

# Senate Bill 430

Sponsored by Senator SCHRADER

## SUMMARY

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

Prohibits public official from receiving gifts not extended to others who are not public officials. Provides exceptions for political contributions, unsolicited tokens or items with value of less than \$50, informational material, commercially reasonable loans made in ordinary course of business and food or beverage provided to public official in presence of provider. Sets \$100 aggregate calendar year limit on value of food and beverage public official may receive from single person.

## A BILL FOR AN ACT

1  
2 Relating to government ethics; creating new provisions; and amending ORS 171.745, 171.750, 244.020,  
3 244.040, 244.060, 244.100, 244.350 and 293.708.

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

5 **SECTION 1.** ORS 244.020 is amended to read:

6 244.020. As used in this chapter, unless the context requires otherwise:

7 (1) "Actual conflict of interest" means any action or any decision or recommendation by a per-  
8 son acting in a capacity as a public official, the effect of which would be to the private pecuniary  
9 benefit or detriment of the person or the person's relative or any business with which the person  
10 or a relative of the person is associated unless the pecuniary benefit or detriment arises out of cir-  
11 cumstances described in subsection [(14)] (13) of this section.

12 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,  
13 association, organization, self-employed individual and any other legal entity operated for economic  
14 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section  
15 501(c) of the Internal Revenue Code with which a public official or a relative of the public official  
16 is associated only as a member or board director or in a nonremunerative capacity.

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

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

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

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

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

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

1 (4) “Commission” means the Oregon Government Standards and Practices Commission.

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

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

6 [(7)] **(6)(a)** “Gift” means something of economic value given to a public official or [*the public*  
7 *official’s*] **a relative of the public official:**

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

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

14 **(b) “Gift” does not mean:**

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

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

17 [*(b)*] **(B) Gifts or inheritances** from [*family members*] **relatives.**

18 **(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk**  
19 **item, wall memento or similar item with a value of less than \$50.**

20 **(D) Unsolicited informational material, publications or subscriptions related to the re-**  
21 **recipient’s performance of official duties.**

22 **(E) Commercially reasonable loans made in the ordinary course of business.**

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

26 [(*d*)] **(F)** The giving or receiving of food or beverage if the food or beverage is consumed by the  
27 public official [*or the public official’s relatives*] in the presence of the purchaser or provider  
28 [*thereof*] **of the food or beverage and the value of food and beverage received from a single**  
29 **person does not exceed an aggregate amount of \$100 in a calendar year.**

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

34 [(8)] **(7)** [*“Honoraria”*] **“Honorarium”** means a payment or something of economic value given  
35 to a public official in exchange for services upon which custom or propriety prevents the setting of  
36 a price. Services include, but are not limited to, speeches or other services rendered in connection  
37 with an event [*at which the public official appears in an official capacity*].

38 [(9)] **(8)** “Income” means income of any nature derived from any source, including, but not lim-  
39 ited to, any salary, wage, advance, payment, dividend, interest, rent, [*honoraria*] **honorarium**, return  
40 of capital, forgiveness of indebtedness, or anything of economic value.

41 [(10)] **(9)** “Legislative or administrative interest” means an economic interest, distinct from that  
42 of the general public, in one or more bills, resolutions, regulations, proposals or other matters sub-  
43 ject to the action or vote of a person acting in the capacity of a public official.

44 [(11)] **(10)** “Legislative official” means any member or member-elect of the Legislative Assembly,  
45 any member of an agency, board or committee that is part of the legislative branch and any staff

1 person, assistant or employee thereof.

2 [(12)] (11) “Member of household” means any relative who resides with the public official.

3 [(13)] (12) “Planning commission” means a county planning commission created under ORS  
4 chapter 215 or a city planning commission created under ORS chapter 227.

5 [(14)] (13) “Potential conflict of interest” means any action or any decision or recommendation  
6 by a person acting in a capacity as a public official, the effect of which could be to the private  
7 pecuniary benefit or detriment of the person or the person’s relative, or a business with which the  
8 person or the person’s relative is associated, unless the pecuniary benefit or detriment arises out  
9 of the following:

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

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

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

20 (14) **“Public office” has the meaning given that term in ORS 260.005.**

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

25 (16) “Relative” means the spouse of the public official, any children of the public official or of  
26 the public official’s spouse, and brothers, sisters or parents of the public official or of the public  
27 official’s spouse.

28 (17) “Statement of economic interest” means a statement as described by ORS 244.060 to 244.080.

29 (18) “Statewide official” means the Secretary of State or Secretary of State-elect, State Treas-  
30 urer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of Public  
31 Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau of  
32 Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.

33 (19) “Zoning commission” means an entity to which is delegated at least some of the discre-  
34 tionary authority of a planning commission or governing body relating to zoning and land use mat-  
35 ters.

