

Enrolled
Senate Bill 10

Sponsored by Senators BROWN, COURTNEY, Representative MERKLEY; Senator MORRISSETTE
(Presession filed.)

CHAPTER

AN ACT

Relating to government ethics; creating new provisions; amending ORS 171.725, 171.730, 171.735, 171.740, 171.745, 171.750, 171.772, 171.992, 244.020, 244.040, 244.045, 244.050, 244.060, 244.070, 244.100, 244.110, 244.280, 244.290, 244.350, 244.360, 244.390, 260.407, 293.708, 351.067 and 353.270 and sections 5, 14, 15 and 40b, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595); and declaring an emergency.

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

COMMISSION FUNDING

SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 244.

SECTION 2. (1) The Oregon Government Standards and Practices Commission shall estimate in advance the expenses that it will incur during a biennium in carrying out the provisions of ORS 171.725 to 171.785 and 171.992 and this chapter. The commission shall also determine what percentage of the expenses should be borne by the following two groups of public bodies:

- (a) Public bodies in state government; and
- (b) Local governments, local service districts and special government bodies that are subject to the Municipal Audit Law.

(2) The commission shall charge each public body for the public body's share of the expenses described in subsection (1) of this section for the biennium. The amount to be charged each public body shall be determined as follows:

(a) The commission shall determine the rate to be charged public bodies in state government. The same rate shall be applied to each public body described in this paragraph. To determine the amount of the charge for each public body, the commission shall multiply the rate determined under this paragraph by the number of public officials serving the public body.

(b) The commission shall set the charge for local governments, local service districts and special government bodies that are subject to the Municipal Audit Law so that each local government, local service district or special government body described in this paragraph pays an amount of the total expenses for the group that bears the same proportion to the total expenses that the amount charged to the local government, local service district or special government body for the municipal audit fee under ORS 297.485 bears to the total amount assessed for the municipal audit fee.

(3) Each public body shall pay to the credit of the commission the charge described in this section as an administrative expense from funds or appropriations available to the public body in the same manner as other claims against the public body are paid.

(4) All moneys received by the commission under this section shall be credited to the Oregon Government Standards and Practices Commission Account established under ORS 244.345.

(5) The commission shall adopt rules specifying the methods for calculating and collecting the rates and charges described in this section.

(6) As used in this section:

(a) "Local government" and "local service district" have the meanings given those terms in ORS 174.116.

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

(c) "Public official," notwithstanding ORS 244.020 (13), means any person who, on the date the commission charges the public body under this section, is serving the public body as an officer or employee.

(d) "Special government body" has the meaning given that term in ORS 174.117.

(e) "State government" has the meaning given that term in ORS 174.111.

SECTION 3. The Oregon Government Standards and Practices Commission shall first impose charges under section 2 of this 2007 Act for the biennium beginning July 1, 2009.

REPORTING REQUIREMENTS

SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS 171.725 to 171.785.

SECTION 5. Statements required to be filed with the Oregon Government Standards and Practices Commission under ORS 171.745 and 171.750 shall be filed in each calendar year:

(1) Not later than April 15, for the accounting period beginning January 1 and ending March 31;

(2) Not later than July 15, for the accounting period beginning April 1 and ending June 30;

(3) Not later than October 15, for the accounting period beginning July 1 and ending September 30; and

(4) Not later than January 15 of the following calendar year, for the accounting period beginning October 1 and ending December 31.

SECTION 6. ORS 171.725 is amended to read:

171.725. As used in ORS 171.725 to 171.785, unless the context requires otherwise:

(1) "Compensation" has the meaning given that term in ORS 292.951.

(2) "Consideration" includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.

(3) "Executive agency" means a commission, board, agency or other body in the executive branch of state government that is not part of the legislative or judicial branch.

(4) "Executive official" means any member or member-elect of an executive agency and any member of the staff or an employee of an executive agency. A member of a state board or commission, other than a member who is employed in full-time public service, is not an executive official for purposes of ORS 171.725 to 171.785.

(5) "Judge" means an active judge serving on the Oregon Supreme Court, Court of Appeals, Oregon Tax Court, or an Oregon circuit court.

(6) "Legislative action" means introduction, sponsorship, testimony, debate, voting or any other official action on any measure, resolution, amendment, nomination, appointment, or report, or any matter that may be the subject of action by either house of the Legislative Assembly, or any committee of the Legislative Assembly, or the approval or veto thereof by the Governor.

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

(8) "Lobbying" means influencing, or attempting to influence, legislative action through oral or written communication with legislative officials, solicitation of [others] **executive officials or other persons** to influence or attempt to influence legislative action or attempting to obtain the goodwill of legislative officials.

(9) "Lobbyist" means:

(a) Any individual who agrees to provide personal services for money or any other consideration for the purpose of lobbying.

(b) Any person not otherwise subject to paragraph (a) of this subsection who provides personal services as a representative of a corporation, association, organization or other group, for the purpose of lobbying.

(c) Any public official who lobbies.

(10) "Public agency" means a commission, board, agency or other governmental body.

(11) "Public official" means any member or member-elect of any public agency and any member of the staff or an employee of the public agency.

SECTION 6a. ORS 171.730 is amended to read:

171.730. The Legislative Assembly finds that, to preserve and maintain the integrity of the legislative process, persons who engage in efforts to [*persuade members of the Legislative Assembly or the executive branch to take specific actions*] **influence legislative action**, either by direct communication with [*members or employees of the Legislative Assembly or the executive branch*] **legislative officials** or by solicitation of [others] **executive officials or other persons** to engage in those efforts, should regularly report their efforts to the public.

SECTION 6b. ORS 171.735 is amended to read:

171.735. ORS 171.740 and 171.745 do not apply to the following persons:

(1) News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge legislative action but that engage in no other activities in connection with the legislative action.

(2) Any legislative official acting in an official capacity.

(3) Any individual who [*receives no*] **does not receive** compensation or reimbursement of expenses for lobbying, who limits lobbying activities solely to formal appearances to give testimony before public sessions of committees of the Legislative Assembly, or public hearings of state agencies, and who, when testifying, registers an appearance in the records of the committees or agencies.

(4) A person who [*spends not*] **does not spend** more than **an aggregate amount of 24 hours** during any calendar quarter lobbying and who does not spend an **aggregate amount** in excess of \$100 lobbying during any calendar quarter.

(5) The Governor, [*Executive Assistant to*] **chief of staff for the Governor**, [*Legal Counsel*] **deputy chief of staff for the Governor, legal counsel to the Governor, deputy legal counsel to the Governor**, Secretary of State, Deputy Secretary of State appointed pursuant to ORS 177.040, State Treasurer, Chief Deputy State Treasurer appointed pursuant to ORS 178.060, **chief of staff for the office of the State Treasurer**, Attorney General, Deputy Attorney General appointed pursuant to ORS 180.130, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries, **members and staff of the Oregon Law Commission who conduct the law revision program of the commission or [and] any judge.**

SECTION 6c. ORS 171.740 is amended to read:

171.740. (1) Within three [*working*] **business** days after exceeding the limit of time or expenditure specified in ORS 171.735 (4), a lobbyist shall register with the Oregon Government Standards and Practices Commission by filing with the commission a statement containing the following information:

(a) The name, address and telephone number of the lobbyist.

(b) The name, address and telephone number of each person that employs the lobbyist or in whose interest the lobbyist appears or works.

(c) A general description of the trade, business, profession or area of endeavor of any person designated under paragraph (b) of this subsection, and a statement by the person that the lobbyist is officially authorized to lobby for the person.

(d) The name of any member of the Legislative Assembly employed, retained or otherwise compensated by:

(A) The lobbyist designated under paragraph (a) of this subsection; or

(B) A person designated under paragraph (b) of this subsection.

(e) The general subject or subjects of the legislative action of interest to the person for whom the lobbyist is registered.

(2) The designation of official authorization to lobby shall be signed by an official of each person that employs the lobbyist or in whose interest the lobbyist appears or works.

(3) **A lobbyist must file a separate registration statement under this section for each person that employs the lobbyist or in whose interest the lobbyist appears or works.** If a lobbyist appears **or works** for a person for whom the lobbyist has not registered, the lobbyist shall register with the commission [*within three working days of the lobbyist's appearance*] **not later than three business days after the day the lobbyist first appears or works for the person.**

(4) If any of the information submitted by a lobbyist in the statement required under subsection (1) of this section changes, the lobbyist shall revise the statement within 30 days of the change.

(5) A lobbyist registration expires December 31 of an odd-numbered year. If a lobbyist renews the registration before March 31 of the following even-numbered year, the commission shall consider the registration to have been effective as of December 31 of the odd-numbered year on which the registration expired.

(6) For the statement required by this section, an entity comprised of more than one lobbyist may file one statement for the lobbyists [*that*] **who** comprise the entity. The statement the entity files must include the names of the individuals authorized to lobby on behalf of the client listed in the statement.

