

House Bill 2528

Sponsored by Representative THATCHER

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**.

Requires that agency must find that there is cause to investigate alleged violation of law or rule before investigation commences. Describes cause.

Allows agency to conduct preliminary review to determine if cause exists for investigation. Requires notice of preliminary review to person alleged to have violated law or rule. Prescribes time limitations for preliminary review.

Requires notice to person alleged to have violated law or rule if agency determines that cause exists for investigation. Prescribes time limitations for investigations.

Describes actions agency may take after investigation.

A BILL FOR AN ACT

1
2 Relating to investigations by agencies.

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

4 **SECTION 1. Sections 2 to 8 of this 2007 Act are added to and made a part of ORS chapter**
5 **183.**

6 **SECTION 2. Cause required for investigation. (1) Before commencing an investigation on**
7 **a complaint that a person has violated a law or rule, or undertaking an investigation on the**
8 **agency's own motion of such a violation, the agency must make a finding that there is cause**
9 **to undertake the investigation as described in subsection (3) of this section.**

10 **(2) The agency must notify the person who is the subject of the investigation. The notice**
11 **must contain a statement identifying the issues and conduct to be examined.**

12 **(3) An agency may make a finding that there is cause to undertake an investigation of**
13 **a person if the agency determines that there is a substantial, objective basis for believing**
14 **that the person has violated a law administered by the agency or has violated a rule of the**
15 **agency.**

16 **SECTION 3. Preliminary review. (1) For the purpose of determining whether there is**
17 **cause for investigation of a person under section 2 of this 2007 Act, an agency may conduct**
18 **a preliminary review. The agency shall immediately notify a person who is the subject of a**
19 **preliminary review. The notice shall include a statement of the nature of the alleged vio-**
20 **lation, and a copy of all materials submitted along with the complaint or materials that**
21 **prompted the agency's investigation of the alleged violation on the agency's own motion.**

22 **(2) During a preliminary review, an agency may require any additional information, ad-**
23 **minister oaths, take depositions and issue subpoenas to compel attendance of witnesses and**
24 **the production of books, papers, records, memoranda or other information necessary to**
25 **complete the review.**

26 **(3) A person conducting a preliminary review on behalf of an agency shall do so in an**
27 **impartial, objective manner. All favorable and unfavorable information collected by the per-**
28 **son shall be provided to the agency.**

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 **SECTION 4. Time limitation for completion of preliminary review.** (1) Unless the agency
 2 and the person who is the subject of a preliminary review agree to extend the period, a pre-
 3 liminary review under section 3 of this 2007 Act must be completed not later than 90 days
 4 after a complaint is received by an agency, or 90 days after the agency decides to investigate
 5 a person on the agency's own motion.

6 (2) The time limit imposed in this section and the agency's review are suspended if:

7 (a) There is a pending criminal investigation that relates to the conduct at issue in the
 8 preliminary review; or

9 (b) A court has enjoined the agency from continuing the preliminary review.

10 **SECTION 5. Decision on preliminary review.** (1) If after preliminary review an agency
 11 does not find cause for an investigation, the agency shall dismiss the proceedings. The dis-
 12 missal shall be made in writing. The agency shall notify the person given notice under sec-
 13 tion 3 of this 2007 Act of the dismissal. After dismissal of the proceedings, the agency shall
 14 take no further action with respect to the conduct considered in the preliminary review.

15 (2) If after preliminary review an agency finds cause for an investigation, the agency
 16 shall commence an investigation under section 6 of this 2007 Act.

17 **SECTION 6. Investigation.** (1) An agency shall confine an investigation of a person to the
 18 issues identified in the notice given to the person under section 2 of this 2007 Act unless the
 19 agency finds reason to expand the investigation. An investigation may be expanded by the
 20 agency only after a hearing by the agency. The agency shall give notice to the person of an
 21 expanded investigation. The notice shall provide a statement to the person describing the
 22 expanded scope of the examination.

23 (2) A person conducting an investigation on behalf of an agency shall do so in an impar-
 24 tial, objective manner. All favorable and unfavorable information collected by the person
 25 shall be provided to the agency.

26 **SECTION 7. Time limitation for completion of investigation.** (1) Unless the agency and
 27 the person who is the subject of an investigation agree to extend the period, an investigation
 28 under section 6 of this 2007 Act must be completed not later than 90 days after the agency
 29 makes a finding of cause under section 2 of this 2007 Act.

30 (2) The time limit imposed in this section and the agency's investigation are suspended
 31 if:

32 (a) There is a pending criminal investigation that relates to the conduct at issue in the
 33 investigation; or

34 (b) A court has enjoined the agency from continuing its investigation.

35 **SECTION 8. Decision after investigation.** (1) After completing an investigation under
 36 section 6 of this 2007 Act, an agency by order may:

37 (a) Dismiss the proceedings;

38 (b) Commence a contested case hearing or other hearing as provided by the law admin-
 39 istered by the agency;

40 (c) Seek a negotiated settlement of the issues; or

41 (d) Take other appropriate action.

42 (2) The agency shall give notice to the person who is the subject of an investigation of
 43 the agency's decision after the investigation.

44 **SECTION 9.** Section 2 to 8 of this 2007 Act apply only to investigation of conduct that
 45 occurs on or after the effective date of this 2007 Act.

1 **SECTION 10.** The section captions used in this 2007 Act are provided only for the con-
2 venience of the reader and do not become part of the statutory law of this state or express
3 any legislative intent in the enactment of this 2007 Act.

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