

House Bill 2636

Sponsored by Representative HUNT

SUMMARY

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

Changes name of Oregon Government Standards and Practices Commission to Oregon Government Ethics Commission.

A BILL FOR AN ACT

1
2 Relating to government ethics; creating new provisions; and amending ORS 244.020, 244.050, 244.250,
3 244.260, 244.310 and 244.345.

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

5 **SECTION 1.** ORS 244.250 is amended to read:

6 244.250. (1) The Oregon Government [*Standards and Practices*] **Ethics** Commission is estab-
7 lished, consisting of seven members. **The appointment of a member to the commission is subject**
8 **to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Members**
9 **shall be** appointed in the following manner [*to be confirmed by the Senate*]:

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

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

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

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

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

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

29 (6) Members [*shall be*] **are** entitled to compensation and expenses as provided in ORS 292.495.

30 (7) The commission may retain or appoint qualified legal counsel who [*shall*] **must** be a member
31 of the Oregon State Bar and who [*shall be*] **is** responsible to the commission. The appointment of

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

1 legal counsel under this subsection [*shall*] **may** be made only when the commission finds it is inap-
 2 propriate and contrary to the public interest for the office of the Attorney General to represent
 3 concurrently more than one public official or agency in any matter before the commission because
 4 [*such*] **the** representation:

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

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

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

10 **SECTION 2.** ORS 244.020 is amended to read:

11 244.020. As used in this chapter, unless the context requires otherwise:

12 (1) “Actual conflict of interest” means any action or any decision or recommendation by a per-
 13 son acting in a capacity as a public official, the effect of which would be to the private pecuniary
 14 benefit or detriment of the person or the person’s relative or any business with which the person
 15 or a relative of the person is associated unless the pecuniary benefit or detriment arises out of cir-
 16 cumstances described in subsection (14) of this section.

17 (2) “Business” means any corporation, partnership, proprietorship, firm, enterprise, franchise,
 18 association, organization, self-employed individual and any other legal entity operated for economic
 19 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section
 20 501(c) of the Internal Revenue Code with which a public official or a relative of the public official
 21 is associated only as a member or board director or in a nonremunerative capacity.

22 (3) “Business with which the person is associated” means:

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

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

31 (c) Any publicly held corporation of which the person or the person’s relative is a director or
 32 officer; or

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

36 (4) “Commission” means the Oregon Government [*Standards and Practices*] **Ethics** Commission.

37 (5) “Development commission” means any entity which has the authority to purchase, develop,
 38 improve or lease land or the authority to operate or direct the use of land. This authority must be
 39 more than ministerial.

40 (6) “Expenditure” has the meaning given that term in ORS 260.005.

41 (7) “Gift” means something of economic value given to a public official or the public official’s
 42 relative without valuable consideration of equivalent value, including the full or partial forgiveness
 43 of indebtedness, which is not extended to others who are not public officials or the relatives of
 44 public officials on the same terms and conditions; and something of economic value given to a public
 45 official or the public official’s relative for valuable consideration less than that required from others

1 who are not public officials. However, “gift” does not mean:

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

3 (b) Gifts from family members.

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

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

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

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

17 (9) “Income” means income of any nature derived from any source, including, but not limited to,
18 any salary, wage, advance, payment, dividend, interest, rent, honoraria, return of capital, forgiveness
19 of indebtedness, or anything of economic value.

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

23 (11) “Legislative official” means any member or member-elect of the Legislative Assembly, any
24 member of an agency, board or committee that is part of the legislative branch and any staff person,
25 assistant or employee thereof.

26 (12) “Member of household” means any relative who resides with the public official.

27 (13) “Planning commission” means a county planning commission created under ORS chapter 215
28 or a city planning commission created under ORS chapter 227.

29 (14) “Potential conflict of interest” means any action or any decision or recommendation by a
30 person acting in a capacity as a public official, the effect of which could be to the private pecuniary
31 benefit or detriment of the person or the person’s relative, or a business with which the person or
32 the person’s relative is associated, unless the pecuniary benefit or detriment arises out of the fol-
33 lowing:

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

36 (b) Any action in the person’s official capacity which would affect to the same degree a class
37 consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or
38 other group including one of which or in which the person, or the person’s relative or business with
39 which the person or the person’s relative is associated, is a member or is engaged. The commission
40 may by rule limit the minimum size of or otherwise establish criteria for or identify the smaller
41 classes that qualify under this exception.

