

Senate Bill 75

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 Secretary of State Bill Bradbury)

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**.

Establishes Secretary of State Operating Fund. Specifies sources and uses of moneys. Continuously appropriates moneys to Secretary of State.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to financial administration of the Office of Secretary of State; creating new provisions;
3 amending ORS 177.110, 177.120, 183.355, 194.020, 194.330, 194.700, 194.980 and 246.170; repealing
4 ORS 56.041 and 177.140; appropriating money; and declaring an emergency.

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

6 **SECTION 1. (1) The Secretary of State Operating Fund is established in the State**
7 **Treasury, separate and distinct from the General Fund. Interest earned by the Secretary of**
8 **State Operating Fund shall be credited to the fund. Moneys in the fund may be invested as**
9 **provided in ORS 293.701 to 293.820.**

10 (2) **Except as otherwise provided by law, all moneys received by the Secretary of State**
11 **from fees, charges, interest, fines, penalties and miscellaneous receipts shall be deposited**
12 **into the fund and are continuously appropriated to the Secretary of State to carry out the**
13 **duties, functions and powers of the secretary.**

14 (3) **Any unexpended and unobligated balance in the fund on July 1 of any year that is in**
15 **excess of the amount necessary to carry out the duties, functions and powers of the Secre-**
16 **tary of State for two months, as certified by the secretary, shall be transferred to the Gen-**
17 **eral Fund to be available for general governmental expenses.**

18 **SECTION 2. ORS 56.041 and 177.140 are repealed.**

19 **SECTION 3. ORS 177.110 is amended to read:**

20 177.110. The Secretary of State may provide for the distribution or sale of the Oregon Guide, a
21 publication edited and compiled under the auspices of the United States Government, relating to the
22 scenery, natural resources, history and general information of the State of Oregon, under the terms
23 and conditions deemed advisable by the Oregon State Board of Control. All moneys realized from
24 the sale and distribution of the Oregon Guide shall be placed to the credit of the [*General Fund*]
25 **Secretary of State Operating Fund established by section 1 of this 2007 Act.**

26 **SECTION 4. ORS 177.120 is amended to read:**

27 177.120. (1) The Secretary of State shall compile and issue biennially on or about February 15
28 of the same year as the regular sessions of the Legislative Assembly, an official directory of all state
29 officers, state institutions, boards and commissions and district and county officers of the state, to
30 be known as the Oregon Blue Book, and include therein the information regarding their functions

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 that the secretary considers most valuable to the people of the state, together with such other data
2 and information as usually is included in similar publications. The Secretary of State may cause the
3 Oregon Blue Book to be copyrighted.

4 (2) In order to fully carry out the intent and purposes of this section, the Secretary of State
5 may request of any state, district and county officials any information concerning their offices, in-
6 stitutions or departments that the secretary desires to include in the Oregon Blue Book. The offi-
7 cials shall furnish the information.

8 (3) The Secretary of State may distribute the Oregon Blue Book free of charge, under such
9 regulations as the secretary may establish, to schools and to federal, state, county and city officials
10 of the State of Oregon. The copies distributed under this subsection shall not be sold.

11 (4) The Secretary of State shall determine a reasonable price, and charge such price, for each
12 copy of the Oregon Blue Book distributed to the general public. The secretary may also establish
13 a discount price for dealers and shall set the price for resale by dealers in order to maintain a
14 uniform price. The sum collected shall be paid over to the State Treasurer and credited to the Sec-
15 retary of State [*Miscellaneous Receipts Account established under ORS 279A.290*] **Operating Fund**
16 **established by section 1 of this 2007 Act.**

17 **SECTION 5.** ORS 183.355 is amended to read:

18 183.355. (1)(a) Each agency shall file in the office of the Secretary of State a certified copy of
19 each rule adopted by it.

20 (b) Notwithstanding the provisions of paragraph (a) of this subsection, an agency adopting a rule
21 incorporating published standards by reference is not required to file a copy of those standards with
22 the Secretary of State if:

23 (A) The standards adopted are unusually voluminous and costly to reproduce; and

24 (B) The rule filed with the Secretary of State identifies the location of the standards so incor-
25 porated and the conditions of their availability to the public.

26 (2) Each rule is effective upon filing as required by subsection (1) of this section, except that:

27 (a) If a later effective date is required by statute or specified in the rule, the later date is the
28 effective date.

29 (b) A temporary rule becomes effective upon filing with the Secretary of State, or at a desig-
30 nated later date, only if the statement required by ORS 183.335 (5) is filed with the rule. The agency
31 shall take appropriate measures to make temporary rules known to the persons who may be affected
32 by them.

33 (3) When a rule is amended or repealed by an agency, the agency shall file a certified copy of
34 the amendment or notice of repeal with the Secretary of State who shall appropriately amend the
35 compilation required by ORS 183.360 (1).

36 (4) A certified copy of each executive order issued, prescribed or promulgated by the Governor
37 shall be filed in the office of the Secretary of State.

38 (5) No rule of which a certified copy is required to be filed shall be valid or effective against
39 any person or party until a certified copy is filed in accordance with this section. However, if an
40 agency, in disposing of a contested case, announces in its decision the adoption of a general policy
41 applicable to such case and subsequent cases of like nature the agency may rely upon such decision
42 in disposition of later cases.

