

**Enrolled**  
**Senate Bill 64**

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of State Treasurer Randall Edwards for Oregon Investment Council)

CHAPTER .....

AN ACT

Relating to exemption of investment records from disclosure; creating new provisions; and amending ORS 181.854, 192.502, 285C.145, 456.623 and 656.702.

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

**SECTION 1.** ORS 192.502 is amended to read:

192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

(1) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

(2) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

(3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and telephone numbers contained in personnel records maintained by the public body that is the employer or the recipient of volunteer services. This exemption:

(a) Does not apply to the addresses, dates of birth and telephone numbers of employees or volunteers who are elected officials, except that a judge or district attorney subject to election may seek to exempt the judge's or district attorney's address or telephone number, or both, under the terms of ORS 192.445;

(b) Does not apply to employees or volunteers to the extent that the party seeking disclosure shows by clear and convincing evidence that the public interest requires disclosure in a particular instance;

(c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a professional education association of which the substitute teacher may be a member; and

(d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

(4) Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

(5) Information or records of the Department of Corrections, including the State Board of Parole and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of a person in custody of the department or substantially prejudice or prevent the carrying out of the functions of the department, if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(6) Records, reports and other information received or compiled by the Director of the Department of Consumer and Business Services in the administration of ORS chapters 723 and 725 not otherwise required by law to be made public, to the extent that the interests of lending institutions, their officers, employees and customers in preserving the confidentiality of such information outweighs the public interest in disclosure.

(7) Reports made to or filed with the court under ORS 137.077 or 137.530.

(8) Any public records or information the disclosure of which is prohibited by federal law or regulations.

(9) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law.

(10) Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

(11) Records of the Energy Facility Siting Council concerning the review or approval of security programs pursuant to ORS 469.530.

(12) Employee and retiree address, telephone number and other nonfinancial membership records and employee financial records maintained by the Public Employees Retirement System pursuant to ORS chapters 238 and 238A.

(13) Records **of or** submitted [*by private persons or businesses*] to the State Treasurer, [*or*] the Oregon Investment Council **or the agents of the treasurer or the council** relating to **active or** proposed [*acquisition, exchange or liquidation of public*] **publicly traded** investments under ORS chapter 293 [*may be treated as exempt from disclosure when and only to the extent that disclosure of such records reasonably may be expected to substantially limit the ability of the Oregon Investment Council to effectively compete or negotiate for, solicit or conclude such transactions. Records which relate to concluded transactions are not subject to this exemption.*], **including but not limited to records regarding the acquisition, exchange or liquidation of the investments. For the purposes of this subsection:**

(a) **The exemption does not apply to:**

(A) **Information in investment records solely related to the amount paid directly into an investment by, or returned from the investment directly to, the treasurer or council; or**

(B) **The identity of the entity to which the amount was paid directly or from which the amount was received directly.**

(b) **An investment in a publicly traded investment is no longer active when acquisition, exchange or liquidation of the investment has been concluded.**

(14)(a) **Records of or submitted to the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset including but not limited to records regarding the solicitation, acquisition, deployment, exchange or liquidation of the investments including but not limited to:**

(A) **Due diligence materials that are proprietary to an investment fund, to an asset ownership or to their respective investment vehicles.**

(B) **Financial statements of an investment fund, an asset ownership or their respective investment vehicles.**

(C) **Meeting materials of an investment fund, an asset ownership or their respective investment vehicles.**

**(D) Records containing information regarding the portfolio positions in which an investment fund, an asset ownership or their respective investment vehicles invest.**

**(E) Capital call and distribution notices of an investment fund, an asset ownership or their respective investment vehicles.**

**(F) Investment agreements and related documents.**

**(b) The exemption under this subsection does not apply to:**

**(A) The name, address and vintage year of each privately placed investment fund.**

**(B) The dollar amount of the commitment made to each privately placed investment fund since inception of the fund.**

**(C) The dollar amount of cash contributions made to each privately placed investment fund since inception of the fund.**

**(D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board from each privately placed investment fund.**

**(E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board.**

**(F) The net internal rate of return of each privately placed investment fund since inception of the fund.**

**(G) The investment multiple of each privately placed investment fund since inception of the fund.**

**(H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end basis to each privately placed investment fund.**

**(I) The dollar amount of cash profit received from each privately placed investment fund on a fiscal year-end basis.**

**[(14)] (15)** The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

**[(15)] (16)** Reports of unclaimed property filed by the holders of such property to the extent permitted by ORS 98.352.

