

A-Engrossed
House Bill 2595

Ordered by the House June 4
Including House Amendments dated June 4

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.

Directs Oregon Government Standards and Practices Commission or court to consider public interest and other penalties that may be imposed on public official before imposing penalty for violation of government ethics laws.

Directs commission to consider adoption of rules on issues of general interest to public officials or that are addressed by commission on recurring basis.

Authorizes state agencies and statewide associations of public bodies to adopt government ethics rules or policies consistent with state law. Allows commission to approve or reject rules and policies. Prohibits commission or court from imposing penalty on public official if official acted in compliance with rule or policy approved by commission.

Sets 60-day deadline for commission to address requests for commission advisory opinions. Allows one 60-day extension. Specifies that commission or court may not impose penalty on person for good faith action taken in reliance on commission advisory opinion.

Sets 30-day deadline for executive director of commission to address requests for staff advisory opinions. Allows one 30-day extension. Specifies that before imposing penalty on person, commission or court must consider whether action subject to penalty was taken in reliance on staff advisory opinion.

Authorizes staff of commission to issue written or oral staff advice. Specifies that before imposing penalty on person, commission or court may consider whether action subject to penalty was taken in reliance on staff advice.

Increases amount of civil penalties that may be imposed for failure of person to file statement of economic interest. Increases maximum amount of civil penalty for violation of government ethics law from \$1,000 to \$5,000.

[Allows commission to issue written reprimand in lieu of imposing civil penalty for certain violations.]

Consolidates provisions specifying that requirements and penalties under government ethics law apply in addition to requirements and penalties applicable under other laws.

Directs commission to notify public body that public official serves if commission determines public official violated provision of government ethics law.

Specifies that violations of conflict of interest requirements applicable to members of Oregon Investment Council are subject to investigation and sanction by commission.

Revises definition of "public servant" in criminal laws describing offenses against state and public justice to include public officials subject to government ethics law.

Specifies that criminal penalties for false swearing apply to certified statements of economic interest.

Revises provisions relating to commission adjudication processes.

[Allows person subject to commission action to request transfer of action to Marion County Circuit Court in lieu of contested case proceeding. Allows commission to transfer action to court or proceed with contested case under condition that decision of administrative law judge is final order in contested case.]

[Appropriates moneys from General Fund to commission for biennium beginning July 1, 2007. Appropriates moneys for subsequent biennia. Specifies method for determining amount of subsequent appropriations.]

[Specifies that official action taken by public official who is disqualified by law from taking action is valid if disqualification arises from failure to disclose potential conflict of interest, public body reaffirms action or action of official consists solely of voting and vote was unnecessary to reach decision or was required by law.]

Declares emergency, effective July 1, 2007.

1 Relating to government ethics; creating new provisions; amending ORS 162.005, 171.745, 171.750,
2 171.772, 171.778, 244.010, 244.020, 244.050, 244.055, 244.090, 244.100, 244.110, 244.115, 244.130,
3 244.160, 244.195, 244.250, 244.260, 244.270, 244.280, 244.290, 244.300, 244.310, 244.320, 244.340,
4 244.350, 244.360, 244.370, 244.380, 244.390, 244.400, 293.708 and 469.810; repealing ORS 244.030,
5 244.080, 244.180, 244.190 and 244.201; and declaring an emergency.

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

7
8 **COMMISSION STRUCTURE**

9
10 **SECTION 1.** ORS 244.250 is amended to read:

11 244.250. (1) The Oregon Government Standards and Practices Commission is established, con-
12 sisting of seven members. **The appointment of a member of the commission is subject to con-**
13 **firmation by the Senate in the manner provided in ORS 171.562 and 171.565. Members shall**
14 **be appointed in the following manner [to be confirmed by the Senate]:**

15 (a) *[Four members appointed by]* The Governor **shall appoint four members** from among per-
16 sons recommended, one each by the leadership of the Democratic and Republican parties in each
17 house of the Legislative Assembly. If a person recommended by the leadership of the Democratic
18 or Republican party is not approved by the Governor, **the leadership shall recommend** another
19 person *[shall be recommended]*.

20 (b) *[Three members appointed by]* The Governor **shall appoint three members** without leader-
21 ship recommendation[.]. No more than two *[of whom shall be from]* **members appointed under this**
22 **paragraph may be members of** the same major political party.

23 (2) *[No]* **A** person who holds any public office listed in ORS 244.050 (1) except as a member of
24 the commission *[shall]* **may not** be appointed to the commission. No more than four members
25 *[shall]* **may** be members of the same political party.

26 (3) The term of office **of a member** is four years. *[No]* **A** member *[shall be]* **is not** eligible to
27 be appointed to more than one full term but may serve out an unexpired term. *[However, those*
28 *members first appointed to the commission serving less than a three-year term are eligible for a second*
29 *appointment for a full term.]* Vacancies shall be filled by the appointing authority for the unexpired
30 term.

31 (4) The commission shall elect a chairperson and vice chairperson for such terms and duties as
32 the commission may require.

33 (5) A quorum consists of four members but *[no]* **a** final decision may **not** be made without an
34 affirmative vote of *[the]* **a** majority of the members appointed to the commission.

35 (6) Members shall be entitled to compensation and expenses as provided in ORS 292.495.

36 (7) The commission may retain or appoint qualified legal counsel who *[shall]* **must** be a member
37 of the Oregon State Bar and who *[shall be]* **is** responsible to the commission. The appointment of
38 legal counsel under this subsection *[shall]* **may** be made only when the commission finds it is inap-
39 propriate and contrary to the public interest for the office of the Attorney General to represent
40 concurrently more than one public official or agency in any matter before the commission because
41 *[such]* **the** representation:

42 (a) Would create or tend to create a conflict of interest; and

43 (b) Is not subject to ORS 180.230 or 180.235.

44 (8) The Attorney General *[shall]* **may** not represent before the commission any state public of-
45 ficial who is the subject of any complaint or action of the commission at the commission's own in-

1 stigation.

2
3 **CONSIDERATION OF OTHER SANCTIONS**
4

5 **SECTION 2.** ORS 244.390 is amended to read:

6 244.390. (1) *[The penalties and sanctions imposed by this chapter are]* **A penalty or sanction**
7 **imposed issued by the Oregon Government Standards and Practices Commission or a court**
8 **under this chapter** is in addition to and not in lieu of any other penalty or sanction *[prescribed*
9 *or authorized by law which applies to the conduct of public officials]* **that may be imposed according**
10 **to law.**

11 **(2) Before making a finding that there is cause to undertake an investigation under ORS**
12 **244.260 and before imposing a civil penalty under ORS 244.350 or 244.360, the commission or**
13 **a court shall consider the public interest and any other penalty or sanction that has been**
14 **or may be imposed on the public official as a result of the same conduct that is the subject**
15 **of action by the commission or court under ORS 244.260.**

16 **(3) Nothing in this chapter is intended to affect:**

17 **(a) Any statute requiring disclosure of economic interest by any public official or candi-**
18 **date for public office.**

19 **(b) Any statute prohibiting or authorizing specific conduct on the part of any public of-**
20 **ficial or candidate for public office.**

21
22 **RULEMAKING**
23

24 **SECTION 3.** ORS 244.290 is amended to read:

25 244.290. (1) The Oregon Government Standards and Practices Commission shall:

26 *[(1)]* **(a) Prescribe forms for statements required by this chapter and provide the forms to per-**
27 **sons required to file the statements under this chapter or pursuant to a resolution adopted** *[pur-*
28 *suant thereto]* **under ORS 244.160.**

29 *[(2) Prepare, publish and provide a manual setting forth recommended uniform methods of report-*
30 *ing for use by persons filing statements under this chapter or resolution adopted pursuant thereto.]*

31 *[(3)]* **(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this**
32 **chapter.**

33 *[(4)]* **(c) Prepare and publish** *[such]* **reports** *[as]* **the commission finds** **are** **necessary.**

34 **(d) Make advisory opinions issued by the commission or the executive director of the**
35 **commission available to the public at no charge on the Internet.**

36 **(e) Accept and file any information voluntarily supplied that exceeds the requirements**
37 **of this chapter.**

38 **(f) Make statements and other information filed with the commission available for public**
39 **inspection and copying during regular office hours, and make copying facilities available at**
40 **a charge not to exceed actual cost.**

41 *[(5)]* **(2) The commission shall** adopt rules necessary to carry out its duties under ORS 171.725
42 to 171.785 and 171.992 and this chapter, including rules to:

43 **(a) Create a procedure under which items before the commission may be treated under a consent**
44 **calendar and voted on as a single item;**

45 **(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS**

1 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions
2 of the body over which the public official has jurisdiction are so few or infrequent as not to warrant
3 the public disclosure;

4 (c) Establish an administrative process whereby a person subpoenaed by the commission may
5 obtain a protective order; *[and]*

6 (d) List criteria and establish a process for the commission to use prosecutorial discretion to
7 decide whether to proceed with an inquiry or investigation;

8 **(e) Establish a procedure under which the commission shall conduct accuracy audits of**
9 **a sample of reports or statements filed with the commission under this chapter or ORS**
10 **171.725 to 171.785;**

11 **(f) Specify when a continuing violation is considered a single violation or a separate and**
12 **distinct violation for each day the violation occurs; and**

13 **(g) Set criteria for determining the amount of civil penalties that the commission may**
14 **impose.**

15 **(3) The commission may adopt rules that:**

16 **(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller**
17 **classes that qualify under the class exception from the definition of “potential conflict of**
18 **interest” under ORS 244.020;**

19 **(b) Require the disclosure and reporting of gifts or other compensation made to or re-**
20 **ceived by a public official or candidate for public office;**

21 **(c) Establish criteria for cases in which information relating to notices of actual or po-**
22 **tential conflicts of interest shall, may not or may be provided to the commission under ORS**
23 **244.130; or**

24 **(d) Allow the commission to accept the filing of a statement containing less than all of**
25 **the information required under ORS 244.060 and 244.070 if the public official or candidate for**
26 **public office certifies on the statement that the information contained on the statement**
27 **previously filed is unchanged or certifies only as to any changed material.**

28 **(4) Not less frequently than once each calendar year, the commission shall:**

29 **(a) Consider adoption of rules the commission deems necessary to implement or interpret**
30 **provisions of this chapter relating to issues the commission determines are of general in-**
31 **terest to public officials or candidates for public office or that are addressed by the com-**
32 **mission or by commission staff on a recurring basis; and**

33 **(b) Review rules previously adopted by the commission to determine whether the rules**
34 **have continuing applicability or whether the rules should be amended or repealed.**

35 **SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS chapter 244.**

36 **SECTION 5. (1) For the purpose of protecting against violations of the provisions of this**
37 **chapter, a state agency, as defined in ORS 183.750, or a statewide association of public bodies,**
38 **as defined in ORS 174.109, may adopt rules or policies interpreting the provisions of this**
39 **chapter. The rules or policies must be consistent with the provisions of this chapter. A state**
40 **agency or a statewide association of public bodies may submit rules or policies adopted under**
41 **this subsection to the Oregon Government Standards and Practices Commission for review.**

42 **(2) Upon receiving rules or policies submitted under subsection (1) of this section, the**
43 **commission shall review the rules and policies to determine whether the rules and policies**
44 **are consistent with the provisions of this chapter. The commission, by a vote of a majority**
45 **of the members of the commission, shall approve or reject the rules or policies. The com-**

1 mission shall notify the state agency or statewide association of public bodies in writing of
 2 the commission's approval or rejection. A written notice of rejection shall explain the rea-
 3 sons for the rejection.

