

Senate Bill 496

Sponsored by COMMITTEE ON RULES (at the request of Oregon Law Commission)

SUMMARY

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

Modifies administrative adjudication processes of Oregon Government Standards and Practices Commission relating to lobbying regulation. Extends length of Preliminary Review Phase from 90 days to 135 days. Extends length of Investigatory Phase from 120 days to 180 days.

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

Specifies that lobbying laws apply to lobbying executive branch officials for purposes of influencing legislative action.

Specifies that person must register as lobbyist if, during calendar quarter, person lobbies more than aggregate amount of 24 hours or spends aggregate amount greater than \$100 on lobbying. Exempts certain legal and administrative personnel from registration requirements.

Directs lobbyist to file separate registration statement for each client. Exempts registered lobbyists who lobby without compensation and do not exceed time or financial limits applicable to registration.

Modifies information required in lobbyist and lobbyist employer expenditure reports. Requires listing of gifts with value exceeding \$15.

Modifies schedule for filing of expenditure statements by lobbyists and persons on whose behalf lobbyist was registered. Requires filing of statements for each calendar quarter.

Increases maximum civil penalty for violation of lobbying laws from \$1,000 to \$5,000. Sets daily maximum penalty for late filing of expenditure statements.

A BILL FOR AN ACT

1
2 Relating to government ethics; creating new provisions; and amending ORS 171.725, 171.730, 171.735,
3 171.740, 171.745, 171.750, 171.772, 171.778, 171.992 and 244.400.

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

5 **SECTION 1.** ORS 171.725 is amended to read:

6 171.725. As used in ORS 171.725 to 171.785, unless the context requires otherwise:

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

8 (2) "Consideration" includes a gift, payment, distribution, loan, advance or deposit of money or
9 anything of value, and includes a contract, promise or agreement, whether or not legally enforcea-
10 ble.

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

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

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

19 (6) "Legislative action" means introduction, sponsorship, testimony, debate, voting or any other
20 official action on any measure, resolution, amendment, nomination, appointment, or report, or any

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 matter that may be the subject of action by either house of the Legislative Assembly, or any com-
2 mittee of the Legislative Assembly, or the approval or veto thereof by the Governor.

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

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

10 (9) "Lobbyist" means:

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

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

16 (c) Any public official who lobbies.

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

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

20 **SECTION 2.** ORS 171.730 is amended to read:

21 171.730. The Legislative Assembly finds that, to preserve and maintain the integrity of the leg-
22 islative process, persons who engage in efforts to [*persuade members of the Legislative Assembly or*
23 *the executive branch to take specific actions*] **influence legislative action**, either by direct communi-
24 cation with [*members or employees of the Legislative Assembly or the executive branch*] **legislative**
25 **or executive officials** or by solicitation of others to engage in those efforts, should regularly report
26 their efforts to the public.

27 **SECTION 3.** ORS 171.735 is amended to read:

28 171.735. ORS 171.740 and 171.745 do not apply to the following persons:

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

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

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

37 (4) A person who [*spends not*] **does not spend** more than **an aggregate amount of** 24 hours
38 during any calendar quarter lobbying and who does not spend an **aggregate** amount in excess of
39 \$100 lobbying during any calendar quarter.

40 (5) The Governor, [*Executive Assistant to*] **chief of staff for** the Governor, **deputy chief of staff**
41 **for the Governor**, [*Legal Counsel*] **legal counsel** to the Governor, **deputy legal counsel to the**
42 **Governor**, Secretary of State, Deputy Secretary of State appointed pursuant to ORS 177.040, State
43 Treasurer, Chief Deputy State Treasurer appointed pursuant to ORS 178.060, **chief of staff for the**
44 **office of the State Treasurer**, Attorney General, Deputy Attorney General appointed pursuant to
45 ORS 180.130, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and In-

1 dustries, **members and staff of the Oregon Law Commission conducting the law revision**
 2 **program of the commission or** [*and*] any judge.