**[(16)] (17)** The following records, communications and information submitted to the Oregon Economic and Community Development Commission, the Economic and Community Development Department, the State Department of Agriculture, the Oregon Growth Account Board, the Port of Portland or other ports, as defined in ORS 777.005, by applicants for investment funds, loans or services including, but not limited to, those described in ORS 285A.224:

**(a) Personal financial statements.**

**(b) Financial statements of applicants.**

**(c) Customer lists.**

**(d) Information of an applicant pertaining to litigation to which the applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the applicant shows that such litigation is reasonably likely to occur; this exemption does not apply to litigation which has been concluded, and nothing in this paragraph shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.**

**(e) Production, sales and cost data.**

**(f) Marketing strategy information that relates to applicant's plan to address specific markets and applicant's strategy regarding specific competitors.**

**[(17)] (18)** Records, reports or returns submitted by private concerns or enterprises required by law to be submitted to or inspected by a governmental body to allow it to determine the amount of any transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such information is in a form which would permit identification of the individual concern or enterprise. Nothing in this subsection shall limit the use which can be made of such information for

regulatory purposes or its admissibility in any enforcement proceedings. The public body shall notify the taxpayer of the delinquency immediately by certified mail. However, in the event that the payment or delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the public body shall disclose, upon the request of any person, the following information:

(a) The identity of the individual concern or enterprise that is delinquent over 60 days in the payment or delivery of the taxes.

(b) The period for which the taxes are delinquent.

(c) The actual, or estimated, amount of the delinquency.

[(18)] **(19)** All information supplied by a person under ORS 151.485 for the purpose of requesting appointed counsel, and all information supplied to the court from whatever source for the purpose of verifying the financial eligibility of a person pursuant to ORS 151.485.

[(19)] **(20)** Workers' compensation claim records of the Department of Consumer and Business Services, except in accordance with rules adopted by the Director of the Department of Consumer and Business Services, in any of the following circumstances:

(a) When necessary for insurers, self-insured employers and third party claim administrators to process workers' compensation claims.

(b) When necessary for the director, other governmental agencies of this state or the United States to carry out their duties, functions or powers.

(c) When the disclosure is made in such a manner that the disclosed information cannot be used to identify any worker who is the subject of a claim.

(d) When a worker or the worker's representative requests review of the worker's claim record.

[(20)] **(21)** Sensitive business records or financial or commercial information of the Oregon Health and Science University that is not customarily provided to business competitors.

[(21)] **(22)** Records of Oregon Health and Science University regarding candidates for the position of president of the university.

[(22)] **(23)** The records of a library, including circulation records, showing use of specific library material by a named person or consisting of the name of a library patron together with the address or telephone number, or both, of the patron.

[(23)] **(24)** The following records, communications and information obtained by the Housing and Community Services Department in connection with the department's monitoring or administration of financial assistance or of housing or other developments:

(a) Personal and corporate financial statements and information, including tax returns.

(b) Credit reports.

(c) Project appraisals.

(d) Market studies and analyses.

(e) Articles of incorporation, partnership agreements and operating agreements.

(f) Commitment letters.

(g) Project pro forma statements.

(h) Project cost certifications and cost data.

(i) Audits.

(j) Project tenant correspondence.

(k) Personal information about a tenant.

(L) Housing assistance payments.

[(24)] **(25)** Raster geographic information system (GIS) digital databases, provided by private forestland owners or their representatives, voluntarily and in confidence to the State Forestry Department, that is not otherwise required by law to be submitted.

[(25)] **(26)** Sensitive business, commercial or financial information furnished to or developed by a public body engaged in the business of providing electricity or electricity services, if the information is directly related to a transaction described in ORS 261.348, or if the information is directly related to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and disclosure of the information would cause a competitive disadvantage for the public body

or its retail electricity customers. This subsection does not apply to cost-of-service studies used in the development or review of generally applicable rate schedules.