4 (3) Unless the applicable rule or policy is amended or repealed by the state agency or the
 5 statewide association of public bodies, the commission or a court may not impose a penalty
 6 under ORS 244.350 or 244.360 on a public official for any good faith action the official takes
 7 in compliance with a rule or policy that was adopted by the state agency that the official
 8 serves, or by a statewide association of which the public body that the official serves is a
 9 member, and approved by the commission under subsection (2) of this section.

10 **SECTION 6.** ORS 244.100 is amended to read:

11 244.100. [(1) *The Oregon Government Standards and Practices Commission by rule may require the*
 12 *disclosure and reporting of gifts or other compensation made to or received by a public official or*
 13 *candidate for elective office.*]

14 [(2) *The commission by rule may exempt from the gift limitation contained in ORS 244.040, any*
 15 *gift of food or beverage but may require that when gifts of food or beverage exceed a dollar amount*
 16 *fixed by the commission, the source thereof shall be disclosed on a form prescribed by the*
 17 *commission.*]

18 [(3)] In addition to any disclosures or reports required under [subsections (1) and (2) of this sec-
 19 tion] **this chapter or rules adopted under ORS 244.290**, any person or organization that provides
 20 a public official with food, lodging or travel expenses exceeding [\$50] **\$100**, as described in ORS
 21 244.060 (6), shall notify the public official in writing of the amount of the expense. The notice shall
 22 be sent to the public official within 10 days from the date [such] **the** expenses are incurred.

23 **SECTION 7.** ORS 244.110 is amended to read:

24 244.110. (1) [Any] **Each** statement of economic interest required to be filed [by] **under** ORS
 25 244.050, 244.060, 244.070, [244.080,] 244.090 or 244.100, **or by rule under ORS 244.290, and each**
 26 **trading statement required to be filed under ORS 244.055 shall be signed and certified as true**
 27 **by the person required to file it and shall** contain [or be verified by] a written declaration that
 28 [it] **the statement** is made under the penalties of false swearing. [Such declaration shall be in lieu
 29 of any oath otherwise required.]

30 (2) [No person shall willfully make and subscribe any return statement or other document which
 31 contains or is verified by a written declaration that it is made under penalties for false swearing, which
 32 the person does not believe to be true and correct to every matter] **A person may not sign and certify**
 33 **a statement under subsection (1) of this section if the person knows that the statement**
 34 **contains information that is false.**

35 (3) **Violation of subsection (2) of this section is punishable as false swearing under ORS**
 36 **162.075.**

37 **SECTION 8.** ORS 244.020 is amended to read:

38 244.020. As used in this chapter, unless the context requires otherwise:

39 (1) "Actual conflict of interest" means any action or any decision or recommendation by a per-
 40 son acting in a capacity as a public official, the effect of which would be to the private pecuniary
 41 benefit or detriment of the person or the person's relative or any business with which the person
 42 or a relative of the person is associated unless the pecuniary benefit or detriment arises out of cir-
 43 cumstances described in subsection (14) of this section.

44 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,
 45 association, organization, self-employed individual and any other legal entity operated for economic

1 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section
2 501(c) of the Internal Revenue Code with which a public official or a relative of the public official
3 is associated only as a member or board director or in a nonremunerative capacity.

4 (3) "Business with which the person is associated" means:

5 (a) Any private business or closely held corporation of which the person or the person's relative
6 is a director, officer, owner or employee, or agent or any private business or closely held corpo-
7 ration in which the person or the person's relative owns or has owned stock, another form of equity
8 interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding cal-
9 endar year;

10 (b) Any publicly held corporation in which the person or the person's relative owns or has
11 owned \$100,000 or more in stock or another form of equity interest, stock options or debt instru-
12 ments at any point in the preceding calendar year;

13 (c) Any publicly held corporation of which the person or the person's relative is a director or
14 officer; or

15 (d) For public officials required to file a statement of economic interest under ORS 244.050, any
16 business from which 50 percent or more of the total annual income of the person and members of
17 the person's household is derived during the current calendar year.

18 (4) "Commission" means the Oregon Government Standards and Practices Commission.

19 (5) "Development commission" means any entity which has the authority to purchase, develop,
20 improve or lease land or the authority to operate or direct the use of land. This authority must be
21 more than ministerial.

22 (6) "Expenditure" has the meaning given that term in ORS 260.005.

23 (7) "Gift" means something of economic value given to a public official or the public official's
24 relative without valuable consideration of equivalent value, including the full or partial forgiveness
25 of indebtedness, which is not extended to others who are not public officials or the relatives of
26 public officials on the same terms and conditions; and something of economic value given to a public
27 official or the public official's relative for valuable consideration less than that required from others
28 who are not public officials. However, "gift" does not mean:

29 (a) Campaign contributions, as described in ORS chapter 260.

30 (b) Gifts from family members.

31 (c) The giving or receiving of food, lodging and travel when participating in an event which
32 bears a relationship to the public official's office and when appearing in an official capacity, subject
33 to the reporting requirement of ORS 244.060 (6).

34 (d) The giving or receiving of food or beverage if the food or beverage is consumed by the public
35 official or the public official's relatives in the presence of the purchaser or provider thereof.

36 (e) The giving or receiving of entertainment if the entertainment is experienced by the public
37 official or the public official's relatives in the presence of the purchaser or provider thereof and the
38 value of the entertainment does not exceed \$100 per person on a single occasion and is not greater
39 than \$250 in any one calendar year.

40 (8) "Honoraria" means a payment or something of economic value given to a public official in
41 exchange for services upon which custom or propriety prevents the setting of a price. Services in-
42 clude, but are not limited to, speeches or other services rendered in connection with an event at
43 which the public official appears in an official capacity.

44 (9) "Income" means income of any nature derived from any source, including, but not limited to,
45 any salary, wage, advance, payment, dividend, interest, rent, honoraria, return of capital, forgiveness

1 of indebtedness, or anything of economic value.

2 (10) "Legislative or administrative interest" means an economic interest, distinct from that of
3 the general public, in one or more bills, resolutions, regulations, proposals or other matters subject
4 to the action or vote of a person acting in the capacity of a public official.

5 (11) "Legislative official" means any member or member-elect of the Legislative Assembly, any
6 member of an agency, board or committee that is part of the legislative branch and any staff person,
7 assistant or employee thereof.

8 (12) "Member of household" means any relative who resides with the public official.

9 (13) "Planning commission" means a county planning commission created under ORS chapter 215
10 or a city planning commission created under ORS chapter 227.

11 (14) "Potential conflict of interest" means any action or any decision or recommendation by a
12 person acting in a capacity as a public official, the effect of which could be to the private pecuniary
13 benefit or detriment of the person or the person's relative, or a business with which the person or
14 the person's relative is associated, unless the pecuniary benefit or detriment arises out of the fol-
15 lowing:

16 (a) An interest or membership in a particular business, industry, occupation or other class re-
17 quired by law as a prerequisite to the holding by the person of the office or position.

18 (b) Any action in the person's official capacity which would affect to the same degree a class
19 consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or
20 other group including one of which or in which the person, or the person's relative or business with
21 which the person or the person's relative is associated, is a member or is engaged. [*The commission*
22 *may by rule limit the minimum size of or otherwise establish criteria for or identify the smaller classes*
23 *that qualify under this exception.*]

24 (c) Membership in or membership on the board of directors of a nonprofit corporation that is
25 tax-exempt under section 501(c) of the Internal Revenue Code.

26 (15) "Public official" means any person who, when an alleged violation of this chapter occurs,
27 is serving the State of Oregon or any of its political subdivisions or any other public body of the
28 state as an officer, employee, agent or otherwise, and irrespective of whether the person is com-
29 pensated for such services.

30 (16) "Relative" means the spouse of the public official, any children of the public official or of
31 the public official's spouse, and brothers, sisters or parents of the public official or of the public
32 official's spouse.

33 (17) "Statement of economic interest" means a statement as described by ORS 244.060 to 244.080.

34 (18) "Statewide official" means the Secretary of State or Secretary of State-elect, State Treas-
35 urer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of Public
36 Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau of
37 Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.

38 (19) "Zoning commission" means an entity to which is delegated at least some of the discre-
39 tionary authority of a planning commission or governing body relating to zoning and land use mat-
40 ters.

41 **SECTION 9.** ORS 244.130 is amended to read:

42 244.130. (1) When a public official gives notice of an actual or potential conflict of interest, **the**
43 **public body as defined in ORS 174.109 that the public official serves shall record** the actual or
44 potential conflict [*shall be recorded*] in the official records of the public body[, *and*]. **In addition,** a
45 notice of the actual or potential conflict and how it was disposed of may in the discretion of the

1 public body be provided to the Oregon Government Standards and Practices Commission within a
 2 reasonable period of time. *[The commission may by rule establish criteria for cases in which such in-*
 3 *formation shall, shall not, or may be provided to it.]*

4 (2) *[No]* A decision or action of any public official or any board or commission on which the
 5 public official serves or agency by which the public official is employed *[shall]* **may not** be voided
 6 by any court solely by reason of the failure of the public official to disclose an actual or potential
 7 conflict of interest.

8 **SECTION 10.** ORS 244.195 is amended to read:

9 244.195. (1) *[The city recorder or county clerk, respectively, shall provide to every person newly*
 10 *elected or appointed to any city or county office for which statements of financial interest are required*
 11 *under ORS 244.050 information about the requirements of ORS 244.050, 244.060, 244.070, 244.080 and*
 12 *244.090]* **A person designated by a public body as defined in ORS 174.109 shall provide infor-**
 13 **mation explaining the requirements of ORS 244.050, 244.060, 244.070 and 244.090 to each newly**
 14 **elected or appointed public official serving the public body who is required to file a verified**
 15 **statement of economic interest under ORS 244.050. The information must be received by the**
 16 **public official** either at the first meeting attended by the *[new officer]* **public official** or before the
 17 *[officer]* **public official** takes the oath of office, whichever *[is]* **occurs** first.

18 (2) At the time of fulfilling duties under subsection (1) of this section, the *[city recorder or county*
 19 *clerk]* **person designated by the public body** shall provide to each *[new officer]* **newly elected or**
 20 **appointed public official serving the public body** a copy of the statements and explanation pro-
 21 vided to the *[city recorder or county clerk]* **public body** under subsection (3) of this section.

22 (3) The Oregon Government Standards and Practices Commission shall provide copies of the
 23 statements described in ORS 244.060, 244.070~~, 244.080~~ and 244.090 and an explanation of the re-
 24 quirements of the law relating to the statements to each *[city recorder and county clerk]* **public body**
 25 **that is served by a public official who is required to file a statement described in ORS 244.060,**
 26 **244.070 or 244.090.**

27 (4) *[Any person described in subsection (1) of this section]* **A newly elected or appointed public**
 28 **official serving a public body** who is not informed of the filing requirements under ORS 244.050,
 29 244.060, 244.070~~, 244.080~~ and 244.090 and provided with a copy of the statements and explanation
 30 *[described in subsection (3) of]* **as required under** this section before **attending the first meeting**
 31 **or** taking the oath of office may resign that office within 90 days thereafter or before the next date
 32 specified in ORS 244.050 for the filing of a statement, whichever is *[longer]* **later**, without filing *[any*
 33 *statement]* **a verified statement of economic interest** and without **incurring** a sanction or penalty
 34 that might otherwise be imposed for not filing.

35 **SECTION 11.** ORS 244.270 is amended to read:

36 244.270. (1) If the Oregon Government Standards and Practices Commission finds that an ap-
 37 pointed public official has violated any provision of this chapter or any rule adopted *[pursuant*
 38 *thereto]* **under this chapter**, the finding *[shall constitute]* **is** prima facie evidence of unfitness where
 39 removal is authorized for cause either by law or pursuant to section 6, Article VII (Amended) of the
 40 Oregon Constitution.