3 **SECTION 4.** ORS 171.740 is amended to read:

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

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

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

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

14 (d) The name of any member of the Legislative Assembly employed, retained or otherwise com-
 15 pensated by:

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

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

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

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

22 (3) **Except as provided in subsection (4) of this section, a lobbyist must file a separate**
 23 **registration statement under this section for each person that employs the lobbyist or in**
 24 **whose interest the lobbyist appears or works.** If a lobbyist appears **or works** for a person for
 25 whom the lobbyist has not registered, the lobbyist shall register with the commission [*within three*
 26 *working days of the lobbyist's appearance*] **not later than three business days after the day the**
 27 **lobbyist first appears or works for the person.**

28 (4) **A lobbyist registered under this section who engages in lobbying without compen-**
 29 **sation on behalf of a person is not required to file an additional registration statement under**
 30 **this section for that person if the lobbyist does not spend more than an aggregate amount**
 31 **of 24 hours during any calendar quarter lobbying on behalf of the person and does not spend**
 32 **an aggregate amount in excess of \$100 lobbying during any calendar quarter on behalf of the**
 33 **person.**

34 [(4)] (5) If any of the information submitted by a lobbyist in the statement required under sub-
 35 section (1) of this section changes, the lobbyist shall revise the statement within 30 days of the
 36 change.

37 [(5)] (6) A lobbyist registration expires December 31 of an odd-numbered year. If a lobbyist re-
 38 news the registration before March 31 of the following even-numbered year, the commission shall
 39 consider the registration to have been effective as of December 31 of the odd-numbered year on
 40 which the registration expired.

41 [(6)] (7) For the statement required by this section, an entity comprised of more than one
 42 lobbyist may file one statement for the lobbyists [*that*] **who** comprise the entity. The statement the
 43 entity files must include the names of the individuals authorized to lobby on behalf of the client
 44 listed in the statement.

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

1 171.745. (1) A lobbyist registered with the Oregon Government Standards and Practices Com-
 2 mission or required to register with the commission shall, *[on January 31 and July 31, of each*
 3 *even-numbered year, and on January 31, April 30 and July 31 of each odd-numbered year]* **according**
 4 **to the schedule described in section 11 of this 2007 Act**, file with the commission a statement
 5 showing **for the applicable reporting period**:

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

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

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

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

11 *[(D) Miscellaneous; and]*

12 (b) **Subject to paragraph (c) of this subsection**, the name of any legislative or executive of-
 13 ficial to whom or for whose benefit, on any one occasion, an expenditure in excess of ~~[\$25]~~ **\$75** is
 14 made for the ~~[purposes]~~ **purpose** of lobbying, and the date, name of payee, purpose and amount of
 15 that expenditure~~].~~; **and**

16 (c) **The name of any legislative or executive official, or relative of the official, to whom**
 17 **a gift exceeding \$15 in value and subject to the \$100 limit contained in ORS 244.040 is made**
 18 **for the purpose of lobbying, and the date the gift was made, the value of the gift and a de-**
 19 **scription of the gift.**

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

25 ~~[(3)]~~ **(2)** Statements required by this section need not include amounts expended by the lobbyist
 26 for personal living and travel expenses and office overhead, including salaries and wages paid for
 27 staff and secretarial assistance, and maintenance expenses. If the amount of any expenditure re-
 28 quired to be included in a statement is not accurately known at the time the statement is required
 29 to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an
 30 estimate. The exact amount expended for which a previous estimate was made shall be submitted in
 31 a subsequent report when the information is available.

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

36 **(3) A lobbyist registered under ORS 171.740 who is not required to file an additional reg-**
 37 **istration for a person under ORS 171.740 (4) is not required to include in the statement filed**
 38 **under this section any lobbying expenditures made on behalf of the person.**

39 ~~[(5)]~~ **(4)** A statement required by this section shall include a copy of any notice provided to a
 40 public official under ORS 244.100 (3).

41 ~~[(6)]~~ **(5)** For each statement required by this section, an entity comprised of more than one
 42 lobbyist may file one statement that reports expenditures by the entity and not by individual
 43 lobbyists.

44 **SECTION 6.** ORS 171.750 is amended to read:

45 171.750. (1) Any person on whose behalf a lobbyist was registered, or was required to register,

1 with the Oregon Government Standards and Practices Commission at any time during the
 2 [preceding] calendar year[,] shall file with the commission, [by January 31st of each year] **according**
 3 **to the schedule described in section 11 of this 2007 Act**, a statement showing[,] for the [preceding
 4 calendar year] **applicable reporting period**:

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

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

11 [(b)] (c) **Subject to paragraph (d) of this subsection**, the name of any legislative or executive
 12 official to whom or for whose benefit, on any one occasion, an expenditure in excess of [\$25] **\$75** for
 13 the purpose of lobbying is made by the person, but not including information previously reported in
 14 compliance with ORS 171.745, and the date, name of payee, purpose and amount of that
 15 expenditure[.]; **and**

16 **(d) The name of any legislative or executive official, or relative of the official, to whom**
 17 **a gift exceeding \$15 in value and subject to the \$100 limit contained in ORS 244.040 is made**
 18 **by the person for the purpose of lobbying, and the date the gift was made, the value of the**
 19 **gift and a description of the gift.**

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

25 [(3)] (2) A statement required under subsection (1) of this section shall include a copy of any
 26 notice provided to a public official under ORS 244.100 (3).