SECTION 6d. ORS 171.745 is amended to read:

171.745. (1) A lobbyist registered with the Oregon Government Standards and Practices Commission or required to register with the commission shall, [*on January 31 and July 31, of each even-numbered year, and on January 31, April 30 and July 31 of each odd-numbered year*] **according to the schedule described in section 5 of this 2007 Act**, file with the commission a statement showing **for the applicable reporting period**:

(a) The total amount of all moneys expended **for food, refreshments and entertainment** by the lobbyist for the purpose of lobbying. [*in the preceding reporting period for:*]

[(A) *Food, refreshments and entertainment;*]

[(B) *Printing, postage and telephone;*]

[(C) *Advertising, public relations, education and research; and*]

[(D) *Miscellaneous; and*]

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

(b) The name of any legislative or executive official to whom or for whose benefit, on any one occasion, an expenditure is made for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure. This paragraph applies if the total amount expended on the occasion by one or more persons exceeds \$50.

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

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

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

[(5)] (3) A statement required by this section shall include a copy of any notice provided to a public official under ORS 244.100 [(3)] (2).

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

SECTION 7. ORS 171.750 is amended to read:

171.750. (1) Any person on whose behalf a lobbyist was registered, or was required to register, with the Oregon Government Standards and Practices Commission at any time during the [preceding] calendar year[,] shall file with the commission, [by January 31st of each year] **according to the schedule described in section 5 of this 2007 Act**, a statement showing[,] for the [preceding calendar year] **applicable reporting period**:

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

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

(b) The name of any legislative or executive official to whom or for whose benefit, on any one occasion, an expenditure is made for the purposes of lobbying by the person, and the date, name of payee, purpose and amount of that expenditure. This paragraph applies if the total amount expended on the occasion by one or more persons exceeds \$50. This paragraph does not apply to information reported in compliance with ORS 171.745.

(c) The name of each registered lobbyist or entity comprised of more than one lobbyist to whom the person paid moneys for lobbying activities on the person's behalf, excluding living and travel expenses incurred for a lobbyist performing lobbying services, and the total amount of moneys paid to that lobbyist or entity.

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

[(3)] (2) A statement required under subsection (1) of this section shall include a copy of any notice provided to a public official under ORS 244.100 [(3)] (2).

SECTION 8. 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 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.

(4) **Adopt by rule an electronic filing system under which statements required to be filed under ORS 171.745 and 171.750 may be filed with the commission in an electronic format. The commission may not charge a fee for filing a statement under this subsection. The commission shall accept statements filed under ORS 171.745 and 171.750 in a format that is not electronic.**

(5) **Provide training on procedures for filing statements under subsection (4) of this section.**

(6) **Make statements filed under ORS 171.745 and 171.750, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet.**

SECTION 8a. ORS 171.772, as amended by section 8 of this 2007 Act, 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 forms for registrations, statements and reports required to be filed by ORS 171.725 to 171.785 and provide the forms to persons required to register and to file the statements and reports.

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

(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.

(4) Adopt by rule an electronic filing system under which statements required to be filed under ORS 171.745 and 171.750 *[may]* **must** be filed with the commission in an electronic format. The commission may not charge a fee for filing a statement under this subsection. *[The commission shall accept statements filed under ORS 171.745 and 171.750 in a format that is not electronic.]*

(5) Provide training on procedures for filing statements under subsection (4) of this section.

(6) Make statements filed under ORS 171.745 and 171.750, *including statements that are not filed in an electronic format,* available in a searchable format for review by the public using the Internet.

SECTION 8b. The amendments to ORS 171.772 by section 8a of this 2007 Act become operative January 1, 2010.

SECTION 9. ORS 244.290 is amended to read:

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

[(1)] (a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or resolution adopted *[pursuant thereto]* **under this chapter.**

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

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

[(4)] (d) Prepare and publish *[such]* **any** reports *[as]* the commission *[finds]* **determines** are necessary.

(e) **Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.**

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

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

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

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

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

(e) Describe the application of provisions exempting items from the definition of “gift” in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in section 18 of this 2007 Act.

(3) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act may be filed, without a fee, with the commission in an electronic format. The commission shall accept statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act in a format that is not electronic.

(4) The commission shall make statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet.

SECTION 9a. ORS 244.290, as amended by section 9 of this 2007 Act, is amended to read:

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

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or resolution adopted under this chapter.

(b) Prepare, publish and provide a manual setting forth recommended uniform methods of reporting for use by persons filing statements under this chapter or resolution adopted under this chapter.

(c) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(d) Prepare and publish any reports the commission determines are necessary.

(e) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

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

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

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

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

(e) Describe the application of provisions exempting items from the definition of “gift” in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in section 18 of this 2007 Act.

(3) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act *[may]* **must** be filed, without a fee, with the commission in an electronic format. *[The commission shall accept statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act in a format that is not electronic.]*

(4) The commission shall make statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act[*including statements that are not filed in an electronic format,*] available in a searchable format for review by the public using the Internet.

SECTION 9b. The amendments to ORS 244.290 by section 9a of this 2007 Act become operative January 1, 2010.

SECTION 9c. If House Bill 2595 becomes law, sections 9 and 9a of this 2007 Act (amending ORS 244.290) and section 9b of this 2007 Act are repealed and ORS 244.290, as amended by section 3, chapter __, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.290. (1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(c) Prepare and publish reports the commission finds are necessary.

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

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

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

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

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

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

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

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

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

(f) Describe the application of provisions exempting items from the definition of "gift" in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in section 18 of this 2007 Act;

[(f)] (g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and

[(g)] (h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

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

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate for public office;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

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

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

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates for public office or that are addressed by the commission or by commission staff on a recurring basis; and

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

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act may be filed, without a fee, with the commission in an electronic format. The commission shall accept statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act in a format that is not electronic.

(6) The commission shall make statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet.

SECTION 9d. If House Bill 2595 becomes law, ORS 244.290, as amended by section 3, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595), and section 9c of this 2007 Act, is amended to read:

244.290. (1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(c) Prepare and publish reports the commission finds are necessary.

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

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

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

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

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

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

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

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

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

(f) Describe the application of provisions exempting items from the definition of "gift" in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in section 18 of this 2007 Act;

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

(h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

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

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate for public office;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

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

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

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates for public office or that are addressed by the commission or by commission staff on a recurring basis; and

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

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act *[may]* **must** be filed, without a fee, with the commission in an electronic format. *[The commission shall accept statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act in a format that is not electronic.]*

(6) The commission shall make statements filed under ORS 244.050 and 244.100 and section 35 of this 2007 Act, *including statements that are not filed in an electronic format,* available in a searchable format for review by the public using the Internet.

SECTION 9e. If House Bill 2595 becomes law, the amendments to ORS 244.290 by section 9d of this 2007 Act become operative January 1, 2010.

CIVIL PENALTIES

SECTION 10. ORS 171.992 is amended to read:

171.992. (1) Any person who violates any provision of ORS 171.740 to 171.762, or any rule adopted *[pursuant thereto]* **under ORS 171.725 to 171.785**, shall forfeit and pay to the General Fund **for each violation** a civil penalty *[for each violation]* of not more than *[\$1,000]* **\$5,000**, to be determined by the Oregon Government Standards and Practices Commission.

(2)(a) The commission may impose civil penalties upon a person who fails to file the statement required under ORS 171.745 or 171.750. In enforcing this subsection, the commission is not required to follow the procedures in ORS 171.778 before finding that a violation of ORS 171.745 or 171.750 has occurred.

(b) Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 171.745 or 171.750.

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

[2)] (3) [The] A civil penalty [referred to in subsection (1) of] **imposed under** this section may be recovered in an action brought [thereon] in the name of the State of Oregon in any court of appropriate jurisdiction or may be imposed as provided in ORS 183.745. In any proceedings before the court, including judicial review under ORS 183.745, the court may review the penalty as to both liability and reasonableness of amount.

(4)(a) **Except as provided in paragraph (b) of this subsection, the commission shall report, in the manner described in ORS 192.245, to the Legislative Assembly violations of any provision of ORS 171.740 to 171.762, or any rule adopted under ORS 171.725 to 171.785, for which a penalty is imposed under this section. The report shall include the name of the person against whom the penalty was imposed and describe the nature of the violation.**

(b) **The commission shall adopt rules specifying conditions under which repeated violations of ORS 171.745 or 171.750 involving a failure to file required statements in a timely fashion are reported to the Legislative Assembly.**

(5) **In lieu of or in conjunction with finding a violation of law or rule or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education.**

SECTION 11. ORS 244.350 is amended to read:

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

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

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

(2)(a) **Except as provided in paragraph (b) of this subsection, the commission may impose civil penalties not to exceed \$1,000 for [violating] violation of** any provision of ORS 192.660. [~~How-~~
~~ever,~~]

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

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

(4)(a) **The commission may impose civil penalties upon a person who fails to file the statement required under ORS 244.050 or 244.100 or section 35 of this 2007 Act. In enforcing this subsection, the commission is not required to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050 or 244.100 or section 35 of this 2007 Act has occurred.**

(b) **Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 244.050 or 244.100 or section 35 of this 2007 Act.**

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

(5) **In lieu of or in conjunction with finding a violation of law or any resolution or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education.**

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

SECTION 11a. If House Bill 2595 becomes law, section 11 of this 2007 Act (amending ORS 244.350) is repealed and ORS 244.350, as amended by section 18, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.350. (1) The Oregon Government Ethics Commission may impose civil penalties not to exceed:

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

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

(2)(a) Except as provided in paragraph (b) of this subsection, the commission may impose civil penalties not to exceed \$1,000 for violation of any provision of ORS 192.660.