41 (2) **If the commission finds that a public official has violated any provision of this chapter**
 42 **or any rule adopted under this chapter, the commission shall notify the public body, as de-**
 43 **defined in ORS 174.109, that the public official serves. The notice shall describe the violation**
 44 **and any action taken by the commission. The commission shall provide the notice not later**
 45 **than 10 business days after the date the commission takes final action against the public**

1 **official.**

2
3 **ADVISORY OPINIONS**
4

5 **SECTION 12.** ORS 244.280 is amended to read:

6 244.280. (1) Upon the written request of [*any public official, candidate for public office or*] any
7 person, or upon its own motion, the Oregon Government Standards and Practices Commission, under
8 signature of the chairperson, may issue and publish **written commission advisory** opinions on the
9 [*requirements*] **application of any provision** of this chapter[, *based on*] **to any proposed trans-**
10 **action or action or any** actual or hypothetical [*circumstances.*] **circumstance. A commission ad-**
11 **visory opinion, and a decision by the commission to issue an advisory opinion on its own**
12 **motion, must be approved by a majority of the members of the commission. Legal counsel**
13 **to the commission shall review a proposed commission advisory opinion before the opinion**
14 **is considered by the commission.**

15 (2) **Not later than 60 days after the date the commission receives the written request for**
16 **a commission advisory opinion, the commission shall issue either the opinion or a written**
17 **denial of the request. The written denial shall explain the reasons for the denial. The com-**
18 **mission may ask the person requesting the advisory opinion to supply additional information**
19 **the commission considers necessary to render the opinion. The commission, by vote of a**
20 **majority of the members of the commission, may extend the 60-day deadline by one period**
21 **not to exceed 60 days.**

22 (3) **Except as provided in this subsection, unless the commission advisory opinion is re-**
23 **vised or revoked, the commission or a court may not impose a penalty under ORS 244.350**
24 **or 244.360 on a person for any good faith action the person takes in reliance on an advisory**
25 **opinion issued under this section. The commission or a court may impose a penalty under**
26 **ORS 244.350 or 244.360 on the person who requested the advisory opinion if the commission**
27 **or court determines that the person omitted or misstated material facts in making the re-**
28 **quest.**

29 [*(2) If any public official or business with which the public official is associated is in doubt*
30 *whether a proposed transaction or action constitutes a violation of this chapter, the public official or*
31 *the business may request in writing a determination from the commission. If any public official is in*
32 *doubt whether receipt of an honoraria is in violation of this chapter because the person paying the*
33 *honoraria may be found to have a legislative or administrative interest, the public official shall request*
34 *in writing a determination from the commission. The requester shall supply such information as the*
35 *commission requests to enable it to issue the interpretation.]*

36 [(3) *A public official or business with which a public official is associated shall not be liable under*
37 *this chapter, for any action or transaction carried out in accordance with an advisory interpretation*
38 *issued under subsection (2) of this section. Such an advisory interpretation shall be considered a formal*
39 *opinion having precedential effect and shall be subject to review by legal counsel to the commission*
40 *before the interpretation is sent to the requester.]*

41 **SECTION 13.** Sections 14 and 15 of this 2007 Act are added to and made a part of ORS
42 **chapter 244.**

43 **SECTION 14.** (1) Upon the written request of any person, the executive director of the
44 **Oregon Government Standards and Practices Commission may issue and publish written**
45 **staff advisory opinions on the application of any provision of this chapter to any proposed**

1 **transaction or action or any actual or hypothetical circumstance.**

2 (2) **Not later than 30 days after the date the executive director receives the written re-**
3 **quest for a staff advisory opinion, the executive director shall issue either the opinion or a**
4 **written denial of the request. The written denial shall explain the reasons for the denial. The**
5 **executive director may ask the person requesting the advisory opinion to supply additional**
6 **information the executive director considers necessary to render the opinion. The executive**
7 **director may extend the 30-day deadline by one period not to exceed 30 days. The executive**
8 **director shall clearly designate an opinion issued under this section as a staff advisory**
9 **opinion.**

10 (3) **Except as provided in this subsection, unless the staff advisory opinion is revised or**
11 **revoked, before imposing any penalty under ORS 244.350 or 244.360, the commission or a**
12 **court shall consider whether the action that may be subject to penalty was taken in reliance**
13 **on a staff advisory opinion issued under this section. If a penalty may be imposed on the**
14 **person who requested the opinion, the commission or court is not required to consider reli-**
15 **ance on the opinion if the commission or court determines that the person omitted or mis-**
16 **stated material facts in making the request.**

17 (4) **At each regular meeting of the commission, the executive director shall report to the**
18 **commission on all staff advisory opinions issued since the last regular meeting of the com-**
19 **mission. The commission on its own motion may issue a commission advisory opinion under**
20 **ORS 244.280 on the same facts or circumstances that form the basis for any staff advisory**
21 **opinion.**

22 **SECTION 15.** (1) **Upon the written or oral request of any person, the executive director**
23 **or other staff of the Oregon Government Standards and Practices Commission may issue**
24 **written or oral staff advice on the application of any provision of this chapter to any pro-**
25 **posed transaction or action or any actual or hypothetical circumstance. Any written advice**
26 **not designated as a staff advisory opinion under section 14 of this 2007 Act is considered staff**
27 **advice issued under this section.**

28 (2) **Before imposing any penalty under ORS 244.350 or 244.360, the commission or a court**
29 **may consider whether the action that may be subject to penalty was taken in reliance on**
30 **staff advice issued under this section.**

31 **SECTION 16.** ORS 244.310 is amended to read:

32 244.310. (1) **The Oregon Government Standards and Practices Commission shall appoint an**
33 **executive director to serve at the pleasure of the commission.**

34 (2) **The executive director [shall be] is responsible for the administrative operations of the**
35 **commission and shall perform such other duties as may be designated or assigned to the executive**
36 **director from time to time by the commission. [However,]**

37 (3) **The commission [shall] may not delegate the power to [make regulations] adopt rules or**
38 **issue commission advisory opinions to the executive director. The executive director may issue**
39 **staff advisory opinions as provided in section 14 of this 2007 Act.**

40
41 **SANCTIONS**

42
43 **SECTION 17.** ORS 244.050 is amended to read:

44 244.050. (1) **On or before April 15 of each year the following persons shall file with the Oregon**
45 **Government Standards and Practices Commission a verified statement of economic interest as re-**

1 quired under this chapter:

2 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
3 Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and mem-
4 bers of the Legislative Assembly.

5 (b) Any judicial officer, including justices of the peace and municipal judges, except [*municipal*
6 *judges in those cities where a majority of the votes cast in the subject city in the 1974 general election*
7 *was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974*
8 *(special session), and except*] any pro tem judicial officer who does not otherwise serve as a judicial
9 officer.

10 (c) Any candidate for [*an*] **a public** office designated in paragraph (a) or (b) of this subsection.

11 (d) The Deputy Attorney General.

12 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
13 Secretary of the Senate and the Chief Clerk of the House of Representatives.

14 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and
15 vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the
16 State Board of Higher Education.

17 (g) The following state officers:

18 (A) Adjutant General.

19 (B) Director of Agriculture.

20 (C) Manager of State Accident Insurance Fund Corporation.

21 (D) Water Resources Director.

22 (E) Director of Department of Environmental Quality.

23 (F) Director of Oregon Department of Administrative Services.

24 (G) State Fish and Wildlife Director.

25 (H) State Forester.

26 (I) State Geologist.

27 (J) Director of Human Services.

28 (K) Director of the Department of Consumer and Business Services.

29 (L) Director of the Department of State Lands.

30 (M) State Librarian.

31 (N) Administrator of Oregon Liquor Control Commission.

32 (O) Superintendent of State Police.

33 (P) Director of the Public Employees Retirement System.

34 (Q) Director of Department of Revenue.

35 (R) Director of Transportation.

36 (S) Public Utility Commissioner.

37 (T) Director of Veterans' Affairs.

38 (U) Executive Director of Oregon Government Standards and Practices Commission.

39 (V) Director of the State Department of Energy.

40 (W) Director and each assistant director of the Oregon State Lottery.

41 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.

42 (i) Every elected city or county official [*except elected officials in those cities or counties where*
43 *a majority of votes cast in the subject city or county in any election on the issue of filing statements*
44 *of economic interest under this chapter was in opposition*].

45 (j) Every member of a city or county planning, zoning or development commission [*except such*

1 *members in those cities or counties where a majority of votes cast in the subject city or county at any*
2 *election on the issue of filing statements of economic interest under this chapter was in opposition to*
3 *the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special session).*

4 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
5 cipal administrator of the city or county [*except such employees in those cities or counties where a*
6 *majority of votes cast in the subject city or county in an election on the issue of filing statements of*
7 *economic interest under this chapter was in opposition*].

8 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.

9 (m) Every member of a governing body of a metropolitan service district and the executive of-
10 ficer thereof.

11 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.

12 (o) The chief administrative officer and the financial officer of each common and union high
13 school district, education service district and community college district.

14 (p) Every member of the following state boards and commissions:

15 (A) Board of Geologic and Mineral Industries.

16 (B) Oregon Economic and Community Development Commission.

17 (C) State Board of Education.

18 (D) Environmental Quality Commission.

19 (E) Fish and Wildlife Commission of the State of Oregon.

20 (F) State Board of Forestry.

21 (G) Oregon Government Standards and Practices Commission.

22 (H) Oregon Health Policy Commission.

23 (I) State Board of Higher Education.

24 (J) Oregon Investment Council.

25 (K) Land Conservation and Development Commission.

26 (L) Oregon Liquor Control Commission.

27 (M) Oregon Short Term Fund Board.

28 (N) State Marine Board.

29 (O) Mass transit district boards.

30 (P) Energy Facility Siting Council.

31 (Q) Board of Commissioners of the Port of Portland.

32 (R) Employment Relations Board.

33 (S) Public Employees Retirement Board.

34 (T) Oregon Racing Commission.

35 (U) Oregon Transportation Commission.

36 (V) Wage and Hour Commission.

37 (W) Water Resources Commission.

38 (X) Workers' Compensation Board.

39 (Y) Oregon Facilities Authority.

40 (Z) Oregon State Lottery Commission.

41 (AA) Pacific Northwest Electric Power and Conservation Planning Council.

42 (BB) Columbia River Gorge Commission.

43 (CC) Oregon Health and Science University Board of Directors.

44 (q) The following officers of the State [*Treasury*] **Treasurer**:

45 (A) Chief Deputy State Treasurer.

1 (B) *[Executive Assistant to]* **Chief of staff for the office of** the State Treasurer.

2 (C) Director of the Investment Division.

3 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
4 *[and]* **or** 777.915 to 777.953.

5 (2) By April 15 next after the date an appointment takes effect, every appointed public official
6 on a board or commission listed in subsection (1) of this section shall file with the **Oregon Gov-**
7 **ernment Standards and Practices** Commission a statement of economic interest as required under
8 ORS 244.060, 244.070 and 244.090.

9 (3) By April 15 next after the filing deadline for the primary election, each candidate for elective
10 public office described in subsection (1) of this section shall file with the commission a statement
11 of economic interest as required under ORS 244.060, 244.070 and 244.090.

12 (4) Within 30 days after the filing deadline for the general election, each candidate for elective
13 public office described in subsection (1) of this section who was not a candidate in the preceding
14 primary election, or who was nominated for elective public office described in subsection (1) of this
15 section at the preceding primary election by write-in votes, shall file with the commission a state-
16 ment of economic interest as required under ORS 244.060, 244.070 and 244.090.