27 **SECTION 7.** ORS 171.772 is amended to read:

28 171.772. In carrying out the provisions of ORS 171.725 to 171.785, the Oregon Government
 29 Standards and Practices Commission shall:

30 (1) Prescribe **by rule** forms for registrations, statements and reports required to be filed by ORS
 31 171.725 to 171.785, and provide [such] **the** forms to persons required to register and to file [such]
 32 **the** statements and reports;

33 (2) Accept and file any information voluntarily supplied that exceeds the requirements of ORS
 34 171.725 to 171.785; and

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

38 **SECTION 8.** ORS 171.778 is amended to read:

39 171.778. [(1) Upon its own instigation or signed complaint of any person, the Oregon Government
 40 Standards and Practices Commission may undertake action in the Preliminary Review Phase with re-
 41 spect to any alleged violation of ORS 171.725 to 171.785. The person who is the subject of a complaint
 42 or of the commission's own action shall be notified immediately upon receipt of the complaint or upon
 43 adoption of a motion by the commission to undertake any action concerning the person. The notice shall
 44 be given by telephone if the person can be reached and a notice shall also be mailed to the person. The
 45 notice shall include the nature of the complaint or motion and a copy of all materials submitted along

1 *with the complaint or materials which give rise to the commission's instigation of action on its own*
2 *motion. However, the person must also be notified in advance if an issue that may give rise to a motion*
3 *to undertake action on the commission's own instigation is to be discussed at a commission meeting.*
4 *Before investigating any complaint or undertaking an investigation on its own instigation, the com-*
5 *mission shall make a finding that there is cause to undertake an investigation, notify the person who*
6 *is the subject of the investigation, identify the issues to be examined and shall confine its investigation*
7 *to those issues. If the commission finds reason to expand its investigation, it shall move to do so and*
8 *shall record in its minutes the issues to be examined before expanding the scope of its investigation and*
9 *formally notify the complainant and the person who is the subject of the complaint of the expansion*
10 *and the scope thereof. If the commission does not make a finding of cause, it shall dismiss the com-*
11 *plaint or rescind its motion and shall formally enter the dismissal or rescission on its records. The*
12 *commission shall notify the person of the dismissal or rescission. After dismissal or rescission, the*
13 *commission shall take no further action involving the person unless a new and different complaint is*
14 *filed or action at its own instigation is undertaken based on different conduct.]*

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

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

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

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

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

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

34 **(1)(a) Any person may file with the Oregon Government Standards and Practices Com-**
35 **mission a signed written complaint alleging that there has been a violation of any provision**
36 **of ORS 171.725 to 171.785 or of any rule adopted by the commission under ORS 171.725 to**
37 **171.785. The complaint shall state the person's reason for believing that a violation occurred**
38 **and include any evidence relating to the alleged violation.**

39 **(b) If at any time the commission has reason to believe that there has been a violation**
40 **of a provision of ORS 171.725 to 171.785 or of a rule adopted by the commission under ORS**
41 **171.725 to 171.785, the commission may proceed under this section on its own motion as if**
42 **the commission had received a complaint.**

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

45 **(b) Before approving a motion to proceed under this section without a complaint, the**

1 **commission shall provide notice to the person believed to have committed the violation of**
 2 **the time and place of the meeting at which the motion will be discussed. If the commission**
 3 **decides to proceed on its own motion, the commission shall give notice to the person not**
 4 **later than two business days after the motion is approved.**

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

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

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

23 (b) **During the Preliminary Review Phase, the commission may seek, solicit or otherwise**
 24 **obtain any books, papers, records, memoranda or other additional information, administer**
 25 **oaths and take depositions necessary to determine whether there is cause to undertake an**
 26 **investigation.**

