:

30 468.020. (1) In accordance with the applicable provisions of ORS chapter 183, the Environmental
 31 Quality Commission shall adopt such rules and standards as it considers necessary and proper in
 32 performing the functions vested by law in the commission.

33 (2) Except as provided in ORS 183.335 [(5)] (4), the commission shall cause a public hearing to
 34 be held on any proposed rule or standard prior to its adoption. The hearing may be before the
 35 commission, any designated member thereof or any person designated by and acting for the com-
 36 mission.

37 **SECTION 11.** ORS 496.138 is amended to read:

38 496.138. (1) Consistent with the policy of ORS 496.012, the State Fish and Wildlife Commission
 39 shall implement the policies and programs of this state for the management of wildlife. These poli-
 40 cies and programs shall consider the uses of public and private lands and utilize voluntary part-
 41 nerships with private and public landowners to protect and enhance wildlife habitat and effectively
 42 manage wildlife. In addition, the commission shall perform any other duty vested in it by law.

43 (2) In accordance with the applicable provisions of ORS chapter 183, the commission shall adopt
 44 such rules and standards as it considers necessary and proper to implement the policy and objec-
 45 tives of ORS 496.012 and perform the functions vested by law in the commission.

1 (3) Except as provided in ORS 183.335 [(5)] (4), the commission shall cause a public hearing to
 2 be held on any proposed rule or standard prior to its adoption. The hearing may be before the
 3 commission, any designated member thereof or any person designated by and acting for the com-
 4 mission.

5 (4) Before submitting budget requests or information to the Governor pursuant to ORS 291.201
 6 to 291.222, the commission shall hold a public hearing on proposals for planned expenditures and
 7 enhancement packages that the commission intends to recommend to the Governor for inclusion in
 8 the Governor's budget.

9 **SECTION 12.** ORS 536.027 is amended to read:

10 536.027. (1) In accordance with the applicable provisions of ORS chapter 183, the Water Re-
 11 sources Commission shall adopt rules and standards to perform the functions vested by law in the
 12 commission.

13 (2) Except as provided in ORS 183.335 [(5)] (4), the commission shall cause a public hearing to
 14 be held on any proposed rule or standard before its adoption. The hearing may be before the com-
 15 mission, any designated member of the commission or any person designated by and acting for the
 16 commission.

17 **SECTION 13.** ORS 696.385 is amended to read:

18 696.385. The Real Estate Agency shall have the power to:

19 (1) Adopt a seal by which it shall authenticate its proceedings.

20 (2) From time to time, prepare and cause to be printed and circulated among the real estate
 21 licensees of Oregon such printed matter as it may deem helpful or educational or proper for the
 22 guidance and welfare of such licensees.

23 (3) Make and enforce any and all such reasonable rules as shall be deemed necessary to ad-
 24 minister and enforce the provisions of, and enforce and discharge the duties defined in, any law with
 25 the administration or enforcement of which the agency is charged.

26 (4) Except as provided in subsection (5) of this section, when the agency proposes to adopt,
 27 amend or repeal a rule concerning real estate licensees, the agency shall:

28 (a) Submit a copy of the proposed rule to the Real Estate Board at least 45 days prior to pub-
 29 lication of the notice of intended action required under ORS 183.335 for the rule.

30 (b) Consider any recommendations that the board, by majority vote, makes concerning the pro-
 31 posed rule.

32 (c) Publish as part of the statement of need in the matters any written comments submitted by
 33 the board for publication under paragraph (b) of this subsection.

34 (5) Subsection (4) of this section does not apply to a temporary rule that is adopted, amended
 35 or suspended pursuant to ORS 183.335 [(5)] (4). However, the agency shall submit to the board a
 36 copy of any proposed temporary rule as soon as practicable and, to the extent possible under the
 37 circumstances, consider any recommendations that the board may make by majority vote regarding
 38 the temporary rule.

39 **SECTION 14.** ORS 722.024 is amended to read:

40 722.024. (1) Upon receipt of an application and the documents described by ORS 722.022, the
 41 Director of the Department of Consumer and Business Services shall promptly examine and investi-
 42 gate whether the formation of the association should be allowed and the application granted.

43 (2) Not less than 20 days prior to taking action on an application for a certificate of incorpo-
 44 ration, the director shall give notice of the filing of the application as provided by subsection (3)
 45 of this section. The notice shall state:

1 (a) That the application has been filed and name the community where the principal office is to
2 be located; and

3 (b) That either a hearing will be held on the application at a time, date and place given in the
4 notice, or that a hearing will be held if any person objects on relevant grounds to the granting of
5 the application and files a request for a hearing with the director prior to a date given in the notice.

6 (3) Notice shall be given:

7 (a) By publishing the notice one time in a newspaper, designated by the director, of general
8 circulation in the community in which the principal office of the proposed association is to be lo-
9 cated;

10 (b) By mailing copies to all domestic, foreign and federal associations transacting business in
11 this state; and

12 (c) By mailing copies of the notice to persons who have requested notice pursuant to ORS
13 183.335 [(8)] (7).

14 (4) If a hearing is held because of a request, notice of the hearing shall be given as provided
15 by subsection (3) of this section and shall name the time, date and place of the hearing. At any
16 hearing any person may appear in person or by agent or attorney and orally or in writing show
17 cause upon any relevant ground why the application should or should not be granted.

18 (5) In the course of investigating any person named as incorporators and proposed directors and
19 officers in the articles of incorporation under ORS 722.022, the director may require the person to
20 provide additional information for the director's further inquiry. For the purpose of such further
21 inquiry, the director may require the person to submit to fingerprinting.

22 (6) Fingerprints acquired under subsection (5) of this section may be submitted to appropriate
23 law enforcement agencies, including the Federal Bureau of Investigation, for the purpose of discov-
24 ering any unlawful activities of the person.

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