36 **SECTION 2.** ORS 244.040 is amended to read:

37 244.040. [*The following actions are prohibited regardless of whether actual conflicts of interest or*  
38 *potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:*]

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

1 public official is associated, **if the financial gain or avoidance of financial detriment would not**  
 2 **otherwise be available but for the public official's holding of the official position or office.**

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

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

6 **(b) The receipt by a public official or a relative of the public official of an honorarium.**

7 **(c) Reimbursement of expenses.**

8 **(d) An unsolicited award for professional achievement.**

9 **(e) The receipt by a public official or a relative of the public official of any item, regard-**  
 10 **less of value, that is expressly excluded from the definition of gift in ORS 244.020.**

11 *[(b)]* **(3) [No] A statewide official [shall] may not** solicit or receive, whether directly or indi-  
 12 **rectly, honoraria for the statewide official or for any member of the household of the official. [No]**  
 13 **A candidate for statewide office [shall] may not** solicit or receive, whether directly or indirectly,  
 14 **honoraria for the candidate or for any member of the household of the candidate.**

15 *[(c)]* **(4) [No] A legislative official [shall] may not** solicit or receive, whether directly or indi-  
 16 **rectly, honoraria in an amount in excess of \$1,500 or in any amount for an appearance within the**  
 17 **state or for an appearance during a legislative session, regardless of location, for the legislative**  
 18 **official or for any member of the household of the official, except that a legislative official may so-**  
 19 **licit or receive honoraria for services performed in relation to the private profession or occupation**  
 20 **of the legislative official. [No] A candidate for legislative office [shall] may not** solicit or receive,  
 21 **whether directly or indirectly, honoraria in an amount in excess of \$1,500 or in any amount for an**  
 22 **appearance within the state for the candidate or for any member of the household of the candidate,**  
 23 **except that a candidate for legislative office may solicit or receive honoraria for services performed**  
 24 **in relation to the private profession or occupation of the legislative official.**

25 *[(d)]* **(5) Any public official or candidate not described in [paragraph (b) or (c) of this] subsection**  
 26 **(3) or (4) of this section or a member of the public official's household may receive honoraria.**

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

33 **(6) A public official, a candidate for public office or a relative of the public official or**  
 34 **candidate may not solicit or receive, directly or indirectly, any gift.**

35 *[(3)]* **(7) [No] A public official [shall] may not** solicit or receive, either directly or indirectly, and  
 36 **[no] a person [shall] may not** offer or give to any public official, any pledge or promise of future  
 37 **employment[,] based on any understanding that [such public official's] the** vote, official action or  
 38 **judgment of the public official would be influenced [thereby] by the pledge or promise.**

39 *[(4)]* **(8) [No] A public official [shall] may not** attempt to further or further the personal gain  
 40 **of the public official through the use of confidential information gained in the course of or by reason**  
 41 **of [the official position] holding position as a public official or activities of the public official [in**  
 42 **any way].**

43 *[(5) No person shall offer during any calendar year any gifts with an aggregate value in excess*  
 44 *of \$100 to any public official or candidate therefor or a relative of the public official or candidate if the*  
 45 *person has a legislative or administrative interest in a governmental agency in which the official has*

1 or the candidate if elected would have any official position or over which the official exercises or the  
2 candidate if elected would exercise any authority.]

3 **(9) A person may not offer to a public official, a candidate for public office or a relative  
4 of the public official or candidate any gift.**

5 [(6)] **(10) [No person shall] A person may not** attempt to represent or represent a client for a  
6 fee before the governing body of a public body of which the person is a member. This subsection  
7 does not apply to the person's employer, business partner or other associate.

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

10 **SECTION 3.** ORS 244.350 is amended to read:

11 244.350. (1) The Oregon Government Standards and Practices Commission or the court under  
12 ORS 244.260 (8) may impose civil penalties not to exceed:

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

15 (b) \$25,000 for violation of ORS **244.040 (6) or (9) or** 244.045.

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

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

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

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

24 **SECTION 4.** ORS 244.060 is amended to read:

25 244.060. The statement of economic interest filed under ORS 244.050[,] shall be on a form pre-  
26 scribed by the Oregon Government Standards and Practices Commission[, and]. The person filing the  
27 statement shall supply the information required by this section and ORS 244.090, as follows:

28 (1) The [name] **names** of all positions as officer of a business and business directorships held  
29 by the person or a member of the household of the person during the preceding calendar year.

30 (2) All names under which the person and members of the household of the person do business.

31 (3) Sources of income received at any time during the preceding calendar year by the person  
32 [or a] **and by each** member of the household of the person that produce 10 percent or more of the  
33 total annual household income.