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

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

(4)(a) The commission may impose civil penalties on a person who fails to file the statement required under ORS 244.050 or **244.100 or section 35 of this 2007 Act**. In enforcing this subsection, the commission is not required to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050 or **244.100 or section 35 of this 2007 Act** has occurred.

(b) Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 244.050 or **244.100 or section 35 of this 2007 Act**.

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

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

(5) In lieu of or in conjunction with finding a violation of law or any resolution or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education.

SECTION 12. ORS 244.360 is amended to read:

244.360. [*The Oregon Government Standards and Practices Commission, in addition to civil penalties prescribed in ORS 244.350, may require any public official who has financially benefited the public official or any other person by violation of any provision of this chapter to forfeit twice the amount that the public official or any other person realized from violating any provision of this chapter.*] **In addition to civil penalties imposed under ORS 244.350, if a public official has financially benefited the public official or any other person by violating any provision of this chapter, the Oregon Government Standards and Practices Commission may impose upon the public official a civil penalty in an amount equal to twice the amount the public official or other person realized as a result of the violation.**

SECTION 12a. If House Bill 2595 becomes law, section 12 of this 2007 Act (amending ORS 244.360) is repealed and ORS 244.360, as amended by section 19, chapter __, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.360. In addition to civil penalties imposed under ORS 244.350, if a public official has financially benefited the public official or any other person by violating any provision of this chapter, the Oregon Government Ethics Commission [*or a court*] may impose upon the public official a civil penalty in an amount equal to twice the amount the public official or other person realized as a result of the violation.

SECTION 13. ORS 244.050 is amended to read:

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

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and members of the Legislative Assembly.

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

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

(d) The Deputy Attorney General.

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

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

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

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

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans' Affairs.

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

(V) Director of the State Department of Energy.

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

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

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

(j) Every member of a city or county planning, zoning or development commission except such members in those cities or counties where a majority of votes cast in the subject city or county at any election on the issue of filing statements of economic interest under this chapter was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special session).

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

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

(m) Every member of a governing body of a metropolitan service district and the executive officer thereof.

- (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.
- (p) Every member of the following state boards and commissions:
 - (A) Board of Geologic and Mineral Industries.
 - (B) Oregon Economic and Community Development Commission.
 - (C) State Board of Education.
 - (D) Environmental Quality Commission.
 - (E) Fish and Wildlife Commission of the State of Oregon.
 - (F) State Board of Forestry.
 - (G) Oregon Government Standards and Practices Commission.
 - (H) Oregon Health Policy Commission.
 - (I) State Board of Higher Education.
 - (J) Oregon Investment Council.
 - (K) Land Conservation and Development Commission.
 - (L) Oregon Liquor Control Commission.
 - (M) Oregon Short Term Fund Board.
 - (N) State Marine Board.
 - (O) Mass transit district boards.
 - (P) Energy Facility Siting Council.
 - (Q) Board of Commissioners of the Port of Portland.
 - (R) Employment Relations Board.
 - (S) Public Employees Retirement Board.
 - (T) Oregon Racing Commission.
 - (U) Oregon Transportation Commission.
 - (V) Wage and Hour Commission.
 - (W) Water Resources Commission.
 - (X) Workers' Compensation Board.
 - (Y) Oregon Facilities Authority.
 - (Z) Oregon State Lottery Commission.
 - (AA) Pacific Northwest Electric Power and Conservation Planning Council.
 - (BB) Columbia River Gorge Commission.
 - (CC) Oregon Health and Science University Board of Directors.
- (q) The following officers of the State Treasury:
 - (A) Chief Deputy State Treasurer.
 - (B) Executive Assistant to the State Treasurer.
 - (C) Director of the Investment Division.
- (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 and 777.915 to 777.953.

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

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

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

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

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

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

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

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

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

SECTION 14. ORS 260.407 is amended to read:

260.407. (1) Except as provided in subsection (2) of this section, amounts received as contributions by a candidate or the principal campaign committee of a candidate for public office that are in excess of any amount necessary to defray campaign expenditures and any other funds donated to a holder of public office may be:

(a) Used to defray any expenses incurred in connection with the recipient's duties as a holder of public office;

(b) Transferred to any national, state or local political committee of any political party;

(c) Contributed to any organization described in section 170(c) of Title 26 of the United States Code or to any charitable corporation defined in ORS 128.620; or

(d) Used for any other lawful purpose.

(2) Notwithstanding subsection (1) of this section, amounts received as contributions by a candidate for public office that are in excess of any amount necessary to defray campaign expenditures and other funds donated to a holder of public office [*shall*] **may** not be:

(a) Converted by any person to any personal use other than to defray any expenses incurred in connection with the person's duties as a holder of public office or to repay to a candidate any loan the proceeds of which were used in connection with the candidate's campaign;

(b) **Except as provided in this paragraph, used to pay any money award as defined in ORS 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116. Contributions described in this subsection may be used to pay a civil penalty imposed under this chapter, other than a civil penalty imposed for a violation of this section or ORS 260.409; or**

(c) **Except as provided in this paragraph, used to pay any legal expenses incurred by the candidate or public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of the duties of the person as a candidate or public official. Contributions described in this subsection may be used to pay legal expenses incurred by the candidate or public official in connection with a legal proceeding brought under this chapter, other than a proceeding brought under this section or ORS 260.409.**

(3) As used in this section:

(a) "Funds donated" means all funds, including but not limited to gifts, loans, advances, credits or deposits of money that are donated for the purpose of supporting the activities of a holder of public office. "Funds donated" does not mean funds appropriated by the Legislative Assembly or another similar public appropriating body or personal funds of the office holder donated to an account containing only those personal funds.

(b) "Public office" does not include national or political party office.

SUBSEQUENT EMPLOYMENT

SECTION 15. ORS 244.045 is amended to read:

244.045. (1) A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of Finance and Corporate Securities, the Administrator of the Insurance Division, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery shall not:

(a) Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(b) Within two years after the public official ceases to hold the position:

(A) Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;

(B) Influence or try to influence the actions of the agency; or

(C) Disclose any confidential information gained as a public official.

(2) A person who has been a Deputy Attorney General or an assistant attorney general shall not, within two years after the person ceases to hold the position, lobby or appear before an agency that the person represented while employed by the Department of Justice.

(3) A person who has been the State Treasurer or the Chief Deputy State Treasurer shall not, within one year after ceasing to hold office:

(a) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council negotiated or to whom either awarded a contract providing for payment by the state of at least \$25,000 in any single year during the term of office of the treasurer;

(b) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least \$50,000 of investment moneys in any single year during the term of office of the treasurer; or

(c) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(4) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(a) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(b) Influence or try to influence the agency, board or commission; or

(c) Disclose any confidential information gained as a public official.

(5)(a) A person who has been a member of the Department of State Police, who has held a position with the department with the responsibility for supervising, directing or administering programs relating to gaming by a Native American tribe or the Oregon State Lottery and who has been designated by the Superintendent of State Police by rule shall not, within one year after the member of the Department of State Police ceases to hold the position:

(A) Accept employment from or be retained by or receive any financial gain related to gaming from the Oregon State Lottery or any Native American tribe;

(B) Accept employment from or be retained by or receive any financial gain from any private employer selling or offering to sell gaming products or services;

(C) Influence or try to influence the actions of the Department of State Police; or

(D) Disclose any confidential information gained as a member of the Department of State Police.

(b) This subsection does not apply to:

(A) Appointment or employment of a person as an Oregon State Lottery Commissioner or as a Tribal Gaming Commissioner or regulatory agent thereof;

(B) Contracting with the Oregon State Lottery as a lottery game retailer;

(C) Financial gain received from personal gaming activities conducted as a private citizen; or

(D) Subsequent employment in any capacity by the Department of State Police.

(c) As used in this subsection, "Native American tribe" means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., to conduct gambling operations on tribal land.

(6) A person who has been a member of the Legislative Assembly may not receive money or any other consideration for lobbying as defined in ORS 171.725 performed during the period beginning on the date the person ceases to be a member of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly that begins after the date the person ceases to be a member of the Legislative Assembly.

SECTION 15a. Section 15b of this 2007 Act is added to and made a part of ORS chapter 244.

SECTION 15b. (1) For purposes of ORS 244.045 (6), if a special session of the Legislative Assembly is held in calendar year 2008 or 2010, the first special session held in that calendar year is considered a regular session of the Legislative Assembly.

(2) This section is repealed January 1, 2011.

GIFTS/FINANCIAL GAIN

SECTION 16. ORS 244.020 is amended to read:

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

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection [(14)] (11) of this section.

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

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

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

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

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

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business [from which 50 percent or more of the total annual income of the person and members of the person's household is derived during the current calendar year] **listed as a source of income as required under ORS 244.060 (3).**

[4] "*Commission*" means the Oregon Government Standards and Practices Commission.]

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

[6] "*Expenditure*" has the meaning given that term in ORS 260.005.]

[7] (5)(a) "Gift" means something of economic value given to a public official or [the public official's] a relative **or member of the household of the public official:**

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives **or members of the household** of public officials on the same terms and conditions; **or** [and something of economic value given to a public official or the public official's relative]

(B) For valuable consideration less than that required from others who are not public officials. [However, "gift" does not mean:]

(b) "**Gift**" does not mean:

[a] Campaign contributions, as described in ORS chapter 260.]