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

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

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

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

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

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

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

11 **(b) If the commission makes a finding of cause to undertake an investigation, the com-**
12 **mission shall undertake action in the Investigatory Phase. The commission shall notify the**
13 **person who is the subject of the investigation, identify the issues to be examined and confine**
14 **the investigation to those issues. If the commission finds reason to expand the investigation,**
15 **the commission shall move to do so, record in its minutes the issues to be examined before**
16 **expanding the scope of its investigation and formally notify the complainant, if any, and the**
17 **person who is the subject of the investigation of the expansion and the scope of the investi-**
18 **gation.**

19 [(7)(a)] **(6)(a)** *[The period of time from the finding of cause to the beginning of any contested case*
20 *proceedings shall be termed the Investigatory Phase and shall]* **The Investigatory Phase begins on**
21 **the date the commission makes a finding of cause to undertake an investigation and ends**
22 **on the date the commission dismisses the complaint, rescinds its own motion, issues a**
23 **settlement order, moves to commence a contested case proceeding or takes other action**
24 **justified by the findings. The Investigatory Phase may not exceed [120] 180 days unless a delay**
25 **is stipulated to by both the subject person and the [Oregon Government Standards and Practices]**
26 **commission, with the commission reserving a portion of the delay period to complete its actions.**

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

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

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

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

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

42 (A) Dismissal, with or without comment;

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

- 1 (C) Moving to a contested case proceeding;
 2 (D) Seeking **or entering into** a negotiated settlement; or
 3 (E) Taking other appropriate action if justified by the findings.

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

8 [(8)] **(7)(a)** [*If, at the end of the Investigatory Phase, the commission takes action by order to move*
 9 *to a contested case proceeding, a person may notify the commission that the person elects to have the*
 10 *commission file a lawsuit against the person in the Marion County Circuit Court in lieu of the contested*
 11 *case proceeding. The court may impose the penalty described in ORS 171.992. The person shall notify*
 12 *the commission of the election in writing no later than 21 days after receiving notification of the com-*
 13 *mission's action by order to move to the contested case proceeding. The commission shall file suit*
 14 *within 30 days after receiving notice that the person has elected the lawsuit procedure.] **If the com-***

15 **mission takes action by order to move to a contested case proceeding, the person who is the**
 16 **subject of the action may request that the commission file a lawsuit against the person in**
 17 **the Marion County Circuit Court in lieu of the contested case proceeding. The person must**
 18 **make the request in writing not later than 21 days after receiving notification of the com-**
 19 **mission's action by order to move to the contested case proceeding.**

20 **(b) Not later than 30 days after receiving a request under paragraph (a) of this sub-**
 21 **section, the commission shall file suit in Marion County Circuit Court or move to a contested**
 22 **case proceeding described in paragraph (c) of this subsection.**

23 **(c) If the commission moves to a contested case proceeding after receiving a request**
 24 **under paragraph (a) of this subsection, the commission shall designate by order that the**
 25 **decision of the administrative law judge referred to in subsection (10) of this section is the**
 26 **final order in the contested case.**

27 **(8) A person conducting any inquiry or investigation under this section shall:**

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

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

31 **(9) The commission shall report the findings of any inquiry or investigation in an im-**
 32 **partial manner. The commission shall report both favorable and unfavorable findings and**
 33 **shall make the findings available to:**

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

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

36 **(10) Hearings conducted under ORS 171.725 to 171.785 must be held before an adminis-**
 37 **trative law judge assigned from the Office of Administrative Hearings established under ORS**
 38 **183.605. Except as provided in subsection (7)(c) of this section, the procedure shall be that**
 39 **for a contested case under ORS chapter 183.**

40 [(9)] **(11)** The commission [*shall*] **may** not inquire into or investigate any [*complaint or act at its*
 41 *own instigation on alleged*] conduct that occurred more than four years before [*the*] **a** complaint is
 42 filed or [*action is undertaken*] **a motion is approved under subsection (1) of this section.**

43 [(10)] **(12)** [*Nothing in this section is intended to*] **This section does not** prevent the commission
 44 and the person alleged to have violated **any provision of ORS 171.725 to 171.785 or any rule**
 45 **adopted by the commission under ORS 171.725 to 171.785** from stipulating to a finding of fact

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

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

6 *[(11)]* (14) As used in this section, “cause” and “pending” have the meanings given those terms
7 in ORS 244.260.

