

# House Bill 2594

Sponsored by COMMITTEE ON ELECTIONS, ETHICS AND RULES (at the request of Oregon Law Commission)

## 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**.

Prohibits public official or candidate from soliciting or receiving promise of future employment from person involved in matter in which public official or candidate, while acting in official capacity, is participating.

Prohibits public official from providing to client for fee advice or services related to influencing action by public body served by public official.

Prohibits former member of Legislative Assembly from being compensated lobbyist during period beginning on date person ceases being member and ending on date of adjournment sine die of next regular legislative session.

Prohibits public official, within two years after official ceases to hold official position, from having direct beneficial financial interest in public contract authorized by public official or governing body of which public official was member when contract was authorized. Exempts members of governing bodies who did not participate in decision to authorize contract.

Provides civil penalties.

## A BILL FOR AN ACT

Relating to government ethics; creating new provisions; and amending ORS 244.010, 244.040 and 244.350.

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

## EMPLOYMENT

**SECTION 1.** Sections 2 to 4 of this 2007 Act are added to and made a part of ORS chapter 244.

**SECTION 2.** (1) A public official or candidate for public office may not solicit or receive, either directly or indirectly, any pledge or promise of future employment or of compensation for future services:

(a) Based on any understanding that the vote, official action or judgment of the public official or candidate would be influenced by the pledge or promise; or

(b) From or on behalf of any person who is involved in any matter in which the public official or candidate, while acting in a capacity as a public official or candidate, personally and substantially is participating.

(2) A person may not offer or give to any public official or candidate for public office any pledge or promise of future employment or of compensation for future services based on any understanding that the vote, official action or judgment of the public official or candidate would be influenced by the pledge or promise.

**SECTION 3.** (1) As used in this section:

(a) "Lobbying" has the meaning given that term in ORS 171.725.

(b) "Public body" has the meaning given that term in ORS 174.109.

(2) A public official may not:

**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 (a) Attempt to represent or represent a client for a fee before the governing body of a  
 2 public body of which the public official is a member; or

3 (b) Attempt to provide or provide to a client for a fee any advice or other services related  
 4 to influencing action by the public body served by the public official.

5 (3) Subsection (2) of this section does not apply to the employer, business partner or  
 6 other associate of the public official.

7 (4)(a) A person who has been a member of the Legislative Assembly may not receive  
 8 money or any other consideration for lobbying performed during the period beginning on the  
 9 date the person ceases to be a member of the Legislative Assembly and ending on the date  
 10 of adjournment sine die of the regular session of the Legislative Assembly next following the  
 11 date the person ceases to be a member of the Legislative Assembly.

12 (b) Paragraph (a) of this subsection does not apply to a former member of the Legislative  
 13 Assembly who is a public official holding elective public office.

14 **SECTION 4.** (1) As used in this section:

15 (a) "Public body" has the meaning given that term in ORS 174.109.

16 (b) "Public contract" has the meaning given that term in ORS 279A.010.

17 (2) Except as provided in subsection (3) of this section, a person may not, for two years  
 18 after the person ceases to hold a position as a public official, have a direct beneficial financial  
 19 interest in a public contract that was authorized by:

20 (a) The person acting in the capacity of a public official; or

21 (b) A board, commission, council, bureau, committee or other governing body of a public  
 22 body of which the person was a member when the contract was authorized.

23 (3) Subsection (2) of this section does not apply to a person who was a member of a  
 24 board, commission, council, bureau, committee or other governing body of a public body  
 25 when the contract was authorized, but who did not participate in the authorization of the  
 26 contract.

27 **SECTION 5.** ORS 244.040 is amended to read:

28 244.040. *[The following actions are prohibited regardless of whether actual conflicts of interest or*  
 29 *potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:]*

30 (1)(a) No public official shall use or attempt to use official position or office to obtain financial  
 31 gain or avoidance of financial detriment that would not otherwise be available but for the public  
 32 official's holding of the official position or office, other than official salary, honoraria, except as  
 33 prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited  
 34 award for professional achievement for the public official or the public official's relative, or for any  
 35 business with which the public official or a relative of the public official is associated.

36 (b) No statewide official shall solicit or receive, whether directly or indirectly, honoraria for the  
 37 statewide official or for any member of the household of the official. No candidate for statewide of-  
 38 fice shall solicit or receive, whether directly or indirectly, honoraria for the candidate or for any  
 39 member of the household of the candidate.

40 (c) No legislative official shall solicit or receive, whether directly or indirectly, honoraria in an  
 41 amount in excess of \$1,500 or in any amount for an appearance within the state or for an appear-  
 42 ance during a legislative session, regardless of location, for the legislative official or for any member  
 43 of the household of the official, except that a legislative official may solicit or receive honoraria for  
 44 services performed in relation to the private profession or occupation of the legislative official. No  
 45 candidate for legislative office shall solicit or receive, whether directly or indirectly, honoraria in

1 an amount in excess of \$1,500 or in any amount for an appearance within the state for the candidate  
 2 or for any member of the household of the candidate, except that a candidate for legislative office  
 3 may solicit or receive honoraria for services performed in relation to the private profession or oc-  
 4 cupation of the legislative official.

5 (d) Any public official not described in paragraph (b) or (c) of this subsection or a member of  
 6 the public official's household may receive honoraria.

7 (2) No public official or candidate for office or a relative of the public official or candidate shall  
 8 solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an  
 9 aggregate value in excess of \$100 from any single source who could reasonably be known to have  
 10 a legislative or administrative interest in any governmental agency in which the official has or the  
 11 candidate if elected would have any official position or over which the official exercises or the  
 12 candidate if elected would exercise any authority.