17 *[(5) The Legislative Assembly shall maintain a continuing review of the operation of this*
18 *chapter.]*

19 *[(6)]* **(5)** Subsections (1) to *[(5)]* **(4)** of this section apply only to persons who are incumbent,
20 elected or appointed **public** officials as of April 15 and to persons who are candidates for **public**
21 office on April 15. *[Those sections]* **Subsections (1) to (4) of this section** also apply to persons who
22 do not become candidates until 30 days after the filing deadline for the statewide general election.

23 *[(7)(a)]* **(6)** *[Failure to file the statement required by this section subjects a person to a civil penalty*
24 *that may be imposed as specified in ORS 183.745, but the enforcement of this subsection does not re-*
25 *quire the Oregon Government Standards and Practices Commission to follow the procedures in ORS*
26 *244.260 before finding that a violation of this section has occurred.]*

27 *[(b) Failure to file the required statement in timely fashion shall be prima facie evidence of a vio-*
28 *lation of this section.]*

29 *[(c) If within five days after the date on which the statement is to be filed under this section the*
30 *statement has not been received by the commission,]* **If a statement required to be filed under this**
31 **section has not been received by the commission within five days after the date the state-**
32 **ment is due,** the commission shall notify the public official **or candidate** and give the public official
33 **or candidate** not less than 15 days to comply with the requirements of this section. If the public
34 official **or candidate** fails to comply by the date set by the commission, the commission may impose
35 a civil penalty *[of \$5 for each day the statement is late beyond the date fixed by the commission. The*
36 *maximum penalty that may be accrued under this section is \$1,000]* **as provided in ORS 244.350.**

37 *[(d) A civil penalty imposed under this subsection is in addition to and not in lieu of sanctions that*
38 *may be imposed under ORS 244.380.]*

39 **SECTION 18.** ORS 244.350 is amended to read:

40 244.350. (1) The Oregon Government Standards and Practices Commission *[or the court under*
41 *ORS 244.260 (8)]* may impose civil penalties not to exceed:

42 (a) Except as provided in paragraph (b) of this subsection, *[\$1,000]* **\$5,000** for *[violating]* **violation**
43 **of** any provision of this chapter or any resolution adopted under *[this chapter]* **ORS 244.160.**

44 (b) \$25,000 for violation of ORS 244.045.

45 **(2)(a) Except as provided in paragraph (b) of this subsection,** the commission may impose

1 civil penalties not to exceed \$1,000 for *[violating]* **violation of** any provision of ORS 192.660. *[How-*
2 *ever,]*

3 **(b)** A civil penalty may not be imposed under this subsection if the violation occurred as a re-
4 sult of the governing body of the public body acting upon the advice of the public body's counsel.

5 **(3)** The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708.
6 **A civil penalty imposed under this subsection is in addition to and not in lieu of a civil pen-**
7 **alty that may be imposed under subsection (1) of this section.**

8 **(4)(a)** The commission may impose civil penalties on a person who fails to file the state-
9 ment required under ORS 244.050. In enforcing this subsection, the commission is not re-
10 quired to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050
11 has occurred.

12 **(b)** Failure to file the required statement in timely fashion is prima facie evidence of a
13 violation of ORS 244.050.

14 **(c)** The commission may impose a civil penalty of \$10 for each of the first 14 days the
15 statement is late beyond the date set by law, or by the commission under ORS 244.050, and
16 \$50 for each day thereafter. The maximum penalty that may be imposed under this sub-
17 section is \$5,000.

18 **(d)** A civil penalty imposed under this subsection is in addition to and not in lieu of
19 sanctions that may be imposed under ORS 244.380.

20 *[(4) Any penalty imposed under this section is in addition to and not in lieu of any other penalty*
21 *or sanction that may be imposed according to law, including removal from office.]*

22 **SECTION 19.** ORS 244.360 is amended to read:

23 244.360. *[The Oregon Government Standards and Practices Commission, in addition to civil pen-*
24 *alties prescribed in ORS 244.350, may require any public official who has financially benefited the*
25 *public official or any other person by violation of any provision of this chapter to forfeit twice the*
26 *amount that the public official or any other person realized from violating any provision of this*
27 *chapter.]* **In addition to civil penalties imposed under ORS 244.350, if a public official has fi-**
28 **nancially benefited the public official or any other person by violating any provision of this**
29 **chapter, the Oregon Government Standards and Practices Commission or a court may im-**
30 **pose upon the public official a civil penalty in an amount equal to twice the amount the**
31 **public official or other person realized as a result of the violation.**

32 **SECTION 20.** ORS 244.380 is amended to read:

33 244.380. (1) *[In the event that a public official or candidate subject to the requirements of this*
34 *chapter, fails to file a statement of economic interests required by this chapter, or by resolution adopted*
35 *pursuant thereto, the following actions shall be taken, irrespective of other penalties which may be im-*
36 *posed pursuant to this chapter if, after a hearing has been granted the public official and a penalty is*
37 *imposed under ORS 244.370, the public official continues to refuse to file a statement of economic in-*
38 *terests]* **If the Oregon Government Standards and Practices Commission has imposed a civil**
39 **penalty under ORS 244.350 on a public official or candidate for failing to file a statement of**
40 **economic interest required under this chapter or a resolution adopted under ORS 244.160 and**
41 **the public official or candidate continues to refuse to file the statement, the following**
42 **apply:**

43 **(a)** *[Except as to judges, no compensation shall be paid to a salaried public official. Upon notice*
44 *to the Oregon Department of Administrative Services or to the appropriate local authority from the*
45 *Oregon Government Standards and Practices Commission of the failure to file the required report when*

1 *due, compensation shall be withheld and the public official shall be barred from beginning or contin-*
 2 *uing to exercise the official duty of the public official until such time as the public official complies*
 3 *with the requirements of this chapter.]* **The commission shall notify the Oregon Department of**
 4 **Administrative Services or the local public body, as defined in ORS 174.109, that the public**
 5 **official serves of the failure to file a statement of economic interest. Except for judges,**
 6 **during the period beginning on the date the department or public body receives notice from**
 7 **the commission and ending on the date the public official files the statement of economic**
 8 **interest, the department or public body may not pay compensation to the public official and**
 9 **the public official may not begin or continue to exercise the official duty of the public official.**
 10 In the case of a public official who [*receives no*] **does not receive** compensation, the public official
 11 [*shall be barred from beginning or continuing the*] **may not begin or continue to** exercise [*of*] the
 12 official duty of the public official until [*such time as a statement is filed as required under this*
 13 *chapter*] **the public official files the statement of economic interest.**

14 (b) [*Upon notice from the commission to the*] **In the case of a candidate for public office, the**
 15 **commission shall notify the appropriate** chief elections officer of the **candidate's** failure to file
 16 the statement required by this chapter[.]. The chief elections officer shall:

17 (A) If the notice is received on or before the 61st day before the date of the election, cause the
 18 name of the candidate [*for public office*] to be removed from the ballot on which the name of the
 19 candidate would otherwise appear; or

20 (B) If the candidate has been nominated or elected, refuse to issue a certificate of nomination
 21 or election.

22 (2) If the name of a candidate for public office is removed from the ballot as provided in sub-
 23 section (1) of this section, the name shall be removed in accordance with ORS 254.165.

24 (3) **As used in this section, "chief elections officer" has the meaning given that term in**
 25 **ORS 254.005.**

26 **SECTION 21.** ORS 293.708 is amended to read:

27 293.708. (1) As used in this section:

28 (a) "Business" has the meaning given that term in ORS 244.020.

29 (b) "Business with which the person is associated" has the meaning given that term in ORS
 30 244.020.

31 (c) "Relative" has the meaning given that term in ORS 244.020.

32 (2) When a **person who is a** member of the Oregon Investment Council becomes aware that
 33 action on a matter pending before the council might lead to private pecuniary benefit or detriment
 34 to the person, to a relative of the person or to a business with which the person or a relative of the
 35 person is associated, the member shall notify in writing the State Treasurer or the Chief Deputy
 36 State Treasurer that any action, decision or recommendation by the member might constitute an
 37 actual or potential conflict of interest. The member shall provide the notice not later than three
 38 business days after the member becomes aware of the possibility of an actual or potential conflict.

39 (3) Subsection (2) of this section does not apply if the pecuniary benefit or detriment arises out
 40 of circumstances described in ORS 244.020 (14)(a) to (c).

41 (4) **Complaints of violations of this section may be made to the Oregon Government**
 42 **Standards and Practices Commission for review and investigation as provided by ORS 244.260**
 43 **and for possible imposition of civil penalties as provided by ORS 244.350 or 244.360.**

44 [(4)] (5) Nothing in this section excuses a member of the council from compliance with ORS
 45 244.120.

1 **SECTION 22.** ORS 162.005 is amended to read:

2 162.005. As used in ORS 162.005 to 162.425 [*and 162.465*], unless the context requires otherwise:

3 (1) “Pecuniary benefit” means gain or advantage to the beneficiary or to a third person pursuant
4 to the desire or consent of the beneficiary, in the form of money, property, commercial interests or
5 economic gain, but does not include a political campaign contribution reported in accordance with
6 ORS chapter 260.

7 (2) “Public servant” [*includes*] **means:**

8 (a) [*A public officer or employee of the state or of any political subdivision thereof or of any gov-*
9 *ernmental instrumentality within the state*] **A public official as defined in ORS 244.020;**

10 (b) A person serving as an advisor, consultant or assistant at the request or direction of the
11 state, any political subdivision thereof or of any governmental instrumentality within the state;

12 (c) A person nominated, elected or appointed to become a public servant, although not yet oc-
13 cupying the position; and

14 (d) Jurors.

15
16 **COMMISSION ADJUDICATION PROCESSES**

17
18 **SECTION 23.** ORS 244.260 is amended to read:

19 244.260. [(1)(a) *Upon its own instigation or signed complaint of any person, the Oregon Government*
20 *Standards and Practices Commission may undertake action in the Preliminary Review Phase with re-*
21 *spect to the contents of any statements filed under this chapter or resolution adopted pursuant thereto*
22 *or any alleged violation of any provision of this chapter.*]

23 [(b) *The public official who is the subject of a complaint or of the commission’s own action shall*
24 *be notified immediately upon receipt of the complaint or upon adoption of a motion by the commission*
25 *to undertake any action concerning the public official. The notice shall be given by telephone if the*
26 *official can be reached and shall also be in writing mailed to the official. The notice shall include the*
27 *nature of the complaint or motion and a copy of all materials submitted along with the complaint or*
28 *materials which give rise to the commission’s instigation of action on its own motion. However, the*
29 *official must also be notified in advance if an issue that may give rise to a motion to undertake action*
30 *on the commission’s own instigation is to be discussed at a commission meeting.*]

31 [(c) *Before investigating any complaint or undertaking any investigation at the commission’s own*
32 *instigation, if the public official who is the subject of the complaint or of the commission’s own action*
33 *is a member of the Legislative Assembly, the commission shall determine whether the alleged violation*
34 *of any provision of this chapter involves conduct protected by section 9, Article IV of the Oregon*
35 *Constitution. If the commission determines that the conduct is protected by section 9, Article IV of the*
36 *Oregon Constitution, the commission shall dismiss the complaint or rescind its motion as provided in*
37 *paragraph (e) of this subsection.*]

38 [(d) *If the complaint has not been dismissed or the motion of the commission has not been rescinded*
39 *as described in paragraph (c) of this subsection, before investigating any complaint or undertaking an*
40 *investigation on the commission’s own instigation, the commission shall make a finding that there is*
41 *cause to undertake an investigation, notify the public official who is the subject of the investigation,*
42 *identify the issues to be examined and shall confine its investigation to those issues. If the commission*
43 *finds reason to expand its investigation, it shall move to do so and shall record in its minutes the issues*
44 *to be examined before expanding the scope of its investigation and formally notify the complainant and*
45 *the public official who is the subject of the complaint of the expansion and the scope thereof.*]