43 (6) The Secretary of State shall, upon request, supply copies of rules, or orders or designated
44 parts of rules or orders, making and collecting therefor fees prescribed by ORS 177.130. All receipts
45 from the sale of copies shall be deposited in the State Treasury to the credit of the Secretary of

1 State [*Miscellaneous Receipts Account established under ORS 279A.290*] **Operating Fund estab-**
 2 **lished by section 1 of this 2007 Act.**

3 **SECTION 6.** ORS 194.020 is amended to read:

4 194.020. (1) To defray costs incurred by the Secretary of State to process the application made
 5 under ORS 194.014, each applicant for appointment as a notary public shall pay in advance to the
 6 Secretary of State a nonrefundable application fee not to exceed \$20.

7 (2) Any fee received by the Secretary of State under subsection (1) of this section shall be de-
 8 posited in the State Treasury and credited to the [*Operating Account under ORS 56.041*] **Secretary**
 9 **of State Operating Fund established by section 1 of this 2007 Act**, and is in lieu of any fee
 10 charged under ORS 177.130.

11 **SECTION 7.** ORS 194.330 is amended to read:

12 194.330. If, in the opinion of the Secretary of State, any alleged violation of ORS 194.005 to
 13 194.200, 194.505 to 194.595 or 194.990 is not being investigated or prosecuted, the Secretary of State
 14 may direct the Attorney General to take full charge of the investigation or prosecution. If so di-
 15 rected, the Attorney General shall take full charge of the investigation or prosecution and the pro-
 16 visions of ORS 180.070, 180.080 and 180.090 shall apply. Notwithstanding ORS 180.070 (3), expenses
 17 associated with the Attorney General's investigation or prosecution shall be paid from the [*Operat-*
 18 *ing Account under ORS 56.041*] **Secretary of State Operating Fund established by section 1 of**
 19 **this 2007 Act.**

20 **SECTION 8.** ORS 194.700 is amended to read:

21 194.700. All moneys received by the Secretary of State under this chapter shall be paid into the
 22 State Treasury and credited to the [*Operating Account under ORS 56.041*] **Secretary of State Op-**
 23 **erating Fund established by section 1 of this 2007 Act.**

24 **SECTION 9.** ORS 194.980 is amended to read:

25 194.980. (1) In addition to any other penalty provided by law, any notary public who is found to
 26 have performed an act of official misconduct may incur a civil penalty in the amount adopted under
 27 subsection (2) of this section, plus any costs of service or recording costs.

28 (2)(a) The Secretary of State shall by rule establish the amount of civil penalty that may be
 29 imposed for a particular act of official misconduct. A civil penalty shall not exceed \$1,500 per act
 30 of official misconduct.

31 (b) In imposing a penalty authorized by this section, the Secretary of State may consider the
 32 following factors:

33 (A) The past history of the person incurring a penalty in taking all feasible steps or procedures
 34 necessary or appropriate to correct any official misconduct.

35 (B) Any prior acts of official misconduct.

36 (C) The gravity and magnitude of the official misconduct.

37 (D) Whether the official misconduct was repeated or continuous.

38 (E) Whether the cause of the official misconduct was an unavoidable accident, negligence or an
 39 intentional act.

40 (F) Any relevant rule of the Secretary of State.

41 (G) The notary's cooperativeness and efforts to correct the act of official misconduct.

42 (c) The penalty imposed under this section may be paid upon those terms and conditions as the
 43 Secretary of State determines to be proper and consistent with the public benefit. Upon request of
 44 the notary incurring the penalty, the Secretary of State shall consider evidence of the economic and
 45 financial condition of the notary in determining whether a penalty shall be paid.

1 (3) Imposition or payment of a civil penalty under this section shall not be a bar to any action
2 or suit described in ORS 194.200, to a criminal proceeding or to a proceeding under ORS 194.168.

3 (4) A civil penalty shall not be imposed under this section until the notary public incurring the
4 penalty has been given notice in writing from the Secretary of State specifying the violation. The
5 notice is in addition to the notice required under ORS 183.745 and shall be served in the same
6 manner as the notice required under ORS 183.745.

7 (5)(a) After initial notice as provided in subsection (4) of this section, a civil penalty may be
8 imposed in the manner provided in ORS 183.745.

9 (b) The Secretary of State may delegate to a hearings officer appointed by the Secretary of
10 State, upon such conditions as deemed necessary, all or part of the authority to conduct hearings
11 required under ORS 183.745.

12 (6) Notwithstanding ORS 180.070 (3), expenses incurred by the Secretary of State or Attorney
13 General under subsections (1) to (5) of this section or under ORS 194.200 (2) shall be paid from the
14 [*Operating Account under ORS 56.041*] **Secretary of State Operating Fund established by section**
15 **1 of this 2007 Act.**

16 (7) All civil penalties and costs recovered under this section shall be paid into the [*Operating*
17 *Account under ORS 56.041*] **Secretary of State Operating Fund established by section 1 of this**
18 **2007 Act.**

19 **SECTION 10.** ORS 246.170 is amended to read:

20 246.170. All moneys received by the Secretary of State under ORS 246.160 shall be deposited into
21 the Secretary of State [*Miscellaneous Receipts Account established under ORS 279A.290*] **Operating**
22 **Fund established by section 1 of this 2007 Act.** All moneys received by the Secretary of State
23 under ORS 246.160 and deposited in the account are appropriated continuously to the Secretary of
24 State for the payment of expenses incurred in performing the functions described in ORS 246.160.

25 **SECTION 11.** **This 2007 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
27 **July 1, 2007.**

28