

Enrolled
House Bill 2146

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Oregon Department of Administrative Services)

CHAPTER

AN ACT

Relating to electronic connectivity provided by state government; creating new provisions; amending ORS 291.055; and declaring an emergency.

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

SECTION 1. As used in this section and sections 2 and 3 of this 2009 Act:

(1) "Convenience fee" means a fee for using an electronic government portal or governmental services available by means of an electronic government portal that the Oregon Department of Administrative Services charges or authorizes an electronic government portal provider to charge under section 3 (3) of this 2009 Act.

(2) "Electronic government portal" means an electronic information delivery system accessible by means of the Internet that a state agency designates officially as a means by which the state agency delivers information, products or services.

(3) "Electronic government portal provider" means a person that on behalf of a state agency provides facilities, goods or services necessary to develop, host, operate, maintain or otherwise implement an electronic government portal or provides facilities, goods or services that assist a state agency in designing, developing, hosting, operating, maintaining or otherwise implementing an electronic government portal.

(4) "State agency" means the executive department, as defined in ORS 174.112.

SECTION 2. (1) There is created the Electronic Government Portal Advisory Board consisting of 13 members appointed as follows:

(a) The President of the Senate shall appoint two nonvoting members from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint two nonvoting members from among members of the House of Representatives.

(c) The Governor shall appoint:

(A) Three members who represent state agencies;

(B) Two members who represent the public; and

(C) One member who attends a school, community college or university in this state.

(d) The Director of the Oregon Department of Administrative Services shall appoint two members as follows:

(A) The State Chief Information Officer; and

(B) A representative of the Oregon Department of Administrative Services.

(e) The State Treasurer shall appoint one member who represents the State Treasurer.

(2) Members of the Legislative Assembly who are members of the advisory board are nonvoting members and may act only in an advisory capacity.

(3) The advisory board shall:

(a) Advise the Oregon Department of Administrative Services concerning:

(A) The development of electronic government portals for the department and other state agencies;

(B) The amount, collection methods or other aspects of a convenience fee that the department or an electronic government portal provider collects;

(C) The priority of new governmental service applications that may be provided by means of an electronic government portal;

(D) Terms and conditions of contracts between state agencies and electronic government portal providers; and

(E) Rules necessary to implement electronic government portals.

(b) Monitor the layout, content and usability of electronic government portals and advise the department on ways to improve the delivery of government services by means of electronic government portals, the accountability of state agencies' use of electronic government portals to provide government services and user satisfaction with electronic government portals.

(c) Study, propose, develop or coordinate activities that:

(A) Consider the needs of residents of this state;

(B) Evaluate the performance and transparency of state agency delivery of government services; and

(C) Further the effectiveness of and user satisfaction with:

(i) Electronic government portals; and

(ii) State agencies' performance and accountability in the use of electronic government portals to provide government services.

(4) A majority of the members of the advisory board constitutes a quorum for the transaction of business.

(5) Official action by the advisory board requires the approval of a majority of the members of the advisory board.

(6) The advisory board shall elect one of the members of the advisory board to serve as chairperson.

(7) If a vacancy on the advisory board occurs for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The advisory board shall meet at times and places specified by the call of the chairperson or of a majority of the members of the advisory board.

(9) The advisory board may adopt rules necessary for the operation of the advisory board.

(10) The Oregon Department of Administrative Services shall provide staff support to the advisory board.

(11) Members of the advisory board who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses the members incur in the performance of the members' official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the advisory board shall be paid out of funds appropriated to the Oregon Department of Administrative Services for purposes of the advisory board.

(12) All state agencies shall assist the advisory board in the advisory board's performance of the advisory board's duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice as the members of the advisory board consider necessary to perform the duties of the advisory board.

SECTION 3. (1) The Oregon Department of Administrative Services, with the advice of the Electronic Government Portal Advisory Board, shall provide the ability for state agencies to offer government services by means of an electronic government portal. The electronic

government portal must be secure and must meet usability standards developed in cooperation with the advisory board.

(2) For the purposes of subsection (1) of this section, the department under the provisions of the Public Contracting Code may contract with an electronic government portal provider.