(A) **Contributions as defined in ORS 260.005.**

[b] (B) Gifts from [family members] **relatives or members of the household of the public official.**

(C) **An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.**

(D) **Informational material, publications or subscriptions related to the recipient's performance of official duties.**

(E) **Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization before whom the public official appears to speak or to answer questions as part of a scheduled program.**

(F) **Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American Tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code and that receives less than five percent of its funding from for-profit organizations or entities, for attendance at a convention, fact-finding mission or trip, or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body a defined in ORS 174.117.**

(G) **Contributions made to a legal expense trust fund established under section 31 of this 2007 Act for the benefit of the public official.**

(H) **Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:**

(i) **On an officially sanctioned trade-promotion or fact-finding mission; or**

(ii) **In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.**

(I) Food or beverage consumed by a public official acting in an official capacity:

(i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

(iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.

(J) Waiver or discount of registration expenses or materials provided to a public official at a continuing education event that the public official may attend to satisfy a professional licensing requirement.

(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.

(L) Food or beverage consumed by a public official at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(M) Entertainment provided to a public official or a relative or member of the household of the public official that is incidental to the main purpose of another event.

(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.

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

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

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

[(8)] (6) ["Honoraria"] "Honorarium" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event *[at which the public official appears in an official capacity]*.

[(9)] (7) "Income" means income of any nature derived from any source, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, *[honoraria]* **honorarium**, return of capital, forgiveness of indebtedness, or anything of economic value.

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

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

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

(9) "Member of the household" means any person who resides with the public official.

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

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

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

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

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

(12) "Public office" has the meaning given that term in ORS 260.005.

[(15)] (13) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body [of the state] **as defined in ORS 174.109** as an [officer] **elected official, appointed official**, employee, agent or otherwise, [and] irrespective of whether the person is compensated for [such] **the** services.

[(16)] (14) "Relative" means: [the spouse of the public official, any children of the public official or of the public official's spouse, and brothers, sisters or parents of the public official or of the public official's spouse.]

(a) **The spouse of the public official;**

(b) **The domestic partner of the public official;**

(c) **Any children of the public official or of the public official's spouse;**

(d) **Siblings, spouses of siblings or parents of the public official or of the public official's spouse;**

(e) **Any individual for whom the public official has a legal support obligation; or**

(f) **Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment.**

[(17)] (15) "Statement of economic interest" means a statement as described by ORS 244.060 to 244.080 **or 244.100.**

[(18)] "*Statewide official*" means the Secretary of State or Secretary of State-elect, State Treasurer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of Public Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau of Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.]

[(19)] (16) "Zoning commission" means an entity to which is delegated at least some of the discretionary authority of a planning commission or governing body relating to zoning and land use matters.

SECTION 16a. If House Bill 2595 becomes law, section 16 of this 2007 Act (amending ORS 244.020) is repealed and ORS 244.020, as amended by section 8, chapter __, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

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

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection [(14)] (11) of this section.

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

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

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

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

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

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

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business *[from which 50 percent or more of the total annual income of the person and members of the person's household is derived during the current calendar year]* **listed as a source of income as required under ORS 244.060 (3).**

[4] "*Commission*" means the Oregon Government Ethics Commission.]

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

[6] "*Expenditure*" has the meaning given that term in ORS 260.005.]

[7] (5)(a) "Gift" means something of economic value given to a public official or *[the public official's]* **a relative or member of the household of the public official:**

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives **or members of the household** of public officials on the same terms and conditions; **or** *[and something of economic value given to a public official or the public official's relative]*

(B) For valuable consideration less than that required from others who are not public officials. *[However, "gift" does not mean:]*

(b) "**Gift**" does not mean:

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

(A) **Contributions as defined in ORS 260.005.**

[(b)] (B) Gifts from *[family members.]* **relatives or members of the household of the public official.**

(C) **An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.**

(D) **Informational material, publications or subscriptions related to the recipient's performance of official duties.**

(E) **Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization before whom the public official appears to speak or to answer questions as part of a scheduled program.**

(F) **Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American Tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code and that receives less than five percent of its funding from for-profit organizations or entities, for attendance at a convention, fact-finding mission or trip, or other meeting if the public official is scheduled to deliver a speech, make**

a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(G) Contributions made to a legal expense trust fund established under section 31 of this 2007 Act for the benefit of the public official.

(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

(i) On an officially sanctioned trade-promotion or fact-finding mission; or

(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

(I) Food or beverage consumed by a public official acting in an official capacity:

(i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

(iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.

(J) Waiver or discount of registration expenses or materials provided to a public official at a continuing education event that the public official may attend to satisfy a professional licensing requirement.

(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.

(L) Food or beverage consumed by a public official at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(M) Entertainment provided to a public official or a relative or member of the household of the public official that is incidental to the main purpose of another event.

(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.

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

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

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

[(8) (6) ["Honoraria"] "Honorarium" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting

of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event *[at which the public official appears in an official capacity]*.

[(9)] (7) "Income" means income of any nature derived from any source, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, *[honoraria]* **honorarium**, return of capital, forgiveness of indebtedness, or anything of economic value.

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

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

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

(9) **"Member of the household" means any person who resides with the public official.**

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

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

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

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

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

(12) **"Public office" has the meaning given that term in ORS 260.005.**

[(15)] (13) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body *[of the state]* **as defined in ORS 174.109** as an *[officer]* **elected official, appointed official**, employee, agent or otherwise, *[and]* irrespective of whether the person is compensated for *[such]* **the services.**

[(16)] (14) "Relative" means *[the spouse of the public official, any children of the public official or of the public official's spouse, and brothers, sisters or parents of the public official or of the public official's spouse.]:*

(a) **The spouse of the public official;**

(b) **The domestic partner of the public official;**

(c) **Any children of the public official or of the public official's spouse;**

(d) **Siblings, spouses of siblings or parents of the public official or of the public official's spouse;**

(e) **Any individual for whom the public official has a legal support obligation; or**

(f) **Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment.**

[(17)] (15) "Statement of economic interest" means a statement as described by ORS 244.060 to 244.080 **or 244.100.**

[(18)] "Statewide official" means the Secretary of State or Secretary of State-elect, State Treasurer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of Public Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau of Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.]

[(19)] (16) "Zoning commission" means an entity to which is delegated at least some of the discretionary authority of a planning commission or governing body relating to zoning and land use matters.

SECTION 17. ORS 244.040 is amended to read:

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

[(1)(a)] (1) *[No]* **Except as provided in subsection (2) of this section, a public official [shall] may not** use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment *[that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for]* **for the public official, a relative or member of the household of the public official, or** any business with which the public official or a relative **or member of the household** of the public official is associated, **if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.**

(2) Subsection (1) of this section does not apply to:

(a) Any part of an official compensation package as determined by the public body that the public official serves.

(b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under section 24 of this 2007 Act.

(c) Reimbursement of expenses.

(d) An unsolicited award for professional achievement.

(e) Gifts that do not exceed the limits specified in section 18 of this 2007 Act received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.

(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(h) Contributions made to a legal expense trust fund established under section 31 of this 2007 Act for the benefit of the public official.

[(b) No statewide official shall solicit or receive, whether directly or indirectly, honoraria for the statewide official or for any member of the household of the official. No candidate for statewide office shall solicit or receive, whether directly or indirectly, honoraria for the candidate or for any member of the household of the candidate.]

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

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

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

(3) [No] **A public official [shall] may not** solicit or receive, either directly or indirectly, and [no] **a person [shall] may not** offer or give to any public official any pledge or promise of future employment, based on any understanding that [*such public official's*] **the** vote, official action or judgment **of the public official** would be influenced [*thereby*] **by the pledge or promise**.

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

[(5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a relative of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.]

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

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

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

SECTION 18. (1) During a calendar year, a public official, a candidate for public office or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest in any governmental agency in which the public official holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(2) During a calendar year, a person who has a legislative or administrative interest in any governmental agency in which a public official holds any official position or over which the public official exercises any authority may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(3) During a calendar year, a person who has a legislative or administrative interest in any governmental agency in which a candidate for public office if elected would hold any official position or over which the candidate if elected would exercise any authority may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

(4) Notwithstanding subsection (1) of this section:

(a) A public official, a candidate for public office or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or payment of expenses for entertainment from any single source that could reasonably be known to have a legislative or administrative interest in any governmental agency in which

the public official holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(b) A person who has a legislative or administrative interest in any governmental agency in which a public official holds any official position or over which the public official exercises any authority may not offer to the public official or a relative or member of the household of the public official any gift of payment of expenses for entertainment.

(c) A person who has a legislative or administrative interest in any governmental agency in which a candidate for public office if elected would hold any official position or over which the candidate if elected would exercise any authority may not offer to the candidate or a relative or member of the household of the candidate any gift of payment of expenses for entertainment.

(5) This section does not apply to public officials subject to the Oregon Code of Judicial Conduct.