1 *[(e) If the commission does not make a finding of cause, or if the commission determines that the*
 2 *alleged violation of this chapter involves conduct protected by section 9, Article IV of the Oregon*
 3 *Constitution, the commission shall dismiss the complaint or rescind its motion and shall formally enter*
 4 *the dismissal or rescission on its records. The commission shall notify the public official of the dis-*
 5 *missal or rescission. After dismissal or rescission, the commission shall take no further action involving*
 6 *the public official unless a new and different complaint is filed or action at its own instigation is*
 7 *undertaken based on different conduct.]*

8 *[(2) The commission may:]*

9 *[(a) During the Preliminary Review Phase, seek, solicit or otherwise obtain any books, papers, re-*
 10 *ords, memoranda or other additional information, administer oaths and take depositions necessary to*
 11 *determine whether there is cause or if the alleged violation is protected by section 9, Article IV of the*
 12 *Oregon Constitution; and]*

13 *[(b) During the Investigatory Phase, require any additional information, administer oaths, take*
 14 *depositions and issue subpoenas to compel attendance of witnesses and the production of books, papers,*
 15 *records, memoranda or other information necessary to complete the investigation. If any person fails*
 16 *to comply with any subpoena issued under this section or refuses to testify on any matters on which*
 17 *the person may be lawfully interrogated, the procedure provided in ORS 183.440 shall be followed to*
 18 *compel compliance.]*

19 *[(3) The person conducting any inquiry or investigation shall do so in an impartial, objective*
 20 *manner. All favorable and unfavorable information collected by the investigator shall be turned over*
 21 *to the commission.]*

22 *[(4) The findings of the commission in any inquiry or investigation shall be reported impartially,*
 23 *including both favorable and unfavorable findings, and shall be made available to the public official*
 24 *who is the subject thereof, to the appointing authority, if any, and to the Attorney General for state*
 25 *public officials and to the appropriate district attorney for local public officials. The findings shall be*
 26 *made available to the Commission on Judicial Fitness and Disability in any investigation involving a*
 27 *judge.]*

28 *[(5) Hearings relating to any charge of alleged violation of this chapter must be held before an*
 29 *administrative law judge assigned from the Office of Administrative Hearings established under ORS*
 30 *183.605. The procedure shall be that for a contested case under ORS chapter 183.]*

31 **(1)(a) Any person may file with the Oregon Government Standards and Practices Com-**
 32 **mission a signed written complaint alleging that there has been a violation of any provision**
 33 **of this chapter or of any rule adopted by the commission under this chapter. The complaint**
 34 **shall state the person's reason for believing that a violation occurred and include any evi-**
 35 **dence relating to the alleged violation.**

36 **(b) If at any time the commission has reason to believe that there has been a violation**
 37 **of a provision of this chapter or of a rule adopted by the commission under this chapter, the**
 38 **commission may proceed under this section on its own motion as if the commission had re-**
 39 **ceived a complaint.**

40 **(2)(a) Not later than two business days after receiving a complaint under this section, the**
 41 **commission shall notify the person who is the subject of the complaint.**

42 **(b) Before approving a motion to proceed under this section without a complaint, the**
 43 **commission shall provide notice to the person believed to have committed the violation of**
 44 **the time and place of the meeting at which the motion will be discussed. If the commission**
 45 **decides to proceed on its own motion, the commission shall give notice to the person not**

1 later than two business days after the motion is approved.

2 (c) The commission shall give notice of the complaint or motion to a person by mail and
3 by telephone if the person can be reached by telephone. The notice must describe the nature
4 of the alleged violation. The mailed notice must include copies of all materials submitted with
5 a complaint. If the commission will consider a motion to proceed without a complaint, the
6 notice must provide copies of all materials that the commission will consider at the hearing
7 on the motion.

8 (3) After receiving a complaint or deciding to proceed on its own motion, the commission
9 shall undertake action in the Preliminary Review Phase to determine whether there is cause
10 to undertake an investigation. If the person who is the subject of the action is a member of
11 the Legislative Assembly, the commission shall determine whether the alleged violation in-
12 volves conduct protected by section 9, Article IV of the Oregon Constitution.

13 [(6)(a)] (4)(a) [*The period of time from the filing of a complaint or from acting on the commission's*
14 *own instigation to the finding of cause or dismissal of the complaint or rescission of the motion shall*
15 *be termed the Preliminary Review Phase and shall not exceed 90 days unless]* **The Preliminary Re-**
16 **view Phase begins on the date the complaint is filed or the date the commission decides to**
17 **proceed on its own motion and ends on the date the commission determines there is cause**
18 **to undertake an investigation, dismisses the complaint or rescinds its own motion. The**
19 **Preliminary Review Phase may not exceed 135 days unless:**

20 (A) A delay is stipulated to by both the [*public official*] **person who is the subject of action**
21 **under this section** and the [*Oregon Government Standards and Practices*] commission with the
22 commission reserving a portion of the delay period to complete its actions[.]; **or**

23 (B) **A complaint is filed under this section with respect to a person who is a candidate**
24 **for elective public office, the complaint is filed within 61 days before the date of an election**
25 **at which the person is a candidate for nomination or election and a delay is requested in**
26 **writing by the candidate. If the candidate makes a request under this subparagraph, the**
27 **Preliminary Review Phase must be completed not later than 135 days after the date of the**
28 **first meeting of the commission that is held after the date of the election.**

29 (b) **During the Preliminary Review Phase, the commission may seek, solicit or otherwise**
30 **obtain any books, papers, records, memoranda or other additional information, administer**
31 **oaths and take depositions necessary to determine whether there is cause to undertake an**
32 **investigation or whether the alleged violation involves conduct protected by section 9, Article**
33 **IV of the Oregon Constitution.**

34 [(b)] (c) The Preliminary Review Phase [*shall be*] **is confidential.** Commission members and staff
35 may acknowledge receipt of a complaint but [*shall make no*] **may not make any** public comment
36 or publicly disclose any materials relating to a case during the Preliminary Review Phase. A person
37 who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed
38 \$1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the com-
39 mission or its staff may file a petition in a court of competent jurisdiction in the county in which
40 the petitioner resides in order to enforce the civil penalty provided in this paragraph.

41 [(c)] (d) [*The commission's deliberations of a case at the conclusion of the Preliminary Review*
42 *Phase shall be conducted*] **At the conclusion of the Preliminary Review Phase, the commission**
43 **shall conduct its deliberations** in executive session. All case related materials and proceedings
44 shall be open to the public after the commission makes a finding of cause **to undertake an inves-**
45 **tigation, dismisses a complaint or rescinds a motion.** Prior to the end of the Preliminary Review

1 Phase, the executive director of the commission shall prepare a statement of the facts determined
 2 during the phase, including appropriate legal citations and relevant authorities. Before presentation
 3 to the commission, the executive director's statement shall be reviewed by legal counsel to the
 4 commission.

5 [(d)] (e) The time limit imposed in this subsection and the commission's inquiry are suspended
 6 if:

7 (A) There is a pending criminal investigation that relates to the issues arising out of the
 8 underlying facts or conduct at issue in the matter before the commission unless the parties stipulate
 9 otherwise; or

10 (B) A court has enjoined the commission from continuing its inquiry.

11 **(5)(a) If the commission determines that there is not cause to undertake an investigation**
 12 **or that the alleged violation of this chapter involves conduct protected by section 9, Article**
 13 **IV of the Oregon Constitution, the commission shall dismiss the complaint or rescind its**
 14 **motion and formally enter the dismissal or rescission in its records. The commission shall**
 15 **notify the person who is the subject of action under this section of the dismissal or**
 16 **rescission. After dismissal or rescission, the commission may not take further action in-**
 17 **volving the person unless a new and different complaint is filed or action on the commis-**
 18 **sion's own motion is undertaken based on different conduct.**

19 **(b) If the commission makes a finding of cause to undertake an investigation, the com-**
 20 **mission shall undertake action in the Investigatory Phase. The commission shall notify the**
 21 **person who is the subject of the investigation, identify the issues to be examined and confine**
 22 **the investigation to those issues. If the commission finds reason to expand the investigation,**
 23 **the commission shall move to do so, record in its minutes the issues to be examined before**
 24 **expanding the scope of its investigation and formally notify the complainant, if any, and the**
 25 **person who is the subject of the investigation of the expansion and the scope of the investi-**
 26 **gation.**

27 [(7)(a)] **(6)(a)** *[The period of time from the finding of cause to the beginning of any contested case*
 28 *proceedings shall be termed the Investigatory Phase and shall]* **The Investigatory Phase begins on**
 29 **the date the commission makes a finding of cause to undertake an investigation and ends**
 30 **on the date the commission dismisses the complaint, rescinds its own motion, issues a**
 31 **settlement order, moves to commence a contested case proceeding or takes other action**
 32 **justified by the findings. The Investigatory Phase may not exceed [120] 180 days unless a delay**
 33 **is stipulated to by both the [public official] person who is the subject of action under this section**
 34 **and the [Oregon Government Standards and Practices] commission with the commission reserving a**
 35 **portion of the delay period to complete its actions.**

36 **(b) During the Investigatory Phase, the commission may seek any additional information,**
 37 **administer oaths, take depositions and issue subpoenas to compel attendance of witnesses**
 38 **and the production of books, papers, records, memoranda or other information necessary to**
 39 **complete the investigation. If any person fails to comply with any subpoena issued under this**
 40 **paragraph or refuses to testify on any matters on which the person may be lawfully inter-**
 41 **rogated, the commission shall follow the procedure described in ORS 183.440 to compel com-**
 42 **pliance.**

43 [(b)] (c) The time limit imposed in this subsection and the commission's investigation are sus-
 44 pended if:

45 (A) There is a pending criminal investigation that relates to the issues arising out of the

1 underlying facts or conduct at issue in the matter before the commission unless the parties stipulate
2 otherwise; or

3 (B) A court has enjoined the commission from continuing its investigation.

4 [(c)] (d) At the end of the Investigatory Phase, the commission shall take action by order[,
5 which]. **The action may include:**

6 (A) Dismissal, with or without comment;

7 (B) Continuation of the investigation [*to determine further facts, but no more than one continua-*
8 *tion, not to exceed 30 days' duration, shall be taken*] **for a period not to exceed 30 days for the**
9 **purpose of additional fact-finding;**

10 (C) Moving to a contested case proceeding;

11 (D) Seeking **or entering into** a negotiated settlement; or

12 (E) Taking other appropriate action if justified by the findings.