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

44 (15) “Public official” means any person who, when an alleged violation of this chapter occurs,
45 is serving the State of Oregon or any of its political subdivisions or any other public body of the

1 state as an officer, employee, agent or otherwise, and irrespective of whether the person is com-
 2 pensated for such services.

3 (16) "Relative" means the spouse of the public official, any children of the public official or of
 4 the public official's spouse, and brothers, sisters or parents of the public official or of the public
 5 official's spouse.

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

7 (18) "Statewide official" means the Secretary of State or Secretary of State-elect, State Treas-
 8 urer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of Public
 9 Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau of
 10 Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.

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

14 **SECTION 3.** ORS 244.050 is amended to read:

15 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
 16 Government [*Standards and Practices*] **Ethics** Commission a verified statement of economic interest
 17 as required under this chapter:

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

21 (b) Any judicial officer, including justices of the peace and municipal judges, except municipal
 22 judges in those cities where a majority of the votes cast in the subject city in the 1974 general
 23 election was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws
 24 1974 (special session), and except any pro tem judicial officer who does not otherwise serve as a
 25 judicial officer.

26 (c) Any candidate for an office designated in paragraph (a) or (b) of this subsection.

27 (d) The Deputy Attorney General.

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

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

33 (g) The following state officers:

34 (A) Adjutant General.

35 (B) Director of Agriculture.

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

37 (D) Water Resources Director.

38 (E) Director of Department of Environmental Quality.

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

40 (G) State Fish and Wildlife Director.

41 (H) State Forester.

42 (I) State Geologist.

43 (J) Director of Human Services.

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

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

- 1 (M) State Librarian.
- 2 (N) Administrator of Oregon Liquor Control Commission.
- 3 (O) Superintendent of State Police.
- 4 (P) Director of the Public Employees Retirement System.
- 5 (Q) Director of Department of Revenue.
- 6 (R) Director of Transportation.
- 7 (S) Public Utility Commissioner.
- 8 (T) Director of Veterans' Affairs.
- 9 (U) Executive Director of Oregon Government [*Standards and Practices*] **Ethics** Commission.
- 10 (V) Director of the State Department of Energy.
- 11 (W) Director and each assistant director of the Oregon State Lottery.
- 12 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- 13 (i) Every elected city or county official except elected officials in those cities or counties where
- 14 a majority of votes cast in the subject city or county in any election on the issue of filing statements
- 15 of economic interest under this chapter was in opposition.
- 16 (j) Every member of a city or county planning, zoning or development commission except such
- 17 members in those cities or counties where a majority of votes cast in the subject city or county at
- 18 any election on the issue of filing statements of economic interest under this chapter was in oppo-
- 19 sition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special ses-
- 20 sion).
- 21 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
- 22 cipal administrator of the city or county except such employees in those cities or counties where a
- 23 majority of votes cast in the subject city or county in an election on the issue of filing statements
- 24 of economic interest under this chapter was in opposition.
- 25 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 26 (m) Every member of a governing body of a metropolitan service district and the executive of-
- 27 ficer thereof.
- 28 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 29 (o) The chief administrative officer and the financial officer of each common and union high
- 30 school district, education service district and community college district.
- 31 (p) Every member of the following state boards and commissions:
- 32 (A) Board of Geologic and Mineral Industries.
- 33 (B) Oregon Economic and Community Development Commission.
- 34 (C) State Board of Education.
- 35 (D) Environmental Quality Commission.
- 36 (E) Fish and Wildlife Commission of the State of Oregon.
- 37 (F) State Board of Forestry.
- 38 (G) Oregon Government [*Standards and Practices*] **Ethics** Commission.
- 39 (H) Oregon Health Policy Commission.
- 40 (I) State Board of Higher Education.
- 41 (J) Oregon Investment Council.
- 42 (K) Land Conservation and Development Commission.
- 43 (L) Oregon Liquor Control Commission.
- 44 (M) Oregon Short Term Fund Board.
- 45 (N) State Marine Board.