[26] **(27)** Sensitive business, commercial or financial information furnished to or developed by the City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085 and disclosure of the information would cause a competitive disadvantage for the Klamath Cogeneration Project. This subsection does not apply to cost-of-service studies used in the development or review of generally applicable rate schedules.

[27] **(28)** Personally identifiable information about customers of a municipal electric utility or a people's utility district or the names, dates of birth, driver license numbers, telephone numbers, electronic mail addresses or Social Security numbers of customers who receive water, sewer or storm drain services from a public body as defined in ORS 174.109. The utility or district may release personally identifiable information about a customer, and a public body providing water, sewer or storm drain services may release the name, date of birth, driver license number, telephone number, electronic mail address or Social Security number of a customer, if the customer consents in writing or electronically, if the disclosure is necessary for the utility, district or other public body to render services to the customer, if the disclosure is required pursuant to a court order or if the disclosure is otherwise required by federal or state law. The utility, district or other public body may charge as appropriate for the costs of providing such information. The utility, district or other public body may make customer records available to third party credit agencies on a regular basis in connection with the establishment and management of customer accounts or in the event such accounts are delinquent.

[28] **(29)** A record of the street and number of an employee's address submitted to a special district to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

[29] **(30)** Sensitive business records, capital development plans or financial or commercial information of Oregon Corrections Enterprises that is not customarily provided to business competitors.

[30] **(31)** Documents, materials or other information submitted to the Director of the Department of Consumer and Business Services in confidence by a state, federal, foreign or international regulatory or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates or subsidiaries under ORS 646.380 to 646.398, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 722, 723, 725 or 726, the Bank Act or the Insurance Code when:

(a) The document, material or other information is received upon notice or with an understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information; and

(b) The director has obligated the Department of Consumer and Business Services not to disclose the document, material or other information.

[31] **(32)** A county elections security plan developed and filed under ORS 254.074.

[32] **(33)** Information about review or approval of programs relating to the security of:

(a) Generation, storage or conveyance of:

(A) Electricity;

(B) Gas in liquefied or gaseous form;

(C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

(D) Petroleum products;

(E) Sewage; or

(F) Water.

(b) Telecommunication systems, including cellular, wireless or radio systems.

(c) Data transmissions by whatever means provided.

[33] **(34)** The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court designates the information as confidential by rule under ORS 1.002.

[34] (35) If requested by a public safety officer as defined in ORS 181.610, the home address, home telephone number and electronic mail address of the public safety officer. This exemption does not apply to addresses and telephone numbers that are contained in county real property or lien records.

**SECTION 2.** ORS 181.854 is amended to read:

181.854. (1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 192.410.

(b) "Public safety employee" means a certified reserve officer, corrections officer, parole and probation officer, police officer or youth correction officer as those terms are defined in ORS 181.610.

(2) A public body may not disclose a photograph of a public safety employee of the public body without the written consent of the employee. This subsection does not apply to the use by the public body of a photograph of a public safety employee.

(3) A public body may not disclose information about a personnel investigation of a public safety employee of the public body if the investigation does not result in discipline of the employee.

(4) Subsection (3) of this section does not apply:

(a) When the public interest requires disclosure of the information.

(b) When the employee consents to disclosure in writing.

(c) When disclosure is necessary for an investigation by the public body, the Department of Public Safety Standards and Training or a citizen review body designated by the public body.

(d) When the public body determines that nondisclosure of the information would adversely affect the confidence of the public in the public body.

(5) If an investigation of a public safety employee of a public body results from a complaint, the public body may disclose to the complainant the disposition of the complaint and, to the extent the public body considers necessary to explain the action of the public body on the complaint, a written summary of information obtained in the investigation.

(6) A public body must notify a public safety employee of the public body if the public body receives a request for:

(a) A photograph of the employee.

(b) Information about the employee that is exempt from disclosure under ORS 192.502 (2), (3) or [34] (35).

(c) Information about the employee that is prohibited from disclosure by subsection (3) of this section.