13 **(e) The commission may move to a contested case proceeding if the commission deter-**
14 **mines that the information presented to the commission is sufficient to make a preliminary**
15 **finding of a violation of any provision of this chapter or of any rule adopted by the commis-**
16 **sion under this chapter.**

17 [(8) *If, at the end of the Investigatory Phase, the commission takes action by order to move to a*
18 *contested case proceeding, a public official may notify the commission that the official elects to have the*
19 *commission file a lawsuit against the official in the Marion County Circuit Court in lieu of the con-*
20 *tested case proceeding. The public official shall notify the commission of the election in writing no later*
21 *than 21 days after receiving notification of the commission's action by order to move to the contested*
22 *case proceeding. The commission shall file suit within 30 days after receiving notice that the public*
23 *official has elected the lawsuit procedure.*]

24 **(7) A person conducting any inquiry or investigation under this section shall:**

25 **(a) Conduct the inquiry or investigation in an impartial and objective manner; and**

26 **(b) Provide to the commission all favorable and unfavorable information the person col-**
27 **lects.**

28 **(8) The commission shall report the findings of any inquiry or investigation in an im-**
29 **partial manner. The commission shall report both favorable and unfavorable findings and**
30 **shall make the findings available to:**

31 **(a) The person who is the subject of the inquiry or investigation;**

32 **(b) The appointing authority, if any;**

33 **(c) The Attorney General, if the findings relate to a state public official;**

34 **(d) The appropriate district attorney, if the findings relate to a local public official; and**

35 **(e) The Commission on Judicial Fitness and Disability, if the findings relate to a judge.**

36 **(9) Hearings conducted under this chapter must be held before an administrative law**
37 **judge assigned from the Office of Administrative Hearings established under ORS 183.605.**
38 **The procedure shall be that for a contested case under ORS chapter 183.**

39 [(9)] (10) The **Oregon Government Standards and Practices Commission** [*shall*] **may not in-**
40 **quire into or investigate any** [*complaint or act at its own instigation on alleged*] **conduct that oc-**
41 **curred more than four years before** [*the*] **a complaint is filed or** [*action is undertaken*] **a motion is**
42 **approved under subsection (1) of this section.**

43 [(10)] (11) [*Nothing in this section is intended to*] **This section does not** prevent the commission
44 and the [*public official or other*] person alleged to have violated **any provision of this chapter or**
45 **any rule adopted by the commission under this chapter** from stipulating to a finding of fact

1 concerning the violation and consenting to an appropriate penalty. The commission shall enter an
2 order *[accordingly]* **based on the stipulation and consent.**

3 **(12) At any time during proceedings conducted under this section, the commission may**
4 **enter into a negotiated settlement with the person who is the subject of action under this**
5 **section.**

6 *[(11)]* **(13)** As used in this section:

7 (a) "Cause" means that there is a substantial, objective basis for believing that an offense or
8 violation may have been committed and the person who is the subject of an inquiry may have com-
9 mitted the offense or violation.

10 (b) "Pending" means that a prosecuting attorney is either actively investigating the factual basis
11 of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument, has
12 obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of ne-
13 gotiating a plea.

14 **SECTION 24.** ORS 171.778 is amended to read:

15 171.778. *[(1) Upon its own instigation or signed complaint of any person, the Oregon Government*
16 *Standards and Practices Commission may undertake action in the Preliminary Review Phase with re-*
17 *spect to any alleged violation of ORS 171.725 to 171.785. The person who is the subject of a complaint*
18 *or of the commission's own action shall be notified immediately upon receipt of the complaint or upon*
19 *adoption of a motion by the commission to undertake any action concerning the person. The notice shall*
20 *be given by telephone if the person can be reached and a notice shall also be mailed to the person. The*
21 *notice shall include the nature of the complaint or motion and a copy of all materials submitted along*
22 *with the complaint or materials which give rise to the commission's instigation of action on its own*
23 *motion. However, the person must also be notified in advance if an issue that may give rise to a motion*
24 *to undertake action on the commission's own instigation is to be discussed at a commission meeting.*
25 *Before investigating any complaint or undertaking an investigation on its own instigation, the com-*
26 *mission shall make a finding that there is cause to undertake an investigation, notify the person who*
27 *is the subject of the investigation, identify the issues to be examined and shall confine its investigation*
28 *to those issues. If the commission finds reason to expand its investigation, it shall move to do so and*
29 *shall record in its minutes the issues to be examined before expanding the scope of its investigation and*
30 *formally notify the complainant and the person who is the subject of the complaint of the expansion*
31 *and the scope thereof. If the commission does not make a finding of cause, it shall dismiss the com-*
32 *plaint or rescind its motion and shall formally enter the dismissal or rescission on its records. The*
33 *commission shall notify the person of the dismissal or rescission. After dismissal or rescission, the*
34 *commission shall take no further action involving the person unless a new and different complaint is*
35 *filed or action at its own instigation is undertaken based on different conduct.]*

36 *[(2) The commission may:]*

37 *[(a) During the Preliminary Review Phase, seek, solicit or otherwise obtain any books, papers, re-*
38 *ords, memoranda or other additional information, administer oaths, and take depositions necessary to*
39 *determine whether there is cause; and]*

40 *[(b) During the Investigatory Phase, require any additional information, administer oaths, take*
41 *depositions and issue subpoenas to compel attendance of witnesses and the production of books, papers,*
42 *records, memoranda or other information necessary to complete the investigation. If any person fails*
43 *to comply with any subpoena issued under this section or refuses to testify on any matters on which*
44 *the person may be lawfully interrogated, the procedure provided in ORS 183.440 shall be followed to*
45 *compel compliance.]*

1 [(3) *The person conducting any inquiry or investigation shall do so in an impartial, objective*
2 *manner. All favorable and unfavorable information collected by the investigator shall be turned over*
3 *to the commission.*]

4 [(4) *The findings of the commission in any inquiry or investigation shall be reported impartially,*
5 *including both favorable and unfavorable findings, and shall be made available to the person who is*
6 *the subject thereof and to any employer of the person.*]

7 [(5) *Hearings relating to any charge of alleged violation of ORS 171.725 to 171.785 must be held*
8 *before an administrative law judge assigned from the Office of Administrative Hearings established*
9 *under ORS 183.605. The procedure shall be that for a contested case under ORS chapter 183.*]

10 **(1)(a) Any person may file with the Oregon Government Standards and Practices Com-**
11 **mission a signed written complaint alleging that there has been a violation of any provision**
12 **of ORS 171.725 to 171.785 or of any rule adopted by the commission under ORS 171.725 to**
13 **171.785. The complaint shall state the person's reason for believing that a violation occurred**
14 **and include any evidence relating to the alleged violation.**

15 **(b) If at any time the commission has reason to believe that there has been a violation**
16 **of a provision of ORS 171.725 to 171.785 or of a rule adopted by the commission under ORS**
17 **171.725 to 171.785, the commission may proceed under this section on its own motion as if**
18 **the commission had received a complaint.**

19 **(2)(a) Not later than two business days after receiving a complaint under this section, the**
20 **commission shall notify the person who is the subject of the complaint.**

21 **(b) Before approving a motion to proceed under this section without a complaint, the**
22 **commission shall provide notice to the person believed to have committed the violation of**
23 **the time and place of the meeting at which the motion will be discussed. If the commission**
24 **decides to proceed on its own motion, the commission shall give notice to the person not**
25 **later than two business days after the motion is approved.**

26 **(c) The commission shall give notice of the complaint or motion to a person by mail and**
27 **by telephone if the person can be reached by telephone. The notice must describe the nature**
28 **of the alleged violation. The mailed notice must include copies of all materials submitted with**
29 **a complaint. If the commission will consider a motion to proceed without a complaint, the**
30 **notice must provide copies of all materials that the commission will consider at the hearing**
31 **on the motion.**

32 **(3) After receiving a complaint or deciding to proceed on its own motion, the commission**
33 **shall undertake action in the Preliminary Review Phase to determine whether there is cause**
34 **to undertake an investigation.**

35 [(6)(a)] **(4)(a) [The period of time from the filing of a complaint or from acting on the commission's**
36 **own instigation to the finding of cause or dismissal of the complaint or rescission of the motion shall**
37 **be termed the Preliminary Review Phase and shall not exceed 90 days] The Preliminary Review**
38 **Phase begins on the date the complaint is filed or the date the commission decides to proceed**
39 **on its own motion and ends on the date the commission determines there is cause to**
40 **undertake an investigation, dismisses the complaint or rescinds its own motion. The Pre-**
41 **liminary Review Phase may not exceed 135 days unless a delay is stipulated to by both the sub-**
42 **ject person and the [Oregon Government Standards and Practices] commission, with the commission**
43 **reserving a portion of the delay period to complete its actions.**

44 **(b) During the Preliminary Review Phase, the commission may seek, solicit or otherwise**
45 **obtain any books, papers, records, memoranda or other additional information, administer**

1 **oaths and take depositions necessary to determine whether there is cause to undertake an**
 2 **investigation.**

3 [(b)] (c) The Preliminary Review Phase [*shall be*] **is confidential.** Commission members and staff
 4 may acknowledge receipt of a complaint but [*shall make no*] **may not make any** public comment
 5 or publicly disclose any materials relating to a case during the Preliminary Review Phase. A person
 6 who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed
 7 \$1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the com-
 8 mission or its staff may file a petition in a court of competent jurisdiction in the county in which
 9 the petitioner resides in order to enforce the civil penalty provided in this paragraph.

10 [(c)] (d) [*The commission's deliberations of a case at the conclusion of the Preliminary Review*
 11 *Phase shall be conducted*] **At the conclusion of the Preliminary Review Phase, the commission**
 12 **shall conduct its deliberations** in executive session. All case related materials and proceedings
 13 shall be open to the public after the commission makes a finding of cause **to undertake an inves-**
 14 **tigation**, dismisses a complaint or rescinds a motion. Prior to the end of the Preliminary Review
 15 Phase, the executive director of the commission shall prepare a statement of the facts determined
 16 during the phase, including appropriate legal citations and relevant authorities. Before presentation
 17 to the commission, the executive director's statement shall be reviewed by legal counsel to the
 18 commission.

19 [(d)] (e) The time limit imposed in this subsection and the commission's inquiry are suspended
 20 if:

21 (A) There is a pending criminal investigation that relates to the issues arising out of the
 22 underlying facts or conduct at issue in the matter before the commission, unless the parties stipulate
 23 otherwise; or

24 (B) A court has enjoined the commission from continuing its inquiry.

25 (5)(a) **If the commission determines that there is not cause to undertake an investi-**
 26 **gation, the commission shall dismiss the complaint or rescind its motion and formally enter**
 27 **the dismissal or rescission in its records. The commission shall notify the person who is the**
 28 **subject of the inquiry of the dismissal or rescission. After dismissal or rescission, the com-**
 29 **mission may not take further action involving the person unless a new and different com-**
 30 **plaint is filed or action on the commission's own motion is undertaken based on different**
 31 **conduct.**

32 (b) **If the commission makes a finding of cause to undertake an investigation, the com-**
 33 **mission shall undertake action in the Investigatory Phase. The commission shall notify the**
 34 **person who is the subject of the investigation, identify the issues to be examined and confine**
 35 **the investigation to those issues. If the commission finds reason to expand the investigation,**
 36 **the commission shall move to do so, record in its minutes the issues to be examined before**
 37 **expanding the scope of its investigation and formally notify the complainant, if any, and the**
 38 **person who is the subject of the investigation of the expansion and the scope of the investi-**
 39 **gation.**

40 [(7)(a)] (6)(a) [*The period of time from the finding of cause to the beginning of any contested case*
 41 *proceedings shall be termed the Investigatory Phase and shall*] **The Investigatory Phase begins on**
 42 **the date the commission makes a finding of cause to undertake an investigation and ends**
 43 **on the date the commission dismisses the complaint, rescinds its own motion, issues a**
 44 **settlement order, moves to commence a contested case proceeding or takes other action**
 45 **justified by the findings. The Investigatory Phase may not exceed [120] 180 days unless a delay**

1 is stipulated to by both the subject person and the [*Oregon Government Standards and Practices*]
2 commission, with the commission reserving a portion of the delay period to complete its actions.

3 **(b) During the Investigatory Phase, the commission may seek any additional information,**
4 **administer oaths, take depositions and issue subpoenas to compel attendance of witnesses**
5 **and the production of books, papers, records, memoranda or other information necessary to**
6 **complete the investigation. If any person fails to comply with any subpoena issued under this**
7 **paragraph or refuses to testify on any matters on which the person may be lawfully inter-**
8 **rogated, the commission shall follow the procedure described in ORS 183.440 to compel com-**
9 **pliance.**

10 [(b)] (c) The time limit imposed in this subsection and the commission's investigation are sus-
11 pended if:

12 (A) There is a pending criminal investigation that relates to the issues arising out of the
13 underlying facts or conduct at issue in the matter before the commission, unless the parties stipulate
14 otherwise; or

15 (B) A court has enjoined the commission from continuing its investigation.