- 1 (O) Mass transit district boards.
- 2 (P) Energy Facility Siting Council.
- 3 (Q) Board of Commissioners of the Port of Portland.
- 4 (R) Employment Relations Board.
- 5 (S) Public Employees Retirement Board.
- 6 (T) Oregon Racing Commission.
- 7 (U) Oregon Transportation Commission.
- 8 (V) Wage and Hour Commission.
- 9 (W) Water Resources Commission.
- 10 (X) Workers' Compensation Board.
- 11 (Y) Oregon Facilities Authority.
- 12 (Z) Oregon State Lottery Commission.
- 13 (AA) Pacific Northwest Electric Power and Conservation Planning Council.
- 14 (BB) Columbia River Gorge Commission.
- 15 (CC) Oregon Health and Science University Board of Directors.
- 16 (q) The following officers of the State Treasury:
- 17 (A) Chief Deputy State Treasurer.
- 18 (B) Executive Assistant to the State Treasurer.
- 19 (C) Director of the Investment Division.
- 20 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
- 21 and 777.915 to 777.953.
- 22 (2) By April 15 next after the date an appointment takes effect, every appointed public official
- 23 on a board or commission listed in subsection (1) of this section shall file with the **Oregon Gov-**
- 24 **ernment Ethics** Commission a statement of economic interest as required under ORS 244.060,
- 25 244.070 and 244.090.
- 26 (3) By April 15 next after the filing deadline for the primary election, each candidate for elective
- 27 public office described in subsection (1) of this section shall file with the commission a statement
- 28 of economic interest as required under ORS 244.060, 244.070 and 244.090.
- 29 (4) Within 30 days after the filing deadline for the general election, each candidate for elective
- 30 public office described in subsection (1) of this section who was not a candidate in the preceding
- 31 primary election, or who was nominated for elective public office described in subsection (1) of this
- 32 section at the preceding primary election by write-in votes, shall file with the commission a state-
- 33 ment of economic interest as required under ORS 244.060, 244.070 and 244.090.
- 34 (5) The Legislative Assembly shall maintain a continuing review of the operation of this chapter.
- 35 (6) Subsections (1) to (5) of this section apply only to persons who are incumbent, elected or
- 36 appointed officials as of April 15 and to persons who are candidates for office on April 15. Those
- 37 sections also apply to persons who do not become candidates until 30 days after the filing deadline
- 38 for the statewide general election.
- 39 (7)(a) Failure to file the statement required by this section subjects a person to a civil penalty
- 40 that may be imposed as specified in ORS 183.745, but the enforcement of this subsection does not
- 41 require the Oregon Government [*Standards and Practices*] **Ethics** Commission to follow the proce-
- 42 dures in ORS 244.260 before finding that a violation of this section has occurred.
- 43 (b) Failure to file the required statement in timely fashion shall be prima facie evidence of a
- 44 violation of this section.
- 45 (c) If within five days after the date on which the statement is to be filed under this section the

1 statement has not been received by the commission, the commission shall notify the public official
 2 and give the public official not less than 15 days to comply with the requirements of this section.
 3 If the public official fails to comply by the date set by the commission, the commission may impose
 4 a civil penalty of \$5 for each day the statement is late beyond the date fixed by the commission.
 5 The maximum penalty that may be accrued under this section is \$1,000.

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

8 **SECTION 4.** ORS 244.260 is amended to read:

9 244.260. (1)(a) Upon its own instigation or signed complaint of any person, the Oregon Govern-
 10 ment [*Standards and Practices*] **Ethics** Commission may undertake action in the Preliminary Review
 11 Phase with respect to the contents of any statements filed under this chapter or resolution adopted
 12 pursuant thereto or any alleged violation of any provision of this chapter.

13 (b) The public official who is the subject of a complaint or of the commission's own action shall
 14 be notified immediately upon receipt of the complaint or upon adoption of a motion by the commis-
 15 sion to undertake any action concerning the public official. The notice shall be given by telephone
 16 if the official can be reached and shall also be in writing mailed to the official. The notice shall
 17 include the nature of the complaint or motion and a copy of all materials submitted along with the
 18 complaint or materials which give rise to the commission's instigation of action on its own motion.
 19 However, the official must also be notified in advance if an issue that may give rise to a motion to
 20 undertake action on the commission's own instigation is to be discussed at a commission meeting.