**SECTION 3.** ORS 285C.145 is amended to read:

285C.145. (1) The Legislative Assembly finds that the standard procedure for authorization in an enterprise zone inappropriately deters development or redevelopment of qualified buildings on speculation for subsequent sale or lease to eligible business firms.

(2) Notwithstanding ORS 285C.140 (1), a new building or structure or an addition to or modification of an existing building or structure may qualify for the exemption allowed under ORS 285C.175 if the qualified property is leased or sold by an unrelated party to one or more authorized business firms after commencement of the construction, addition or modification but prior to use or occupancy of the qualified property.

(3) A business firm may not be considered authorized and is not qualified for the exemption allowed under ORS 285C.175 if the county assessor discovers prior to initially granting the exemption that the application for authorization was not submitted by the business firm in a timely manner in accordance with ORS 285C.140, except as allowed under subsection (2) of this section or ORS 285C.140 (11) and (12).

(4) Records, communications or information submitted to a public body by a business firm for purposes of ORS 285C.050 to 285C.250 that identify a particular qualified property, that reveal investment plans prior to authorization, that include the compensation the firm provides to firm employees, that are described in ORS 192.502 [(16)] (17) or that are submitted under ORS 285C.225 or 285C.235 are exempt from disclosure under ORS 192.410 to 192.505 and, as appropriate, shall be

shared among the county assessor, the zone sponsor, the Department of Revenue and the Economic and Community Development Department.

**SECTION 4.** ORS 456.623 is amended to read:

456.623. (1) The Housing and Community Services Department shall establish a registry system for persons requesting to be notified when department-proposed funding awards are contemplated for multifamily housing projects.

(2) Any person may register with the department to receive the notification described in subsection (1) of this section. A person may request notification for multifamily housing projects on a statewide basis or may limit the request to projects within specific areas of the state as identified by the department. The department may charge a reasonable fee for the registration.

(3) If the department proposes funding for a multifamily housing project, the department shall send written notice of the funding proposal to all persons who are at that time registered to receive the notice under this section. The department may send notice to persons the department believes may be interested but who are not registered to receive notice. The department shall not proceed with awarding funding for a multifamily housing project prior to the 30th day after the sending of notice to all persons entitled under this subsection to notice of the funding proposal.

(4) Notice sent under this section shall be limited to stating the deadline for filing comments and the type of housing, number of units, sponsor and location of the proposed project. The notice shall not include any information made exempt from public disclosure under ORS 192.502 [(23)] (24).

(5) During the period after the department proposes funding for a multifamily housing project and prior to the department proceeding with awarding the funding, any interested person may file comments regarding the project with the department.

(6) At the discretion of the Director of the Housing and Community Services Department, the department may conduct a market study or take other actions in response to comments filed in regard to multifamily housing projects proposed for funding.

(7) Subsections (3), (5) and (6) of this section apply only to multifamily housing project funding for construction, acquisition or rehabilitation loans, grants or tax program awards that otherwise do not include an independently prepared, project-specific market study as part of the department review, approval or underwriting process.

(8) As used in this section, "housing project" has the meaning given that term in ORS 456.065.

**SECTION 5.** ORS 656.702 is amended to read:

656.702. (1) The records of the State Accident Insurance Fund Corporation, excepting employer account records and claimant files, shall be open to public inspection. The accident experience records of the corporation shall be available to a bona fide rating organization to assist in making workers' compensation rates but any costs involved in making the records available shall be borne by the rating organization. Accident experience records of carrier-insured employers shall also be available on the same terms to assist in making such rates.

(2) Disclosure of workers' compensation claim records of the Department of Consumer and Business Services is governed by ORS 192.502 [(19)] (20).

**SECTION 6.** The amendments to ORS 192.502 by section 1 of this 2007 Act apply to records in the custody of the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board before, on or after the effective date of this 2007 Act.

**Passed by Senate March 20, 2007**

.....  
Secretary of Senate

.....  
President of Senate

**Passed by House May 10, 2007**

.....  
Speaker of House

**Received by Governor:**

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

**Approved:**

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

.....  
Governor

**Filed in Office of Secretary of State:**

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

.....  
Secretary of State