16 [(c)] (d) At the end of the Investigatory Phase, the commission shall take action by order[,
17 *which*]. **The** action may include:

18 (A) Dismissal, with or without comment;

19 (B) Continuation of the investigation [*to determine further facts, but no more than one continua-*
20 *tion, not to exceed 30 days' duration, shall be taken*] **for a period not to exceed 30 days for the**
21 **purpose of additional fact-finding;**

22 (C) Moving to a contested case proceeding;

23 (D) Seeking **or entering into** a negotiated settlement; or

24 (E) Taking other appropriate action if justified by the findings.

25 **(e) The commission may move to a contested case proceeding if the commission deter-**
26 **mines that the information presented to the commission is sufficient to make a preliminary**
27 **finding of a violation of any provision of ORS 171.725 to 171.785 or of any rule adopted by the**
28 **commission under ORS 171.725 to 171.785.**

29 [(8) *If, at the end of the Investigatory Phase, the commission takes action by order to move to a*
30 *contested case proceeding, a person may notify the commission that the person elects to have the com-*
31 *mission file a lawsuit against the person in the Marion County Circuit Court in lieu of the contested*
32 *case proceeding. The court may impose the penalty described in ORS 171.992. The person shall notify*
33 *the commission of the election in writing no later than 21 days after receiving notification of the com-*
34 *mission's action by order to move to the contested case proceeding. The commission shall file suit*
35 *within 30 days after receiving notice that the person has elected the lawsuit procedure.*]

36 **(7) A person conducting any inquiry or investigation under this section shall:**

37 **(a) Conduct the inquiry or investigation in an impartial and objective manner; and**

38 **(b) Provide to the commission all favorable and unfavorable information the person col-**
39 **lects.**

40 **(8) The commission shall report the findings of any inquiry or investigation in an im-**
41 **partial manner. The commission shall report both favorable and unfavorable findings and**
42 **shall make the findings available to:**

43 **(a) The person who is the subject of the inquiry or investigation; and**

44 **(b) Any employer of the person.**

45 **(9) Hearings conducted under ORS 171.725 to 171.785 must be held before an administra-**

1 **tive law judge assigned from the Office of Administrative Hearings established under ORS**
2 **183.605. The procedure shall be that for a contested case under ORS chapter 183.**

3 [(9)] (10) The commission [shall] **may** not inquire into or investigate any [complaint or act at its
4 own instigation on alleged] conduct that occurred more than four years before [the] a complaint is
5 filed or [action is undertaken] **a motion is approved under subsection (1) of this section.**

6 [(10)] (11) [Nothing in this section is intended to] **This section does not** prevent the commission
7 and the person alleged to have violated **any provision of ORS 171.725 to 171.785 or any rule**
8 **adopted by the commission under ORS 171.725 to 171.785** from stipulating to a finding of fact
9 concerning the violation and consenting to an appropriate penalty. The commission shall enter an
10 order [accordingly] **based on the stipulation and consent.**

11 **(12) At any time during proceedings conducted under this section, the commission may**
12 **enter into a negotiated settlement with the person who is the subject of action under this**
13 **section.**

14 [(11)] (13) As used in this section, “cause” and “pending” have the meanings given those terms
15 in ORS 244.260.

16 **SECTION 25.** ORS 244.370 is amended to read:

17 244.370. (1) Any civil penalty under ORS 244.350 or 244.360 shall be imposed in the manner
18 prescribed by ORS 183.745.

19 (2) Notwithstanding ORS 183.745, a hearing [shall be] **is** required in all cases prior to imposition
20 of a penalty unless the public official **or candidate** waives the hearing. The public official **or can-**
21 **didate** to whom the notice is addressed [shall have] **has** 10 days from the date of service of the
22 notice in which to waive a hearing before the Oregon Government Standards and Practices Com-
23 mission and the public official **or candidate** shall be so notified.

24 (3) All penalties recovered under ORS 244.350 and 244.360 shall be paid into the State Treasury
25 and credited to the General Fund.

26 **SECTION 26.** ORS 244.400 is amended to read:

27 244.400. (1) A [public official or person described in ORS 171.778] **person** who prevails following
28 a contested case hearing under this chapter **or ORS 171.778** [or a lawsuit under ORS 244.260] shall
29 be awarded reasonable attorney fees at the conclusion of the contested case or on appeal.

30 (2) Upon prevailing following [the conclusion of] a contested case **hearing** or lawsuit, the [public
31 official or] person may petition the [Circuit Court for] Marion County **Circuit Court** for the purpose
32 of determining the award of reasonable attorney fees. The Oregon Government Standards and
33 Practices Commission shall be named as a respondent in the petition. The petitioner and respondent
34 shall follow the procedure provided in ORCP 68 for the determination of reasonable attorney fees.
35 The court shall give precedence on its docket to petitions filed under this subsection as the cir-
36 cumstances may require.

37 (3) [The Court of Appeals] **An appellate court** shall award reasonable attorney fees to the
38 [public official or] person if the [public official] **person** prevails on appeal from any [decisions] **de-**
39 **cision** of the commission [or of the Marion County Circuit Court].

40 (4) Attorney fees to be awarded under this section shall be only those fees incurred by the
41 [public official or] person from the time the commission notifies the [public official or] person that
42 it has entered an order to move to a contested case proceeding.

43 (5) Any attorney fees awarded to the [public official] **person** pursuant to this section shall be
44 paid **by the commission from moneys appropriated or allocated to the commission** from the
45 General Fund.

MISCELLANEOUS PROVISIONS

SECTION 27. ORS 171.772 is amended to read:

171.772. In carrying out the provisions of ORS 171.725 to 171.785, the Oregon Government Standards and Practices Commission shall:

(1) Prescribe **by rule** forms for registrations, statements and reports required to be filed by ORS 171.725 to 171.785, and provide *[such]* **the** forms to persons required to register and to file *[such]* **the** statements and reports;

(2) Accept and file any information voluntarily supplied that exceeds the requirements of ORS 171.725 to 171.785; and

(3) Make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

SECTION 28. ORS 244.010 is amended to read:

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

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

SECTION 29. ORS 244.055 is amended to read:

244.055. (1) In addition to the statement required by ORS 244.050, the State Treasurer and any person listed under ORS 244.050 (1)(q) and this subsection shall file quarterly at a time fixed by the State Treasurer a trading statement listing all stocks, bonds and other types of securities purchased or sold during the preceding quarter:

(a) Directors of the Cash Management Division and the Debt Management Division.

(b) Equities, fixed income, short term fund, real estate, equities real estate and commercial and mortgage real estate investment officers and assistant investment officers.

(c) Fixed income and short term fund investment analysts.

(2) The statement required by subsection (1) of this section shall be filed for review with the State Treasurer, the Attorney General and the Division of Audits of the office of the Secretary of State. The content of the statement is confidential.

(3) If the State Treasurer or the Chief Deputy State Treasurer determines that a conflict of interest exists for an officer or employee, the State Treasurer shall subject the person to appropriate discipline, including dismissal or termination of the contract, or both, pursuant to rule. If the State Treasurer has cause to believe that a violation of this chapter has occurred, the State Treasurer shall file a complaint with the Oregon Government Standards and Practices Commission under ORS 244.260.

(4) If the State Treasurer fails to act on an apparent conflict of interest under subsection (3) of this section or if the statement of the State Treasurer or the Chief Deputy State Treasurer appears to contain a conflict of interest, the Director of the Division of Audits shall report the failure

1 or apparent conflict to the Attorney General, who may file a complaint with the commission.

2 *[(5) A person filing the statement required by subsection (1) of this section must verify that the*
3 *statement is complete and accurate. A person who intentionally fails to file a complete and accurate*
4 *statement commits a Class C felony and may also be subject to ORS 162.075.]*

5 **SECTION 30. Section 31 of this 2007 Act is added to and made a part of ORS chapter 244.**

6 **SECTION 31. A person who intentionally fails to file a complete and accurate statement**
7 **under ORS 244.055 commits a Class C felony.**

8 **SECTION 32.** ORS 244.090 is amended to read:

9 244.090. (1) Each public official *[of this state]* or candidate required to *[make]* **file** a statement
10 of economic interest **under this chapter** shall *[report by]* **include on the statement the name of**
11 any compensated lobbyist who, during the preceding calendar year, was associated with a business
12 with which the public official or candidate or a member of the household of the public official or
13 candidate was also associated. *[Holding stock in a publicly traded corporation in which the lobbyist*
14 *also holds stock is not a relationship for which a statement is required.]*

15 **(2) Subsection (1) of this section does not apply if the only relationship between the public**
16 **official or candidate and the lobbyist is that the public official or candidate and lobbyist hold**
17 **stock in the same publicly traded corporation.**

18 *[(2)]* (3) As used in this section, “lobbyist” has the meaning *[set forth]* **given that term** in ORS
19 171.725.

20 **SECTION 33.** ORS 244.115 is amended to read:

21 244.115. (1) Each member of Congress from this state and each candidate for *[a seat in*
22 *Congress]* **nomination or election to the office of United States Representative in Congress**
23 **or United States Senator** from this state shall file with the Oregon Government Standards and
24 Practices Commission a copy of the federal ethics filing required under federal law or by congres-
25 sional rule.

26 **(2) The member or candidate shall file the information required under subsection (1) of**
27 **this section not later than** *[within]* 30 days after the filing date required under federal law or
28 congressional rule. If the filing is not made in a timely manner, the commission shall obtain copies
29 of the filing and indicate *[thereon]* **on the filing** that the filing was not made with the commission
30 by the member *[of Congress]* or candidate.

31 **(3) All** *[such]* filings **made under this section** are public records available for public inspection.

32 **SECTION 34.** ORS 244.160 is amended to read:

33 244.160. (1) Any political subdivision in this state, other than a city or county, by resolution
34 may require any public official of the subdivision to file a verified statement of economic interest¹.
35 *The filing shall be made]* with the Oregon Government Standards and Practices Commission.

36 **(2) The political subdivision shall file a copy of the resolution** *[A copy of the ordinance shall*
37 *be filed]* with the commission.

38 **SECTION 35.** ORS 244.300 is amended to read:

39 244.300. (1) Records of the Oregon Government Standards and Practices Commission *[shall con-*
40 *stitute]* **are** public records of this state.

41 **(2) All information submitted to the commission in any statement required under this**
42 **chapter is a public record.**

43 **SECTION 36.** ORS 244.320 is amended to read:

44 244.320. (1) The Oregon Government Standards and Practices Commission shall *[cause to have*
45 *prepared and published]* **prepare and publish** a manual on government ethics that explains in terms

1 understandable to legislative and public officials and the public the requirements of this chapter and
 2 the commission's interpretation of those requirements whether stated by rule or in an opinion. **The**
 3 **manual shall set forth recommended uniform reporting methods for use by persons filing**
 4 **statements under this chapter.**

5 (2) **In preparing the manual**, the commission shall [*be guided in preparing its manual by*]
 6 **consider the format of** the manual prepared by the Attorney General to guide public officials and
 7 the public in the requirements of ORS chapter 192.

8 (3) The [*manual required by this section shall be updated*] **commission shall update the manual**
 9 as often as the commission believes necessary but no less frequently than once every four years.

10 (4) **The commission shall make copies of the manual available in an electronic format on**
 11 **the Internet.**

12 **SECTION 37.** ORS 244.340 is amended to read:

13 244.340. The Oregon Government Standards and Practices Commission shall prepare and present
 14 a program of continuing education for public officials. [*and lobbyists. For this purpose,*] The com-
 15 mission may use its own staff or may contract for the preparation [*and*] **or** presentation of [*this*
 16 *program, or both*] **the program of continuing education.**

17 **SECTION 38.** ORS 469.810 is amended to read:

18 469.810. (1) A Pacific Northwest Electric Power and Conservation Planning Council member[,]
 19 or member of the council member's household[, *as defined in ORS 244.020, shall*] **may** not own or
 20 have any beneficial interest in any stock or indebtedness of any utility or direct service industry.