21 (c) Before investigating any complaint or undertaking any investigation at the commission's own
 22 instigation, if the public official who is the subject of the complaint or of the commission's own
 23 action is a member of the Legislative Assembly, the commission shall determine whether the alleged
 24 violation of any provision of this chapter involves conduct protected by section 9, Article IV of the
 25 Oregon Constitution. If the commission determines that the conduct is protected by section 9, Arti-
 26 cle IV of the Oregon Constitution, the commission shall dismiss the complaint or rescind its motion
 27 as provided in paragraph (e) of this subsection.

28 (d) If the complaint has not been dismissed or the motion of the commission has not been
 29 rescinded as described in paragraph (c) of this subsection, before investigating any complaint or
 30 undertaking an investigation on the commission's own instigation, the commission shall make a
 31 finding that there is cause to undertake an investigation, notify the public official who is the subject
 32 of the investigation, identify the issues to be examined and shall confine its investigation to those
 33 issues. If the commission finds reason to expand its investigation, it shall move to do so and shall
 34 record in its minutes the issues to be examined before expanding the scope of its investigation and
 35 formally notify the complainant and the public official who is the subject of the complaint of the
 36 expansion and the scope thereof.

37 (e) If the commission does not make a finding of cause, or if the commission determines that the
 38 alleged violation of this chapter involves conduct protected by section 9, Article IV of the Oregon
 39 Constitution, the commission shall dismiss the complaint or rescind its motion and shall formally
 40 enter the dismissal or rescission on its records. The commission shall notify the public official of the
 41 dismissal or rescission. After dismissal or rescission, the commission shall take no further action
 42 involving the public official unless a new and different complaint is filed or action at its own insti-
 43 gation is undertaken based on different conduct.

44 (2) The commission may:

45 (a) During the Preliminary Review Phase, seek, solicit or otherwise obtain any books, papers,

1 records, memoranda or other additional information, administer oaths and take depositions neces-
 2 sary to determine whether there is cause or if the alleged violation is protected by section 9, Article
 3 IV of the Oregon Constitution; and

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

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

13 (4) The findings of the commission in any inquiry or investigation shall be reported impartially,
 14 including both favorable and unfavorable findings, and shall be made available to the public official
 15 who is the subject thereof, to the appointing authority, if any, and to the Attorney General for state
 16 public officials and to the appropriate district attorney for local public officials. The findings shall
 17 be made available to the Commission on Judicial Fitness and Disability in any investigation involv-
 18 ing a judge.

19 (5) Hearings relating to any charge of alleged violation of this chapter must be held before an
 20 administrative law judge assigned from the Office of Administrative Hearings established under ORS
 21 183.605. The procedure shall be that for a contested case under ORS chapter 183.

22 (6)(a) The period of time from the filing of a complaint or from acting on the **Oregon Govern-**
 23 **ment Ethics** Commission's own instigation to the finding of cause or dismissal of the complaint or
 24 rescission of the motion shall be termed the Preliminary Review Phase and shall not exceed 90 days
 25 unless a delay is stipulated to by both the public official and the [*Oregon Government Standards and*
 26 *Practices*] commission with the commission reserving a portion of the delay period to complete its
 27 actions.

28 (b) The Preliminary Review Phase shall be confidential. Commission members and staff may
 29 acknowledge receipt of a complaint but shall make no public comment or publicly disclose any ma-
 30 terials relating to a case during the Preliminary Review Phase. A person who intentionally violates
 31 this paragraph is subject to a civil penalty in an amount not to exceed \$1,000. Any person aggrieved
 32 as a result of a violation of this paragraph by a member of the commission or its staff may file a
 33 petition in a court of competent jurisdiction in the county in which the petitioner resides in order
 34 to enforce the civil penalty provided in this paragraph.

35 (c) The commission's deliberations of a case at the conclusion of the Preliminary Review Phase
 36 shall be conducted in executive session. All case related materials and proceedings shall be open to
 37 the public after the commission makes a finding of cause, dismisses a complaint or rescinds a mo-
 38 tion. Prior to the end of the Preliminary Review Phase, the executive director of the commission
 39 shall prepare a statement of the facts determined during the phase, including appropriate legal ci-
 40 tations and relevant authorities. Before presentation to the commission, the executive director's
 41 statement shall be reviewed by legal counsel to the commission.

