

# Senate Bill 498

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**.

Prohibits public official from taking action where choice of action may be significantly influenced by personal financial interest or by individualized personal bias for or against identified person. Directs public official to acknowledge potential financial interest or bias and refrain from taking action, unless vote is required. Allows member of Legislative Assembly to vote on matters considered by full Senate or House of Representatives. Exempts office of judge.

Allows public bodies to adopt rules containing exceptions necessary to accommodate duties of public officials serving public body. Requires public bodies to submit rules to Oregon Government Standards and Practices Commission for approval.

Directs public bodies to investigate alleged violations of prohibition. Allows public body to reconsider, set aside or modify action taken by public official, to take employment action or to refer complaint to commission if public body determines violation occurred.

## A BILL FOR AN ACT

1  
2 Relating to government ethics.

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

4 **SECTION 1. Sections 2 to 4 of this 2007 Act are added to and made a part of ORS chapter**  
5 **244.**

6 **SECTION 2. (1) A person acting in a capacity as a public official may not act for a public**  
7 **body, as defined in ORS 174.109, in a matter in which the person has authority to choose**  
8 **among alternative actions, if the person recognizes that the person's choice of action may**  
9 **be significantly influenced by:**

10 (a) **A financial interest personal to the person, the person's relative or a business with**  
11 **which the person or a relative of the person is associated; or**

12 (b) **An individualized personal bias for or against an identified or identifiable person**  
13 **whom the person knows to be a direct object of the action.**

14 (2) **Except as provided in subsections (3) to (5) of this section, when facing an action that**  
15 **the public official believes may violate subsection (1) of this section, an appointed public of-**  
16 **ficial shall notify in writing the person who appointed the public official to office and request**  
17 **that the appointing authority dispose of the matter giving rise to the potential violation.**  
18 **Upon receipt of the request, the appointing authority shall designate within a reasonable**  
19 **time an alternate to dispose of the matter.**

20 (3) **When facing an action that the public official believes may violate subsection (1) of**  
21 **this section, an elected public official or an appointed public official serving on a board or**  
22 **commission shall announce publicly the nature of the potential violation and, except as pro-**  
23 **vided in subsection (4) of this section, refrain from participating as a public official in any**  
24 **discussion or debate on the issue out of which the potential violation arises and refrain from**  
25 **voting on the issue. This subsection does not apply to members of the Legislative Assembly.**

26 (4) **When a public official described in subsection (3) of this section faces an action that**

**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 the public official believes may violate subsection (1) of this section and the public official's  
2 vote is necessary to meet a requirement of a minimum number of votes to take official  
3 action, the public official may vote, but may not participate as a public official in any dis-  
4 cussion or debate on the issue out of which the potential violation arises.

5 (5) When a member of the Legislative Assembly faces an action that the member believes  
6 may violate subsection (1) of this section, the member shall announce publicly the nature  
7 of the potential violation, refrain from participating as a member in any discussion or debate  
8 on the issue out of which the potential violation arises and refrain from voting on the issue  
9 as a member of a legislative committee. The member may vote on the issue when it is con-  
10 sidered by the Senate or House of Representatives.

11 (6) This section does not require any public official to announce a potential violation of  
12 subsection (1) of this section more than once on the occasion when the matter out of which  
13 the potential violation arises is voted on, discussed or debated.

14 (7) This section does not authorize a public official to vote if the official is otherwise  
15 prohibited from doing so.

16 (8) This section does not apply to the office of judge.

17 **SECTION 3.** (1) A public body, as defined in ORS 174.109, may adopt rules necessary to  
18 administer section 2 of this 2007 Act. Subject to subsection (2) of this section, the rules may  
19 include exceptions to the provisions of section 2 of this 2007 Act that the public body con-  
20 sidered necessary to accommodate the duties of public officials employed by or serving the  
21 public body.

22 (2) A public body that adopts rules under subsection (1) of this section shall submit the  
23 rules to the Oregon Government Standards and Practices Commission for review. The com-  
24 mission shall review and approve or reject the rules not later than 90 days after the rules  
25 are submitted. The commission may approve an exception to the provisions of section 2 of  
26 this 2007 Act if the commission determines that the exception is necessary to accommodate  
27 the duties of public officials employed by or serving the public body.

28 **SECTION 4.** (1) If the executive director of a public body, as defined in ORS 174.109, or  
29 the governing body of the public body has reason to believe that a violation of section 2 of  
30 this 2007 Act or of a rule adopted under section 3 of this 2007 Act has occurred, the director  
31 or governing body shall designate an officer or employee of the public body to investigate the  
32 potential violation.

33 (2) The designated officer or employee shall make any investigation the officer or em-  
34 ployee considers necessary to determine whether a violation has occurred. Within 48 hours  
35 of commencing the investigation, the designated officer or employee shall notify the person  
36 who is the subject of the investigation that an investigation has been commenced.

37 (3) If the designated officer or employee determines after an investigation that a violation  
38 has occurred, the officer or employee shall advise the executive director or governing body  
39 of the public body. The public body may:

40 (a) Reconsider, set aside or modify any action taken in violation of section 2 of this 2007  
41 Act or any rule adopted under section 3 of this 2007 Act;

42 (b) Disqualify the person who violated section 2 of this 2007 Act or any rule adopted under  
43 section 3 of this 2007 Act from holding any appointment or employment, or performing any  
44 service under contract, with the public body; or

45 (c) Report the findings to the Oregon Government Standards and Practices Commission

1 **and request that the commission proceed under ORS 244.260.**

2 **(4) An executive director or governing body may not commence an investigation under**  
3 **this section later than four years after the date the conduct alleged to violate section 2 of**  
4 **this 2007 Act or a rule adopted under section 3 of this 2007 Act occurred.**

5 **(5) Upon receipt of findings reported by a public body under this section, the commission**  
6 **shall proceed as if it had received a complaint filed under ORS 244.260.**

7 **SECTION 5. Sections 2 to 4 of this 2007 Act apply to actions taken on or after the ef-**  
8 **fective date of this 2007 Act.**

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