8 **SECTION 9.** ORS 171.992 is amended to read:

9 171.992. (1) **Except as provided in subsection (2) of this section,** any person who violates any
10 provision of ORS 171.740 to 171.762, or any rule adopted *[pursuant thereto]* **under ORS 171.725 to**
11 **171.785,** shall forfeit and pay to the General Fund a civil penalty for each violation of not more than
12 *[\$1,000]* **\$5,000,** to be determined by the Oregon Government Standards and Practices Commission
13 **or the court under ORS 171.778 (7).**

14 **(2)(a) The commission or court may impose civil penalties against a person who fails to**
15 **file the statement required under ORS 171.745 or 171.750. The commission is not required to**
16 **follow the procedures in ORS 171.778 before finding that a violation of ORS 171.745 or 171.750**
17 **has occurred.**

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

20 **(c) The commission or court may impose a civil penalty of \$10 for each of the first 14**
21 **days the statement is late beyond the date set by the commission under ORS 171.745 or**
22 **171.750 and \$50 for each day thereafter. The maximum penalty that may be imposed under**
23 **this subsection is \$5,000.**

24 *[(2)]* (3) *[The]* **A civil penalty** *[referred to in subsection (1) of]* **imposed under** this section may
25 be recovered in an action brought *[thereon]* in the name of the State of Oregon in any court of ap-
26 propriate jurisdiction or may be imposed as provided in ORS 183.745. In any proceedings before the
27 court, including judicial review under ORS 183.745, the court may review the penalty as to both li-
28 ability and reasonableness of amount.

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

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

37 **SECTION 10.** Section 11 of this 2007 Act is added to and made a part of ORS 171.725 to
38 **171.785.**

39 **SECTION 11.** Statements required to be filed with the Oregon Government Standards and
40 Practices Commission under ORS 171.745 and 171.750 shall be filed in each calendar year:

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

43 **(2) Not later than July 15, for the accounting period beginning April 1 and ending June**
44 **30;**

45 **(3) Not later than October 15, for the accounting period beginning July 1 and ending**

1 **September 30; and**

2 **(4) Not later than January 7 of the following calendar year, for the accounting period**
3 **beginning October 1 and ending December 31.**

4 **SECTION 12.** ORS 244.400 is amended to read:

5 244.400. (1) A public official or person described in ORS 171.778 who prevails following a con-
6 tested case hearing under this chapter or a lawsuit under ORS **171.778** or 244.260 shall be awarded
7 reasonable attorney fees at the conclusion of the contested case or on appeal.

8 (2) Upon prevailing following the conclusion of a contested case or lawsuit, the public official
9 or person may petition the Circuit Court for Marion County for the purpose of determining the
10 award of reasonable attorney fees. The Oregon Government Standards and Practices Commission
11 shall be named as a respondent in the petition. The petitioner and respondent shall follow the pro-
12 cedure provided in ORCP 68 for the determination of reasonable attorney fees. The court shall give
13 precedence on its docket to petitions filed under this subsection as the circumstances may require.

14 (3) The Court of Appeals shall award reasonable attorney fees to the public official or person
15 if the public official prevails on appeal from any decisions of the commission or of the Marion
16 County Circuit Court.

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

20 (5) Any attorney fees awarded to the public official pursuant to this section shall be paid from
21 the General Fund.

22 **SECTION 13.** (1) **The amendments to ORS 171.740 by section 4 of this 2007 Act apply to**
23 **lobbyist registration statements filed with the Oregon Government Standards and Practices**
24 **Commission on or after the effective date of this 2007 Act.**

25 (2) **Section 11 of this 2007 Act and the amendments to ORS 171.745 and 171.750 by sections**
26 **5 and 6 of this 2007 Act apply to statements required to be filed with the commission for**
27 **reporting periods beginning on or after the effective date of this 2007 Act.**

28 (3) **The first statement filed under ORS 171.745, as amended by section 5 of this 2007 Act,**
29 **shall include amounts expended prior to January 1, 2008, that were not included in a state-**
30 **ment filed prior to January 1, 2008.**

31 (4) **Notwithstanding ORS 171.750, as amended by section 6 of this 2007 Act, a person re-**
32 **quired to file a statement under ORS 171.750 for the calendar year 2007 shall file the state-**
33 **ment not later than January 31, 2008.**

34 (5) **The amendments to ORS 171.778 and 244.400 by sections 8 and 12 of this 2007 Act apply**
35 **to complaints filed with the commission and actions taken by the commission on its own**
36 **motion on or after the effective date of this 2007 Act.**

37 (6) **The amendments to ORS 171.992 by section 9 of this 2007 Act apply to violations or**
38 **failures to file statements that occur on or after the effective date of this 2007 Act.**

39