SECTION 19. ORS 244.060 is amended to read:

244.060. The statement of economic interest filed under ORS 244.050[,] shall be on a form prescribed by the Oregon Government Standards and Practices Commission[, and]. The [person] **public official or candidate for public office** filing the statement shall supply the information required by this section and ORS 244.090, as follows:

(1) The [name] **names** of all positions as officer of a business and business directorships held by the person or a member of the household of the person during the preceding calendar year, **and the principal address and a brief description of each business.**

(2) All names under which the person and members of the household of the person do business **and the principal address and a brief description of each business.**

(3) **The names, principal addresses and brief descriptions of the five most significant** sources of income received at any time during the preceding calendar year by the person [or a] **and by each** member of the household of the person [*that produce 10 percent or more of the total annual household income*], **a description of the type of income and the name of the person receiving the income.**

[(4) *The name, principal address and brief description of the source of income from which 50 percent or more of the total annual income of the person and members of the household of the person was received during the preceding calendar year and whether the source existed during the preceding year, and whether the source is derived from an entity that now does business or could reasonably be expected to do business or has legislative or administrative interest in the governmental agency of which the public official is or the candidate if elected would be a member or over which the public official has or the candidate if elected would have authority.*]

[(5)(a)] **(4)(a)** [*The listing*] **A list** of all real property in which the public official or candidate [*therefor*] **for public office** or a member of the household of the public official or candidate has or has had any personal, beneficial ownership interest during the preceding calendar year, any options to purchase or sell real property, including a land sales contract, and any other rights of any kind in real property located within the geographic boundaries of the governmental agency of which the public official [*is*] **holds**, or the candidate if elected would [*be a member*] **hold, any official position** or over which the public official [*has*] **exercises**, or the candidate if elected would [*have*] **exercise, any authority.**

(b) This subsection does not require the listing of the principal residence of the public official or candidate.

(5) The name of each member of the household of the person who is 18 years of age or older.

(6) The name of each relative of the person who is 18 years of age or older and not a member of the household of the person.

[(6)(a) *Notwithstanding ORS 244.020 (7)(c), if a public official has received food, lodging and payment of travel expenses exceeding \$100 when participating in an event which bears a relationship to*

the public official's office and when appearing in an official capacity, the name, nature and business address of the organization paying the expenses and the date and amount of that expenditure.]

[(b) Beginning on July 1, 1992, the dollar amount specified in paragraph (a) of this subsection shall be adjusted annually by the commission based upon the change in the Portland Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this paragraph shall be rounded to the nearest dollar.]

[(7) Any honoraria exceeding \$50 received during the preceding calendar year by the person or a member of the household of the person, the payer of the honoraria and the date and time of the event for which the honoraria was received.]

SECTION 20. ORS 244.070 is amended to read:

244.070. A public official or candidate for public office shall report the following additional economic interest *[shall be reported]* for the preceding calendar year only if the source of that interest is derived from an individual or business *[which]* **that** has been doing business, does business or could reasonably be expected to do business with, or has legislative or administrative interest in, the governmental agency of which the public official *[is]* **holds**, or the candidate if elected would *[be a member]* **hold, any official position** or over which the public official *[has]* **exercises**, or the candidate if elected would *[have]* **exercise, any** authority:

[(1) Each source of income over \$1,000, other than a source of income disclosed under ORS 244.060, whether or not taxable, received by the public official or candidate therefor or a member of the household of the public official or candidate.]

[(2)] (1) Each person to whom the public official or candidate [therefor] for public office or a member of the household of the public official or candidate owes or has owed money in excess of \$1,000, the interest rate [thereon] on money owed and the date of the loan, except for debts owed to any federal or state regulated financial institution or retail contracts.

[(3)] (2) [Each business] The name, principal address[,] and brief description of [its] the nature[,] of each business in which the public official or candidate [therefor] for public office or a member of the household of the public official or candidate has or has had a personal, beneficial interest or investment, including stocks or other securities, in excess of \$1,000, except for individual items involved in a mutual fund or a blind trust, or a time or demand deposit in a financial institution, shares in a credit union, or the cash surrender value of life insurance.

[(4)] (3) Each person for whom the public official or candidate for public office has performed services for a fee in excess of \$1,000, except for any disclosure otherwise prohibited by law or by a professional code of ethics.

SECTION 21. ORS 244.100 is amended to read:

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

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

(1) A public official or candidate for public office who is required to file a statement of economic interest under ORS 244.050 shall file with the Oregon Government Standards and Practices Commission, according to the schedule set forth in section 23 of this 2007 Act, a statement showing for the applicable reporting period:

(a) Any expenses with an aggregate value exceeding \$50 received by the public official when participating in a convention, mission, trip or other meeting described in ORS 244.020 (5)(b)(F). The statement shall include the name and address of the organization or unit of government paying the expenses, the nature of the event and the date and amount of the expenditure.

(b) Any expenses with an aggregate value exceeding \$50 received by the public official when participating in a mission or negotiations or economic development activities described in ORS 244.020 (5)(b)(H). The statement shall include the name and address of the person paying the expenses, the nature of the event and the date and amount of the expenditure.

(c) All honoraria allowed under section 24 of this 2007 Act exceeding \$15 received by the public official, candidate or member of the household of the official or candidate, the payer of each honorarium and the date and time of the event for which the honorarium was received.

(d) Each source of income exceeding an aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate for public office, or a member of the household of the public official or candidate, if the source of that income is derived from an individual or business that has been doing business, does business or could reasonably be expected to do business with, or has legislative or administrative interest in, the governmental agency of which the public official holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

[3] (2) In addition to [any disclosures or reports] statements required under [subsections (1) and (2)] subsection (1) of this section[,]:

(a) Any [person or] organization or unit of government that provides a public official with [food, lodging or travel expenses exceeding \$50, as described in ORS 244.060 (6),] expenses with an aggregate value exceeding \$50 for an event described in ORS 244.020 (5)(b)(F) shall notify the public official in writing of the amount of the expense. The organization or unit shall provide the notice [shall be sent] to the public official within 10 days from the date [such] the expenses are incurred.

(b) Any person that provides a public official or a member of the household of a public official with an honorarium or other item allowed under section 24 of this 2007 Act with a value exceeding \$15 shall notify the public official in writing of the value of the honorarium or other item. The person shall provide the notice to the public official within 10 days after the date of the event for which the honorarium or other item was received.

SECTION 21a. If House Bill 2595 becomes law, section 21 of this 2007 Act (amending ORS 244.100) is repealed and ORS 244.100, as amended by section 6, chapter __, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.100. [In addition to any disclosures or reports required under this chapter or rules adopted under ORS 244.290, any person or organization that provides a public official with food, lodging or travel expenses exceeding \$100, as described in ORS 244.060 (6), shall notify the public official in writing of the amount of the expense. The notice shall be sent to the public official within 10 days from the date the expenses are incurred.]

(1) A public official or candidate for public office who is required to file a statement of economic interest under ORS 244.050 shall file with the Oregon Government Standards and Practices Commission, according to the schedule set forth in section 23 of this 2007 Act, a statement showing for the applicable reporting period:

(a) Any expenses with an aggregate value exceeding \$50 received by the public official when participating in a convention, mission, trip or other meeting described in ORS 244.020 (5)(b)(F). The statement shall include the name and address of the organization or unit of government paying the expenses, the nature of the event and the date and amount of the expenditure.

(b) Any expenses with an aggregate value exceeding \$50 received by the public official when participating in a mission or negotiations or economic development activities described in ORS 244.020 (5)(b)(H). The statement shall include the name and address of the person paying the expenses, the nature of the event and the date and amount of the expenditure.

(c) All honoraria allowed under section 24 of this 2007 Act exceeding \$15 received by the public official, candidate or member of the household of the official or candidate, the payer

of each honorarium and the date and time of the event for which the honorarium was received.

(d) Each source of income exceeding an aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate for public office, or a member of the household of the public official or candidate, if the source of that income is derived from an individual or business that has been doing business, does business or could reasonably be expected to do business with, or has legislative or administrative interest in, the governmental agency of which the public official holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(2) In addition to statements required under subsection (1) of this section:

(a) Any organization or unit of government that provides a public official with expenses with an aggregate value exceeding \$50 for an event described in ORS 244.020 (5)(b)(F) shall notify the public official in writing of the amount of the expense. The organization or unit shall provide the notice to the public official within 10 days from the date the expenses are incurred.

(b) Any person that provides a public official or a member of the household of a public official with an honorarium or other item allowed under section 24 of this 2007 Act with a value exceeding \$15 shall notify the public official in writing of the value of the honorarium or other item. The person shall provide the notice to the public official within 10 days after the date of the event for which the honorarium or other item was received.

SECTION 22. Sections 23 and 23a of this 2007 Act are added to and made a part of ORS chapter 244.

SECTION 23. Statements required to be filed with the Oregon Government Standards and Practices Commission under ORS 244.100 and section 35 of this 2007 Act shall be filed in each calendar year:

(1) Not later than April 15, for the accounting period beginning January 1 and ending March 31;

(2) Not later than July 15, for the accounting period beginning April 1 and ending June 30;

(3) Not later than October 15, for the accounting period beginning July 1 and ending September 30; and

(4) Not later than January 15 of the following calendar year, for the accounting period beginning October 1 and ending December 31.

SECTION 23a. (1) As used in this section:

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

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

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

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

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

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

HONORARIA

SECTION 24. (1) Except as provided in subsection (3) of this section, a public official may not solicit or receive, whether directly or indirectly, honoraria for the public official or any

member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official.

(2) Except as provided in subsection (3) of this section, a candidate for public office may not solicit or receive, whether directly or indirectly, honoraria for the candidate or any member of the household of the candidate if the honoraria are solicited or received in connection with the official duties of the public office for which the person is a candidate.

(3) This section does not prohibit:

(a) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or

(b) The solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the public official or candidate.