21 (2) A council member[,], or a member of [*a*] **the** council member's household[, *as defined in ORS*
 22 *244.020, shall*] **may** not be a director, officer, agent or employee of any utility or direct service in-
 23 dustry.

24 (3) A council member[,], or a member of [*a*] **the** council member's household[, *as defined in ORS*
 25 *244.020, shall*] **may** not be a director, officer, agent or employee of or hold any proprietary interest
 26 in any consulting firm [*which*] **that** does business with any utility or direct service industry.

27 (4) A council member[,], or a member of the council member's household[, *as defined in ORS*
 28 *244.020, shall*] **may** not receive any compensation from any utility or direct service industry arising
 29 out of the member's business, trade or profession.

30 (5) A council member [*shall be considered*] **is** a public official [*and be*] subject to the provisions
 31 **and reporting requirements** of ORS chapter 244[, *including the reporting requirements thereof*].

32 (6) A council member [*shall*] **must** be a citizen of the United States and [*have been a resident*
 33 *of*] **must have resided in** the State of Oregon for **at least** one year preceding appointment.

34 (7) A council member [*shall*] **may** not hold any other elected or appointed [*public*] lucrative
 35 **public** office or be principally engaged in any other business or vocation.

36 (8) As used in this section:

37 (a) "Beneficial interest" does not include an interest in a pension fund, a mutual fund or an in-
 38 surance fund.

39 (b) "Consulting firm" means any corporation, partnership or sole proprietorship whose principal
 40 business is providing personal services.

41 (c) "Member of the household" means any relative who resides with the council member.

42 (d) "Relative" means the spouse of the council member, any children of the council
 43 member or of the council member's spouse, and brothers, sisters or parents of the council
 44 member or of the council member's spouse.

45 [*c*] (e) "Utility or direct service industry" means a utility or direct service industry customer

1 that purchases electrical energy directly from the Bonneville Power Administration.

2
3 **CONFORMING CHANGES**
4

5 **SECTION 39.** ORS 171.745 is amended to read:

6 171.745. (1) A lobbyist registered with the Oregon Government Standards and Practices Com-
7 mission or required to register with the commission shall, on January 31 and July 31, of each
8 even-numbered year, and on January 31, April 30 and July 31 of each odd-numbered year, file with
9 the commission a statement showing:

10 (a) The total amount of all moneys expended by the lobbyist for the purpose of lobbying in the
11 preceding reporting period for:

12 (A) Food, refreshments and entertainment;

13 (B) Printing, postage and telephone;

14 (C) Advertising, public relations, education and research; and

15 (D) Miscellaneous; and

16 (b) The name of any legislative or executive official to whom or for whose benefit, on any one
17 occasion, an expenditure in excess of \$25 is made for the purposes of lobbying, and the date, name
18 of payee, purpose and amount of that expenditure.

19 (2) Beginning on July 1, 1979, the dollar amount specified in subsection (1)(b) of this section
20 shall be adjusted annually by the commission based upon the change in the Portland Consumer Price
21 Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the
22 United States Department of Labor or its successor during the preceding 12-month period. The
23 amount determined under this subsection shall be rounded to the nearest dollar.

24 (3) Statements required by this section need not include amounts expended by the lobbyist for
25 personal living and travel expenses and office overhead, including salaries and wages paid for staff
26 and secretarial assistance, and maintenance expenses. If the amount of any expenditure required to
27 be included in a statement is not accurately known at the time the statement is required to be filed,
28 an estimate of the expenditure shall be submitted in the statement and designated as an estimate.
29 The exact amount expended for which a previous estimate was made shall be submitted in a subse-
30 quent report when the information is available.

31 (4) Notwithstanding ORS 171.735, 171.740 and subsections (1) to (3) of this section, a registered
32 lobbyist, who engages in lobbying activities without compensation on behalf of an organization is
33 not required to register as a lobbyist for the organization as long as the lobbying activity does not
34 exceed the financial or time limits set in ORS 171.735 (4).

35 (5) A statement required by this section shall include a copy of any notice provided to a public
36 official under ORS 244.100 [(3)].

37 (6) For each statement required by this section, an entity comprised of more than one lobbyist
38 may file one statement that reports expenditures by the entity and not by individual lobbyists.

39 **SECTION 40.** ORS 171.750 is amended to read:

40 171.750. (1) Any person on whose behalf a lobbyist was registered, or was required to register
41 with the Oregon Government Standards and Practices Commission at any time during the preceding
42 calendar year, shall file with the commission, by January 31st of each year, a statement showing,
43 for the preceding calendar year:

44 (a) The total amount of all moneys expended for lobbying activities on the person's behalf, ex-
45 cluding living and travel expenses incurred for a lobbyist performing lobbying services.

1 (b) The name of any legislative or executive official to whom or for whose benefit, on any one
2 occasion, an expenditure in excess of \$25 for the purpose of lobbying is made by the person, but not
3 including information previously reported in compliance with ORS 171.745, and the date, name of
4 payee, purpose and amount of that expenditure.

5 (2) Using July 1, 1979, as the base, the dollar amount specified in subsection (1)(b) of this section
6 shall be adjusted annually by the commission based upon the change in the Portland Consumer Price
7 Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the
8 United States Department of Labor, or its successor, during the preceding 12-month period. The
9 amount determined under this subsection shall be rounded to the nearest dollar.

10 (3) A statement required under subsection (1) of this section shall include a copy of any notice
11 provided to a public official under ORS 244.100 [(3)].

12
13 **TRANSITION PROVISIONS**

14
15 **SECTION 41. ORS 244.030, 244.080, 244.180, 244.190 and 244.201 are repealed.**

16 **SECTION 42. ORS 244.340 and 244.345 are added to and made a part of ORS chapter 244.**

17 **SECTION 43. (1) Sections 4, 5, 13, 14, 15, 30 and 31 of this 2007 Act, the amendments to
18 ORS 162.005, 171.745, 171.750, 171.772, 171.778, 244.010, 244.020, 244.050, 244.055, 244.090, 244.100,
19 244.110, 244.115, 244.130, 244.160, 244.195, 244.250, 244.260, 244.270, 244.280, 244.290, 244.300,
20 244.310, 244.320, 244.340, 244.350, 244.360, 244.370, 244.380, 244.390, 244.400, 293.708 and 469.810
21 by sections 1 to 3, 6 to 12, 16 to 29 and 32 to 40 of this 2007 Act and the repeal of ORS 244.030,
22 244.080, 244.180, 244.190 and 244.201 by section 41 of this 2007 Act become operative on Janu-
23 ary 1, 2008.**

24 (2) The Oregon Government Standards and Practices Commission, a state agency as de-
25 fined in ORS 183.750 and any statewide association of public bodies as defined in ORS 174.109
26 may adopt rules or policies or take any other action before the operative date specified in
27 subsection (1) of this section that is necessary to enable the commission, the state agency
28 or any public body that is a member of a statewide association of public bodies to exercise,
29 on or after the operative date specified in subsection (1) of this section, all the duties, func-
30 tions and powers conferred on the commission, state agency or public body by this 2007 Act.

31 **SECTION 44. (1) Section 5 of this 2007 Act and the amendments to ORS 244.390 by section
32 2 of this 2007 Act apply to alleged violations of any provision of ORS chapter 244 that occur
33 on or after January 1, 2008.**

34 (2) The amendments to ORS 244.280 by section 12 of this 2007 Act apply to commission
35 advisory opinions issued on or after January 1, 2008.

36 (3) Section 14 of this 2007 Act applies to staff advisory opinions issued on or after Janu-
37 ary 1, 2008.

38 (4) Section 15 of this 2007 Act applies to staff advice issued on or after January 1, 2008.

39 **SECTION 45. The amendments to ORS 244.130 by section 9 of this 2007 Act apply to de-
40 cisions or actions made or taken by public officials on or after January 1, 2008.**

41 **SECTION 46. (1) The amendments to ORS 244.050 by section 17 of this 2007 Act apply to
42 statements of economic interest required to be filed on or after January 1, 2008.**

43 (2) The amendments to ORS 244.350 by section 18 of this 2007 Act apply to:

44 (a) Violations of any provision of ORS chapter 244 or any resolution adopted under ORS
45 244.160 occurring on or after January 1, 2008;

1 (b) Violations of ORS 293.708 occurring prior to, on or after January 1, 2008; and

2 (c) Statements of economic interest required to be filed on or after January 1, 2008.

3 (3) The amendments to ORS 244.360 and 244.370 by sections 19 and 25 of this 2007 Act
4 apply to violations of any provision of ORS chapter 244 or any resolution adopted under ORS
5 244.160 occurring prior to, on or after January 1, 2008.

6 (4) The amendments to ORS 244.390 by section 2 of this 2007 Act apply to penalties or
7 sanctions imposed for violations that occur on or after January 1, 2008.

8 (5) The amendments to ORS 244.270 by section 11 of this 2007 Act apply to violations of
9 any provision of ORS chapter 244 or any rule adopted under ORS chapter 244 occurring on
10 or after January 1, 2008.

11 (6) The amendments to ORS 244.380 by section 20 of this 2007 Act apply to statements
12 of economic interest required to be filed prior to, on or after January 1, 2008.

13 (7) The amendments to ORS 293.708 by section 21 of this 2007 Act apply to violations of
14 ORS 293.708 occurring prior to, on or after January 1, 2008.

15 (8) Section 31 of this 2007 Act and the amendments to ORS 244.055, 244.090 and 244.110
16 by sections 7, 29 and 32 of this 2007 Act apply to statements required to be filed on or after
17 January 1, 2008.

18 (9) The amendments to ORS 162.005 by section 22 of this 2007 Act apply to violations that
19 occur on or after January 1, 2008.

20 (10) The amendments to ORS 171.778, 244.260 and 244.400 by sections 23, 24 and 26 of this
21 2007 Act apply to complaints filed on or after January 1, 2008, and actions first commenced
22 by the Oregon Government Standards and Practices Commission on its own motion on or
23 after January 1, 2008.

24 (11) The amendments to ORS 244.100 by section 6 of this 2007 Act apply to notices for
25 expenses incurred on or after the effective date of this 2007 Act.

26 (12) The amendments to ORS 244.195 by section 10 of this 2007 Act apply to copies of
27 statements and explanations required to be provided to public officials who are elected or
28 appointed on or after January 1, 2008.

29 (13) The amendments to ORS 244.300 by section 35 of this 2007 Act apply to information
30 submitted on or after January 1, 2008.

31 **SECTION 47.** (1) Any proceeding, action, prosecution or other business or matter
32 undertaken or commenced before January 1, 2008, by the Oregon Government Standards and
33 Practices Commission under any provision of ORS chapter 244 and still pending on January
34 1, 2008, shall be conducted and completed by the commission in the same manner, under the
35 same terms and conditions and with the same effect as though undertaken, conducted or
36 completed before January 1, 2008.

37 (2) Nothing in this 2007 Act relieves any person of any obligation with respect to any tax,
38 fee, fine, civil penalty or other charge, interest, penalty, forfeiture or other liability, duty or
39 obligation.

40 **SECTION 48.** The unit captions used in this 2007 Act are provided only for the conven-
41 ience of the reader and do not become part of the statutory law of this state or express any
42 legislative intent in the enactment of this 2007 Act.

43 **SECTION 49.** This 2007 Act being necessary for the immediate preservation of the public
44 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
45 July 1, 2007.