42 (d) The time limit imposed in this subsection and the commission's inquiry are suspended if:

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

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

2 (7)(a) The period of time from the finding of cause to the beginning of any contested case pro-
 3 ceedings shall be termed the Investigatory Phase and shall not exceed 120 days unless a delay is
 4 stipulated to by both the public official and the [*Oregon Government Standards and Practices*] com-
 5 mission with the commission reserving a portion of the delay period to complete its actions.

6 (b) The time limit imposed in this subsection and the commission’s investigation are suspended
 7 if:

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

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

12 (c) At the end of the Investigatory Phase, the commission shall take action by order, which
 13 action may include:

14 (A) Dismissal, with or without comment;

15 (B) Continuation of the investigation to determine further facts, but no more than one contin-
 16 uation, not to exceed 30 days’ duration, shall be taken;

17 (C) Moving to a contested case proceeding;

18 (D) Seeking a negotiated settlement; or

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

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

27 (9) The commission shall not inquire into or investigate any complaint or act at its own insti-
 28 gation on alleged conduct that occurred more than four years before the complaint is filed or action
 29 is undertaken.

30 (10) Nothing in this section is intended to prevent the commission and the public official or
 31 other person alleged to have violated this chapter from stipulating to a finding of fact concerning
 32 the violation and consenting to an appropriate penalty. The commission shall enter an order ac-
 33 cordingly.

34 (11) As used in this section:

35 (a) “Cause” means that there is a substantial, objective basis for believing that an offense or
 36 violation may have been committed and the person who is the subject of an inquiry may have com-
 37 mitted the offense or violation.

38 (b) “Pending” means that a prosecuting attorney is either actively investigating the factual basis
 39 of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument, has
 40 obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of ne-
 41 gotiating a plea.

42 **SECTION 5.** ORS 244.310 is amended to read:

43 244.310. (1) The Oregon Government [*Standards and Practices*] **Ethics** Commission shall appoint
 44 an executive director to serve at the pleasure of the commission.

45 (2) The executive director shall be responsible for the administrative operations of the commis-

1 sion and shall perform such other duties as may be designated or assigned to the executive director
 2 from time to time by the commission. [*However,*]

3 (3) The commission [*shall*] **may** not delegate the power to [*make regulations*] **adopt rules** or
 4 issue advisory opinions to the executive director.

5 **SECTION 6.** ORS 244.345 is amended to read:

6 244.345. The Oregon Government [*Standards and Practices*] **Ethics** Commission Account is es-
 7 tablished separate and distinct from the General Fund. All moneys received by the Oregon Govern-
 8 ment [*Standards and Practices*] **Ethics** Commission, other than appropriations from the General
 9 Fund, shall be deposited into the account and are continuously appropriated to the commission to
 10 carry out the duties, functions and powers of the commission.

11 **SECTION 7.** (1) **The amendments to ORS 244.250 by section 1 of this 2007 Act are intended**
 12 **to change the name of the Oregon Government Standards and Practices Commission to the**
 13 **Oregon Government Ethics Commission.**

14 (2) **The amendments to ORS 244.345 by section 6 of this 2007 Act are intended to change**
 15 **the name of the Oregon Government Standards and Practices Commission Account to the**
 16 **Oregon Government Ethics Commission Account.**

17 (3) **For the purpose of harmonizing and clarifying statute sections published in Oregon**
 18 **Revised Statutes, the Legislative Counsel may substitute for words designating the Oregon**
 19 **Government Standards and Practices Commission, wherever they occur in Oregon Revised**
 20 **Statutes, other words designating the Oregon Government Ethics Commission.**

21 (4) **For the purpose of harmonizing and clarifying statute sections published in Oregon**
 22 **Revised Statutes, the Legislative Counsel may substitute for words designating the Oregon**
 23 **Government Standards and Practices Commission Account, wherever they occur in Oregon**
 24 **Revised Statutes, other words designating the Oregon Government Ethics Commission Ac-**
 25 **count.**

26 _____