SECTION 25. ORS 244.280 is amended to read:

244.280. (1) Upon the written request of any [*public official, candidate for public office or any*] person, or upon its own motion, the Oregon Government Standards and Practices Commission, under signature of the chairperson, may issue and publish opinions on the requirements of this chapter, based on actual or hypothetical circumstances.

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

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

SECTION 25a. If House Bill 2595 becomes law, section 25 of this 2007 Act (amending ORS 244.280) is repealed and ORS 244.280, as amended by section 12, chapter __, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.280. (1) Upon the written request of any person, or upon its own motion, the Oregon Government Ethics Commission, under signature of the chairperson, may issue and publish written commission advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. A commission advisory opinion, and a decision by the commission to issue an advisory opinion on its own motion, must be approved by a majority of the members of the commission. Legal counsel to the commission shall review a proposed commission advisory opinion before the opinion is considered by the commission.

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

(3) Except as provided in this subsection, unless the commission advisory opinion is revised or revoked, the commission [*or a court*] may not impose a penalty under ORS 244.350 or 244.360 on a person for any good faith action the person takes in reliance on an advisory opinion issued under this section. The commission [*or a court*] may impose a penalty under ORS 244.350 or 244.360 on the person who requested the advisory opinion if the commission [*or court*] determines that the person omitted or misstated material facts in making the request.

SECTION 26. ORS 351.067 is amended to read:

351.067. (1) In carrying out its authority under ORS 351.070, the State Board of Higher Education may authorize receipt of compensation for any officer or employee of the Oregon University System from private or public resources, including, but not limited to, income from:

- (a) Consulting;
- (b) Appearances and speeches;
- (c) Intellectual property conceived, reduced to practice or originated and therefore owned within the Oregon University System;
- (d) Providing services or other valuable consideration for a private corporation, individual, or entity, whether paid in cash or in-kind, stock or other equity interest, or anything of value regardless of whether there is a licensing agreement between the Oregon University System and the private entity; and

(e) Performing public duties paid by private organizations, including institution corporate affiliates, which augment an officer's or employee's publicly funded salary. Such income shall be authorized and received in accordance with policies and rules established by the board.

(2) The board *[shall]* **may** not authorize compensation, as defined in subsection (1) of this section, that, in the board's judgment, does not comport with the mission of the institution and the Oregon University System or substantially interferes with an officer's or employee's duties to the Oregon University System.

(3) Any compensation~~[,]~~ described and authorized under subsection (1) of this section~~[, shall be]~~ **is** considered official *[salary, honorarium]* **compensation** or reimbursement of expenses for purposes of ORS 244.040 **and is not considered an honorarium prohibited by section 24 of this 2007 Act.** If authorization or receipt of *[such]* **the** compensation creates a potential conflict of interest, the **officer or employee shall report the** potential conflict *[shall be reported]* in writing in accordance with rules of the state board. The disclosure is a public record subject to public inspection.

(4) The state board shall adopt by rule standards governing employee outside employment and activities, including potential conflict of interest, as defined by state board rule and consistent with ORS 244.020, and the public disclosure thereof, and procedures for reporting and hearing potential or actual conflict of interest complaints.

SECTION 27. ORS 353.270 is amended to read:

353.270. (1) Oregon Health and Science University may authorize receipt of compensation for any officer or employee of the university from private or public resources, including but not limited to income from:

- (a) Consulting;
- (b) Appearances and speeches;
- (c) Intellectual property conceived, reduced to practice or originated and therefore owned within the university;
- (d) Providing services or other valuable consideration for a private corporation, individual or entity, whether paid in cash or in kind, stock or other equity interest, or anything of value regardless of whether there is a licensing agreement between the university and the private entity;
- (e) Performing public duties paid by private organizations, including university corporate affiliates, that augment an officer's or employee's publicly funded salary. Such income shall be authorized and received in accordance with policies established by the university; and
- (f) Providing medical and other health services.

(2) The university *[shall]* **may** not authorize compensation, as described in subsection (1) of this section, that, in the university's judgment, does not comport with the missions of the university or substantially interferes with an officer's or employee's duties to the university.

(3) Any compensation described and authorized under subsection (1) of this section *[shall be]* **is** considered official *[salary, honorarium]* **compensation** or reimbursement of expenses for purposes of ORS 244.040 **and is not considered an honorarium prohibited by section 24 of this 2007 Act.** If authorization or receipt of *[such]* **the** compensation creates a potential conflict of interest, the **officer or employee shall report the** potential conflict *[shall be reported]* in writing in ac-

cordance with policies of the university. The disclosure is a public record subject to public inspection.

(4) The university shall adopt standards governing employee outside employment and activities of employees, including potential conflicts of interest, as defined by the university and consistent with ORS 244.020, and the public disclosure thereof, and procedures for reporting and hearing potential or actual conflict of interest complaints.

LEGAL EXPENSE TRUST FUND

SECTION 28. Sections 29 to 37 of this 2007 Act are added to and made a part of ORS chapter 244.

SECTION 29. (1) Subject to the authorization of the Oregon Government Standards and Practices Commission as described in section 31 of this 2007 Act, a public official may establish a legal expense trust fund if the public official incurs or reasonably expects to incur legal expenses described in subsection (2) of this section.

(2) Proceeds from the trust fund may be used by the public official to defray legal expenses incurred by the public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. The legal expenses must be incurred in connection with:

- (a) The issuance of a court's stalking protective order under ORS 30.866 or 163.738;
- (b) The issuance of a citation under ORS 163.735;
- (c) A criminal prosecution under ORS 163.732;
- (d) A civil action under ORS 30.866; or
- (e) Defending the public official in a proceeding or investigation brought or maintained by a public body as defined in ORS 174.109.

(3) Except as provided in subsection (2) of this section, a public official may not use proceeds from the trust fund for any personal use.

(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

(5) A public official who establishes a legal expense trust fund may not solicit, receive or handle any contributions to the fund.

(6) The provisions of ORS chapter 130 do not apply to a trust fund established under sections 29 to 37 of this 2007 Act.

SECTION 30. (1) The proceeds of a legal expense trust fund may be used to:

- (a) Defray legal expenses described in section 29 of this 2007 Act;
- (b) Defray costs reasonably incurred in administering the trust fund, including but not limited to costs incident to the solicitation of funds; and
- (c) Discharge any tax liabilities incurred as a result of the creation, operation or administration of the trust fund.

(2) The proceeds of a trust fund may also be used to defray or discharge expenses, costs or liabilities incurred before the fund was established if the expenses, costs or liabilities are related to the legal proceeding for which the fund was established.

SECTION 31. (1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Standards and Practices Commission. The application must contain:

- (a) A copy of an executed trust agreement described in subsection (2) of this section;
 - (b) A sworn affidavit described in subsection (3) of this section signed by the public official; and
 - (c) A sworn affidavit described in subsection (4) of this section signed by the trustee.
- (2) The trust agreement must contain the following:

- (a) A provision incorporating by reference the provisions of sections 29 to 37 of this 2007 Act; and

(b) A designation of a trustee who meets the requirements of section 32 of this 2007 Act.
(3) The affidavit of the public official must state:
(a) The nature of the legal proceeding that requires establishment of the trust fund;
(b) That the public official will comply with the provisions of sections 29 to 37 of this 2007 Act; and

(c) That the public official is responsible for the proper administration of the trust fund, even though a trustee of the fund has been designated.

(4) The affidavit of the trustee must state that the trustee:

(a) Has read and understands sections 29 to 37 of this 2007 Act; and

(b) Consents to administer the trust fund in compliance with sections 29 to 37 of this 2007 Act.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of sections 29 to 37 of this 2007 Act. If the commission determines that the application meets the requirements of sections 29 to 37 of this 2007 Act, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under section 35 of this 2007 Act and shall monitor the activities of each trust fund to ensure continued compliance with sections 29 to 37 of this 2007 Act.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of sections 29 to 37 of this 2007 Act.

SECTION 32. (1) The trustee of a legal expense trust fund is responsible for:

(a) The receipt and deposit of contributions to the trust fund;

(b) The authorization of expenditures and disbursements from the trust fund;

(c) The filing of quarterly statements required under section 35 of this 2007 Act; and

(d) The performance of other tasks incident to the administration of the trust fund.

(2) The trustee may not:

(a) Be a public official who serves the same public body as the public official who establishes the trust fund;

(b) Be a relative of the public official who establishes the trust fund;

(c) Be an attorney for the public official in the legal proceeding for which the trust fund is established, or a member, partner, associate or employee of the firm employing the attorney; or

(d) Have a business or employment relationship with the public official who establishes the trust fund.

SECTION 33. (1) Except as provided in subsection (3) of this section, any person may contribute to a legal expense trust fund established under sections 29 to 37 of this 2007 Act.

(2) A person may make contributions of moneys to a legal expense trust fund in unlimited amounts. Pro bono legal assistance and other in-kind assistance may also be provided without limit and is considered a contribution subject to the reporting requirements of section 35 of this 2007 Act.

(3) A political committee as defined in ORS 260.005 that is a principal campaign committee may not contribute to a legal expense trust fund.

SECTION 34. (1) A trustee of a legal expense trust fund shall establish a single exclusive account in a financial institution, as defined in ORS 706.008. The financial institution must

be located in this state and must ordinarily conduct business with the general public in this state.

(2) The trustee shall maintain the account in the name of the trust fund.