(3)(a) The department may charge members of the public a convenience fee or may authorize an electronic government portal provider to charge a convenience fee for an electronic government service if the advisory board recommends that the department charge or authorize a convenience fee for the electronic government service. The convenience fee must reflect the costs incurred in hosting, operating, maintaining or implementing the electronic government portal.

(b) The department shall cooperate with the advisory board to identify the electronic government portals or governmental services to which the convenience fee applies.

(4) The department may adopt rules to implement the provisions of this section.

(5) Not later than the beginning of each regular legislative session, the department shall prepare and submit to the Legislative Assembly a report in the manner provided in ORS 192.245 that summarizes the department's activities under the provisions of this section.

SECTION 4. ORS 291.055 is amended to read:

291.055. (1) Notwithstanding any other law that grants to a state agency the authority to establish fees, all new state agency fees or fee increases adopted after July 1 of any odd-numbered year:

(a) Are not effective for agencies in the executive department of government unless approved in writing by the Director of the Oregon Department of Administrative Services;

(b) Are not effective for agencies in the judicial department of government unless approved in writing by the Chief Justice of the Supreme Court;

(c) Are not effective for agencies in the legislative department of government unless approved in writing by the President of the Senate and the Speaker of the House of Representatives;

(d) Shall be reported by the state agency to the Oregon Department of Administrative Services within 10 days of their adoption; and

(e) Are rescinded on July 1 of the next following odd-numbered year, or on adjournment sine die of the regular session of the Legislative Assembly meeting in that year, whichever is later, unless otherwise authorized by enabling legislation setting forth the approved fees.

(2) This section does not apply to:

(a) Any tuition or fees charged by the State Board of Higher Education and state institutions of higher education.

(b) Taxes or other payments made or collected from employers for unemployment insurance required by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contributions and assessments calculated by cents per hour for workers' compensation coverage required by ORS 656.506.

(c) Fees or payments required for:

(A) Health care services provided by the Oregon Health and Science University, by the Oregon Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

(B) Assessments and premiums paid to the Oregon Medical Insurance Pool established by ORS 735.614 and 735.625.

(C) Copayments and premiums paid to the Oregon medical assistance program.

(d) Fees created or authorized by statute that have no established rate or amount but are calculated for each separate instance for each fee payer and are based on actual cost of services provided.

(e) State agency charges on employees for benefits and services.

(f) Any intergovernmental charges.

(g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the Oregon Forest Land Protection Fund fees established by ORS 477.760.

- (h) State Department of Energy assessments required by ORS 469.421 (8) and 469.681.
- (i) Any charges established by the State Parks and Recreation Director in accordance with ORS 565.080 (3).
- (j) Assessments on premiums charged by the Insurance Division of the Department of Consumer and Business Services pursuant to ORS 731.804 or fees charged by the Division of Finance and Corporate Securities of the Department of Consumer and Business Services to banks, trusts and credit unions pursuant to ORS 706.530 and 723.114.
- (k) Public Utility Commission operating assessments required by ORS 756.310 or charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.
- (L) Fees charged by the Housing and Community Services Department for intellectual property pursuant to ORS 456.562.
- (m) New or increased fees that are anticipated in the legislative budgeting process for an agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted budget for the agency.
- (n) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.
- (o) Convenience fees as defined in section 1 of this 2009 Act and established by the Oregon Department of Administrative Services under section 3 (3) of this 2009 Act and recommended by the Electronic Government Portal Advisory Board.**

(3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unexpected and temporary revenue surpluses may be increased to not more than their prior level without compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency specifies the following:

- (A) The reason for the fee decrease; and
 - (B) The conditions under which the fee will be increased to not more than its prior level.
- (b) Fees that are decreased for reasons other than those described in paragraph (a) of this subsection may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

SECTION 5. (1) Sections 1, 2 and 3 of this 2009 Act and the amendments to ORS 291.055 by section 4 of this 2009 Act become operative on January 1, 2010.

(2) The Director of the Oregon Department of Administrative Services may take any action before January 1, 2010, that is necessary to enable the director to exercise, on and after January 1, 2010, all the duties, functions and powers conferred on the director by sections 1, 2 and 3 of this 2009 Act and the amendments to ORS 291.055 by section 4 of this 2009 Act.

SECTION 6. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House June 23, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 27, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State