13 *[(3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer  
 14 or give to any public official any pledge or promise of future employment, based on any understanding  
 15 that such public official's vote, official action or judgment would be influenced thereby.]*

16 *[(4)]* **(3)** *[No]* **A** public official *[shall]* **may not** attempt to further or further the personal gain  
 17 of *[the public official]* **any person** through the use of confidential information gained in the course  
 18 of or by reason of *[the official position]* **holding position as a public official** or **the** activities of the  
 19 public official *[in any way]*.

20 **(4) A person who has ceased to be a public official may not attempt to further or further**  
 21 **the personal gain of any person through the use of confidential information gained in the**  
 22 **course of or by reason of holding position as a public official or the activities of the person**  
 23 **as a public official.**

24 (5) No person shall offer during any calendar year any gifts with an aggregate value in excess  
 25 of \$100 to any public official or candidate therefor or a relative of the public official or candidate  
 26 if the person has a legislative or administrative interest in a governmental agency in which the of-  
 27 ficial has or the candidate if elected would have any official position or over which the official ex-  
 28 ercises or the candidate if elected would exercise any authority.

29 *[(6) No person shall attempt to represent or represent a client for a fee before the governing body  
 30 of a public body of which the person is a member. This subsection does not apply to the person's em-  
 31 ployer, business partner or other associate.]*

32 **(6) The provisions of this section apply regardless of whether actual conflicts of interest**  
 33 **or potential conflicts of interest are announced or disclosed under ORS 244.120.**

34 **SECTION 6.** ORS 244.350 is amended to read:

35 244.350. (1) The Oregon Government Standards and Practices Commission or the court under  
 36 ORS 244.260 (8) may impose civil penalties not to exceed:

37 (a) Except as provided in paragraph (b) of this subsection, \$1,000 for violating any provision of  
 38 this chapter or any resolution adopted under this chapter.

39 (b) \$25,000 for violation of ORS 244.045 **or section 2, 3 or 4 of this 2007 Act.**

40 (2) The commission may impose civil penalties not to exceed \$1,000 for violating any provision  
 41 of ORS 192.660. However, a civil penalty may not be imposed under this subsection if the violation  
 42 occurred as a result of the governing body of the public body acting upon the advice of the public  
 43 body's counsel.

44 (3) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708.

45 (4) Any penalty imposed under this section is in addition to and not in lieu of any other penalty

1 or sanction that may be imposed according to law, including removal from office.

2 **SECTION 7.** ORS 244.010 is amended to read:

3 244.010. (1) The Legislative Assembly [*hereby*] declares that a public office is a public trust[,]  
 4 and that, as one safeguard for that trust, the people require all public officials to [*adhere to the code*  
 5 *of ethics set forth in ORS 244.040*] **comply with the applicable provisions of this chapter.**

6 (2) The Legislative Assembly recognizes that it is the policy of the state to have serving on  
 7 many state and local boards and commissions state and local officials who may have potentially  
 8 conflicting public responsibilities by virtue of their positions as public officials and also as members  
 9 of the boards and commissions, and declares it to be the policy of the state that the holding of such  
 10 offices does not constitute the holding of incompatible offices unless expressly stated in the enabling  
 11 legislation.

12  
 13 **MISCELLANEOUS PROVISIONS**  
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15 **SECTION 8.** (1) **Section 2 of this 2007 Act applies to pledges or promises that occur on**  
 16 **or after the effective date of this 2007 Act.**

17 (2)(a) **Except as provided in paragraphs (b) and (c) of this subsection, sections 3 and 4**  
 18 **of this 2007 Act and the amendments to ORS 244.040 (4) by section 5 of this 2007 Act apply**  
 19 **to public officials who cease to hold positions as public officials on or after the effective date**  
 20 **of this 2007 Act.**

21 (b) **Except as provided in paragraph (c) of this subsection, sections 3 and 4 of this 2007**  
 22 **Act and the amendments to ORS 244.040 (4) by section 5 of this 2007 Act apply to public of-**  
 23 **icials holding elective public office whose terms of office begin, or who are appointed to the**  
 24 **office, on or after the effective date of this 2007 Act.**

25 (c) **Sections 3 and 4 of this 2007 Act apply to an individual who ceases to hold the position**  
 26 **of State Treasurer on or after the effective date of this 2007 Act.**

27 (3) **The amendments to ORS 244.350 by section 6 of this 2007 Act apply to violations oc-**  
 28 **curring on or after the effective date of this 2007 Act.**

29 **SECTION 9.** (1) **Any proceeding, action, prosecution or other business or matter under-**  
 30 **taken or commenced before the effective date of this 2007 Act by the Oregon Government**  
 31 **Standards and Practices Commission under any provision of ORS chapter 244 and still pend-**  
 32 **ing on the effective date of this 2007 Act may be conducted and completed by the commission**  
 33 **in the same manner, under the same terms and conditions and with the same effect as**  
 34 **though undertaken, conducted or completed before the effective date of this 2007 Act.**

35 (2) **Sections 2 to 4 of this 2007 Act and the amendments to ORS 244.010, 244.040 and**  
 36 **244.350 by sections 5 to 7 of this 2007 Act do not relieve any person of any obligation with**  
 37 **respect to any tax, fee, fine, civil penalty or other charge, interest, penalty, forfeiture or**  
 38 **other liability, duty or obligation.**

39 **SECTION 10.** **The unit captions used in this 2007 Act are provided only for the conven-**  
 40 **ience of the reader and do not become part of the statutory law of this state or express any**  
 41 **legislative intent in the enactment of this 2007 Act.**  
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