(3) All expenditures made by the trustee shall be drawn from the account and:

(a) Issued on a check signed by the trustee; or

(b) Paid using a debit card or other form of electronic transaction.

(4) A contribution received by a trustee shall be deposited into the account not later than seven calendar days after the date the contribution is received. This subsection does not apply to in-kind contributions received.

(5) This section does not prohibit the transfer of any amount deposited in the account into a certificate of deposit, stock fund or other investment instrument.

(6) The account may not include any public or private moneys or any moneys of any other person, other than contributions received by the trustee.

(7) A trustee shall retain a copy of each financial institution account statement from the account described in this section for not less than two years after the date the statement is issued by the financial institution.

SECTION 35. (1) The trustee of a legal expense trust fund shall, according to the schedule described in subsection (3) of this section, file with the Oregon Government Standards and Practices Commission a statement for the applicable reporting period showing contributions received by the trustee and expenditures made from the trust fund account established under section 34 of this 2007 Act.

(2) Each statement shall list:

(a) The name and address of each person who contributed an aggregate amount of more than \$75, and the total amount contributed by that person;

(b) The total amount of contributions not listed under paragraph (a) of this subsection as a single item, but shall specify how those contributions were obtained;

(c) The amount and purpose of each expenditure and the name and address of each payee; and

(d) The name and address of any person contributing pro bono legal assistance and the fair market value of the assistance provided by the person.

(3) Statements required to be filed with the commission under this section shall be filed according to the schedule described in section 23 of this 2007 Act.

(4) If no contributions are received and no expenditures made during the reporting period, the trustee shall file a statement indicating that no contributions were deposited and no expenditures were made.

(5) The trustee may amend a statement filed under this section without penalty if the amendment is filed with the commission not later than 30 days after the deadline for filing the statement.

SECTION 36. (1) A legal expense trust fund established under sections 29 to 37 of this 2007 Act may be terminated by:

(a) The public official who established the trust fund;

(b) Subject to subsection (2) of this section, the terms of the trust agreement; or

(c) The Oregon Government Standards and Practices Commission following a determination by the commission that a violation of any provision of ORS chapter 244 has occurred in connection with the trust fund.

(2) A trust agreement may provide that a legal expense trust fund is terminated not later than six months following the completion of the legal proceeding for which the fund was established. Upon application of the public official who established the trust fund, the commission may extend the existence of the trust fund to a specified date if the commission determines that the public official has incurred legal expenses that exceed the balance remaining in the fund. If the commission extends the existence of the trust fund, the trust fund terminates on the date the extension expires.

(3) Following termination of a legal expense trust fund, the trustee may not accept contributions to or make expenditures from the fund.

(4) Not later than 30 days after a trust fund is terminated, the trustee of the fund shall file with the commission a final report listing the totals of all contributions made to the fund and all expenditures made from the fund.

SECTION 37. (1) Not later than 30 days after a legal expense trust fund is terminated, the trustee of the fund shall return any moneys remaining in the fund to contributors to the fund on a pro rata basis.

(2) If the legal proceeding for which the trust fund was established results in an award of attorney fees, costs or any other money judgment award to or in favor of the public official, amounts awarded shall be distributed in the following order:

(a) To pay outstanding legal expenses;

(b) To contributors to the trust fund on a pro rata basis; and

(c) To the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

CONFORMING AMENDMENTS

SECTION 38. ORS 293.708 is amended to read:

293.708. (1) As used in this section:

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

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

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

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

(3) Subsection (2) of this section does not apply if the pecuniary benefit or detriment arises out of circumstances described in ORS 244.020 [(14)(a) to (c)] **(11)(a) to (c)**.

(4) Nothing in this section excuses a member of the council from compliance with ORS 244.120.

SECTION 38a. ORS 244.110 is amended to read:

244.110. (1) Any statement of economic interest required to be filed by ORS 244.050, 244.060, 244.070, 244.080, 244.090 or 244.100 **or by rule** shall contain or be verified by a written declaration that it is made under the penalties of false swearing. [Such] **The** declaration [shall be] **is** in lieu of any oath otherwise required.

(2) [No] **A** person [shall] **may not** willfully make and subscribe any return statement or other document [which] **that** contains or is verified by a written declaration that it is made under penalties for false swearing, which the person does not believe to be true and correct to every matter.

SECTION 38b. If House Bill 2595 becomes law, section 38a of this 2007 Act (amending ORS 244.110) is repealed.

MISCELLANEOUS PROVISIONS

SECTION 39. (1) Section 18 of this 2007 Act is added to and made a part of ORS 244.010 to 244.040.

(2) Section 24 of this 2007 Act is added to and made a part of ORS chapter 244.

SECTION 39a. ORS 244.390, as amended by section 2, chapter ____, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

244.390. (1) A penalty or sanction imposed [issued] by the Oregon Government Ethics Commission [or a court] under this chapter is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law.

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

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

(a) Any statute requiring disclosure of economic interest by any public official or candidate for public office.

(b) Any statute prohibiting or authorizing specific conduct on the part of any public official or candidate for public office.

SECTION 39b. Section 5, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

Sec. 5. (1) For the purpose of protecting against violations of the provisions of this chapter, a state agency, as defined in ORS 183.750, or a statewide association of public bodies, as defined in ORS 174.109, may adopt rules or policies interpreting the provisions of this chapter. The rules or policies must be consistent with the provisions of this chapter. A state agency or a statewide association of public bodies may submit rules or policies adopted under this subsection to the Oregon Government Ethics Commission for review.

(2) Upon receiving rules or policies submitted under subsection (1) of this section, the commission shall review the rules and policies to determine whether the rules and policies are consistent with the provisions of this chapter. The commission, by a vote of a majority of the members of the commission, shall approve or reject the rules or policies. The commission shall notify the state agency or statewide association of public bodies in writing of the commission's approval or rejection. A written notice of rejection shall explain the reasons for the rejection.

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

SECTION 39c. Section 14, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

Sec. 14. (1) Upon the written request of any person, the executive director of the Oregon Government Ethics Commission may issue and publish written staff advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance.

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

(3) Except as provided in this subsection, unless the staff advisory opinion is revised or revoked, before imposing any penalty under ORS 244.350 or 244.360, the commission [or a court] shall consider whether the action that may be subject to penalty was taken in reliance on a staff advisory opinion issued under this section. If a penalty may be imposed on the person who requested the opinion, the commission [or court] is not required to consider reliance on the opinion if the commission [or court] determines that the person omitted or misstated material facts in making the request.

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

SECTION 39d. Section 15, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

Sec. 15. (1) Upon the written or oral request of any person, the executive director or other staff of the Oregon Government Ethics Commission may issue written or oral staff advice on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. Any written advice not designated as a staff advisory opinion under section 14, **chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595)**, [of this 2007 Act] is considered staff advice issued under this section.

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

SECTION 39e. Section 40b, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595), is amended to read:

Sec. 40b. (1) The amendments to ORS 244.250 by section 1, **chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595)**, [of this 2007 Act] are intended to change the name of the “Oregon Government Standards and Practices Commission” to the “Oregon Government Ethics Commission.”

(2) The amendments to ORS 244.345 by section 40a, **chapter ___, Oregon Laws 2007 (Enrolled House Bill 2595)**, [of this 2007 Act] are intended to change the name of the “Oregon Government Standards and Practices Commission Account” to the “Oregon Government Ethics Commission Account.”

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

(4) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the “Oregon Government Standards and Practices Commission Account,” wherever they occur in Oregon Revised Statutes, other words designating the “Oregon Government Ethics Commission Account.”

(5) Any reference to the Oregon Government Standards and Practices Commission in an Act enacted by the Seventy-fourth Legislative Assembly and not published in Oregon Revised Statutes is considered a reference to the Oregon Government Ethics Commission.

(6) Any reference to the Oregon Government Standards and Practices Commission Account in an Act enacted by the Seventy-fourth Legislative Assembly and not published in Oregon Revised Statutes is considered a reference to the Oregon Government Ethics Commission Account.

SECTION 40. (1) Sections 1 to 5, 15a, 15b, 18, 22, 23, 23a, 24, 28 and 29 to 37 of this 2007 Act and the amendments to ORS 171.725, 171.730, 171.735, 171.740, 171.745, 171.750, 171.772, 171.992, 244.020, 244.040, 244.045, 244.050, 244.060, 244.070, 244.100, 244.110, 244.280, 244.290, 244.350, 244.360, 260.407, 293.708, 351.067 and 353.270 by sections 6 to 8, 9, 10 to 15, 16, 17, 19 to 21, 25 to 27, 38 and 38a of this 2007 Act become operative January 1, 2008.

(2) The Oregon Government Standards and Practices Commission and any other public body as defined in ORS 174.109 may adopt rules or take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the commission or public body to exercise, on or after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the commission or public body by this 2007 Act.

SECTION 41. (1) Section 5 of this 2007 Act and the amendments to ORS 171.745 and 171.750 by sections 6d and 7 of this 2007 Act apply to statements required to be filed for reporting periods beginning on or after January 1, 2008.

(2) The first statement filed under ORS 171.745, as amended by section 6d of this 2007 Act, shall include amounts expended prior to January 1, 2008, that were not included in a statement filed prior to January 1, 2008.

(3) Notwithstanding ORS 171.750, as amended by section 7 of this 2007 Act, a person required to file a statement under ORS 171.750 for the calendar year 2007 shall file the statement not later than January 31, 2008.