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

41 (5)(a) [The listing] **A list** of all real property in which the public official or candidate [therefor]  
42 **for public office** or a member of the household of the public official or candidate has or has had  
43 any personal, beneficial ownership interest during the preceding calendar year, any options to pur-  
44 chase or sell real property, including a land sales contract, and any other rights of any kind in real  
45 property located within the geographic boundaries of the governmental agency of which the public

1 official [is] **holds**, or the candidate if elected would [be a member] **hold, any official position** or  
 2 over which the public official [has] **exercises**, or the candidate if elected would [have] **exercise,**  
 3 **any** authority.

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

6 [(6)(a) Notwithstanding ORS 244.020 (7)(c), if a public official has received food, lodging and pay-  
 7 ment of travel expenses exceeding \$100 when participating in an event which bears a relationship to  
 8 the public official's office and when appearing in an official capacity, the name, nature and business  
 9 address of the organization paying the expenses and the date and amount of that expenditure.]

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

15 [(7)] (6) Any honoraria exceeding \$50 received during the preceding calendar year by the person  
 16 or a member of the household of the person, the payer of the honoraria and the date and time of the  
 17 event for which the honoraria was received.

18 **SECTION 5.** ORS 244.100 is amended to read:

19 244.100. [(1)] The Oregon Government Standards and Practices Commission [by rule may  
 20 require] **may adopt rules requiring** the disclosure and reporting of [gifts] **any item that is ex-**  
 21 **cluded from the definition of gift in ORS 244.020** or other compensation made to or received by  
 22 a public official or candidate for [elective] **public** office.

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

27 [(3) In addition to any disclosures or reports required under subsections (1) and (2) of this section,  
 28 any person or organization that provides a public official with food, lodging or travel expenses ex-  
 29 ceeding \$50, as described in ORS 244.060 (6), shall notify the public official in writing of the amount  
 30 of the expense. The notice shall be sent to the public official within 10 days from the date such expenses  
 31 are incurred.]

32 **SECTION 6.** ORS 171.745 is amended to read:

33 171.745. (1) A lobbyist registered with the Oregon Government Standards and Practices Com-  
 34 mission or required to register with the commission shall, on January 31 and July 31, of each  
 35 even-numbered year, and on January 31, April 30 and July 31 of each odd-numbered year, file with  
 36 the commission a statement showing:

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

39 (A) Food, refreshments and entertainment;

40 (B) Printing, postage and telephone;

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

42 (D) Miscellaneous; and

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

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

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

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

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

19 *[(6)]* (5) For each statement required by this section, an entity comprised of more than one  
 20 lobbyist may file one statement that reports expenditures by the entity and not by individual  
 21 lobbyists.

22 **SECTION 7.** ORS 171.750 is amended to read:

23 171.750. (1) Any person on whose behalf a lobbyist was registered, or was required to register  
 24 with the Oregon Government Standards and Practices Commission at any time during the preceding  
 25 calendar year, shall file with the commission, by January 31st of each year, a statement showing,  
 26 for the preceding calendar year:

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

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

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

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

40 **SECTION 8.** ORS 293.708 is amended to read:

41 293.708. (1) As used in this section:

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

43 (b) "Business with which the person is associated" has the meaning given that term in ORS  
 44 244.020.

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

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

8 (3) Subsection (2) of this section does not apply if the pecuniary benefit or detriment arises out  
 9 of circumstances described in ORS 244.020 [(14)(a) to (c)] **(13)(a) to (c)**.

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

11 **SECTION 9. (1) The amendments to ORS 244.020 and 244.040 by sections 1 and 2 of this**  
 12 **2007 Act apply to gifts received or made on or after January 1, 2008.**

13 **(2) The amendments to ORS 244.060 and 244.100 by sections 4 and 5 of this 2007 Act apply**  
 14 **to expenses received or paid on or after January 1, 2008. A public official shall list on the first**  
 15 **statement of economic interest filed after January 1, 2008, all expenses the public official**  
 16 **received prior to January 1, 2008, that were:**

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

18 **(b) Not reported on a previous statement of economic interest the public official filed.**

19 **(3) The amendments to ORS 244.350 by section 3 of this 2007 Act apply to violations oc-**  
 20 **curring on or after January 1, 2008.**

21 **SECTION 10. (1) Any proceeding, action, prosecution or other business or matter**  
 22 **undertaken or commenced before January 1, 2008, by the Oregon Government Standards and**  
 23 **Practices Commission under any provision of ORS chapter 244 and still pending on January**  
 24 **1, 2008, shall be conducted and completed by the commission in the same manner, under the**  
 25 **same terms and conditions and with the same effect as though undertaken, conducted or**  
 26 **completed before January 1, 2008.**

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

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