(4) The amendments to ORS 171.772 and 244.290 by sections 8 and 9 of this 2007 Act apply to statements required to be filed on or after January 1, 2008.

(5) The amendments to ORS 171.992 and 244.350 by sections 10 and 11 of this 2007 Act apply to:

(a) Violations of any provision of ORS 171.740 to 171.762, any rule adopted under ORS 171.725 to 171.785, ORS chapter 244 or any resolution adopted under ORS chapter 244 occurring on or after January 1, 2008;

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

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

(6) The amendments to ORS 244.360 by section 12 of this 2007 Act apply to violations of any provision of ORS chapter 244 occurring prior to, on or after January 1, 2008.

(7) The amendments to ORS 244.050 by section 13 of this 2007 Act apply to statements of economic interest required to be filed on or after January 1, 2008.

(8) The amendments to ORS 260.407 by section 14 of this 2007 Act apply to expenditures or distributions of contributions made on or after January 1, 2008.

(9) The amendments to ORS 244.045 by section 15 of this 2007 Act apply to persons who cease being members of the Legislative Assembly on or after January 1, 2008.

SECTION 42. (1) Section 18 of this 2007 Act applies to gifts received or made on or after January 1, 2008.

(2) The amendments to ORS 244.020 and 244.040 by sections 16 and 17 of this 2007 Act apply to activities that occur on or after January 1, 2008.

(3) Section 24 of this 2007 Act applies to honoraria solicited or received on or after January 1, 2008.

(4) The amendments to ORS 244.060 and 244.100 by sections 19 and 21 of this 2007 Act apply to expenses received or paid on or after January 1, 2008. A public official shall list on the first statement of economic interest filed after January 1, 2008, all expenses the public official received prior to January 1, 2008, that were:

(a) Required to be reported under ORS 244.060 on the day before January 1, 2008; and

(b) Were not reported on a previous statement of economic interest the public official filed.

(5) The amendments to ORS 351.067 and 353.270 by sections 26 and 27 of this 2007 Act apply to compensation received on or after January 1, 2008.

SECTION 43. (1) Sections 29 to 37 of this 2007 Act and the amendments to ORS 244.020, 244.040 and 244.350 by sections 11, 16 and 17 of this 2007 Act apply to legal expense trust funds established for legal proceedings commenced prior to, on or after January 1, 2008.

(2) The amendments to ORS 244.020 and 244.040 by sections 16 and 17 of this 2007 Act apply to contributions made to legal expense trust funds on or after January 1, 2008.

SECTION 44. (1) Any proceeding, action, prosecution or other business or matter undertaken or commenced before January 1, 2008, by the Oregon Government Standards and Practices Commission under any provision of ORS chapter 244 and still pending on January 1, 2008, shall be conducted and completed by the commission in the same manner, under the same terms and conditions and with the same effect as though undertaken, conducted or completed before January 1, 2008.

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

SECTION 45. (1) The amendments to ORS 244.020, 244.050, 244.060 and 244.070 by sections 13, 16, 19 and 20 of this 2007 Act apply to statements required to be filed with the Oregon Government Standards and Practices Commission for reporting periods beginning on or after January 1, 2008.

(2) Section 23 of this 2007 Act and the amendments to ORS 244.100 by section 21 of this 2007 Act apply to statements required to be filed and notices required to be provided for reporting periods beginning on or after January 1, 2008.

SECTION 46. (1) Except as provided in subsections (2) and (3) of this section, section 23a of this 2007 Act and the amendments to ORS 244.040 (5) by section 17 of this 2007 Act apply to public officials who cease to hold positions as public officials on or after January 1, 2008.

(2) Except as provided in subsection (3) of this section, section 23a of this 2007 Act and the amendments to ORS 244.040 (5) by section 17 of this 2007 Act apply to public officials holding elective public office whose terms of office begin, or who are appointed to the office, on or after January 1, 2008.

(3) Section 23a of this 2007 Act applies to an individual who ceases to hold the position of State Treasurer on or after January 1, 2008.

SECTION 47. If House Bill 2595 becomes law, section 40 of this 2007 Act is amended to read:

Sec. 40. (1) Sections 1 to 5, 15a, 15b, 18, 22, 23, 23a, 24, 28 and 29 to 37 of this 2007 Act and the amendments to ORS 171.725, 171.730, 171.735, 171.740, 171.745, 171.750, 171.772, 171.992, 244.020, 244.040, 244.045, 244.050, 244.060, 244.070, 244.100, 244.110, 244.280, 244.290, 244.350, 244.360, 260.407, 293.708, 351.067 and 353.270 by sections 6 to 8, [9] **9c**, 10, **11a**, **12a**, **13** to 15, [16] **16a**, 17, 19 [to 21], **20**, **21a**, [25 to] **25a**, **26**, 27, 38 and 38a of this 2007 Act become operative January 1, 2008.

(2) The Oregon Government [*Standards and Practices*] **Ethics** Commission and any other public body as defined in ORS 174.109 may adopt rules or take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the commission or public body to exercise, on or after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the commission or public body by this 2007 Act.

SECTION 48. If House Bill 2595 becomes law, section 41 of this 2007 Act is amended to read:

Sec. 41. (1) Section 5 of this 2007 Act and the amendments to ORS 171.745 and 171.750 by sections 6d and 7 of this 2007 Act apply to statements required to be filed for reporting periods beginning on or after January 1, 2008.

(2) The first statement filed under ORS 171.745, as amended by section 6d of this 2007 Act, shall include amounts expended prior to January 1, 2008, that were not included in a statement filed prior to January 1, 2008.

(3) Notwithstanding ORS 171.750, as amended by section 7 of this 2007 Act, a person required to file a statement under ORS 171.750 for the calendar year 2007 shall file the statement not later than January 31, 2008.

(4) The amendments to ORS 171.772 and 244.290 by sections 8 and [9] **9c** of this 2007 Act apply to statements required to be filed on or after January 1, 2008.

(5) The amendments to ORS 171.992 and 244.350 by sections 10 and [11] **11a** of this 2007 Act apply to:

(a) Violations of any provision of ORS 171.740 to 171.762, any rule adopted under ORS 171.725 to 171.785, ORS chapter 244 or any resolution adopted under ORS [*chapter 244*] **244.160** occurring on or after January 1, 2008;

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

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

(6) The amendments to ORS 244.360 by section [12] **12a** of this 2007 Act apply to violations of any provision of ORS chapter 244 occurring prior to, on or after January 1, 2008.

(7) The amendments to ORS 244.050 by section 13 of this 2007 Act apply to statements of economic interest required to be filed on or after January 1, 2008.

(8) The amendments to ORS 260.407 by section 14 of this 2007 Act apply to expenditures or distributions of contributions made on or after January 1, 2008.

(9) The amendments to ORS 244.045 by section 15 of this 2007 Act apply to persons who cease being members of the Legislative Assembly on or after January 1, 2008.

SECTION 49. If House Bill 2595 becomes law, section 42 of this 2007 Act is amended to read:

Sec. 42. (1) Section 18 of this 2007 Act applies to gifts received or made on or after January 1, 2008.

(2) The amendments to ORS 244.020 and 244.040 by sections [16] **16a** and 17 of this 2007 Act apply to activities that occur on or after January 1, 2008.

(3) Section 24 of this 2007 Act applies to honoraria solicited or received on or after January 1, 2008.

(4) The amendments to ORS 244.060 and 244.100 by sections 19 and [21] **21a** of this 2007 Act apply to expenses received or paid on or after January 1, 2008. A public official shall list on the first statement of economic interest filed after January 1, 2008, all expenses the public official received prior to January 1, 2008, that were:

(a) Required to be reported under ORS 244.060 on the day before January 1, 2008; and

(b) Were not reported on a previous statement of economic interest the public official filed.

(5) The amendments to ORS 351.067 and 353.270 by sections 26 and 27 of this 2007 Act apply to compensation received on or after January 1, 2008.

SECTION 50. If House Bill 2595 becomes law, section 43 of this 2007 Act is amended to read:

Sec. 43. (1) Sections 29 to 37 of this 2007 Act and the amendments to ORS 244.020, 244.040 and 244.350 by sections [11, 16] **11a, 16a** and 17 of this 2007 Act apply to legal expense trust funds established for legal proceedings commenced prior to, on or after January 1, 2008.

(2) The amendments to ORS 244.020 and 244.040 by sections [16] **16a** and 17 of this 2007 Act apply to contributions made to legal expense trust funds on or after January 1, 2008.

SECTION 51. If House Bill 2595 becomes law, section 45 of this 2007 Act is amended to read:

Sec. 45. (1) The amendments to ORS 244.020, 244.050, 244.060 and 244.070 by sections 13, [16] **16a**, 19 and 20 of this 2007 Act apply to statements required to be filed with the Oregon Government [Standards and Practices] **Ethics** Commission for reporting periods beginning on or after January 1, 2008.

(2) Section 23 of this 2007 Act and the amendments to ORS 244.100 by section [21] **21a** of this 2007 Act apply to statements required to be filed and notices required to be provided for reporting periods beginning on or after January 1, 2008.

SECTION 52. The unit captions used in this 2007 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2007 Act.

SECTION 53. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by Senate June 20, 2007

Repassed by Senate June 27, 2007

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Secretary of Senate

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President of Senate

Passed by House June 27, 2007

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Speaker of House

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State