

# Senate Bill 597

Sponsored by Senator METSGER

## 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**.

Requires members of governing body of certain nongovernmental entities to file statements of economic interest with Oregon Government Ethics Commission.

Subjects records related to funds collected through public purpose charges and paid to nongovernmental entity to audit by Secretary of State.

## A BILL FOR AN ACT

1  
2 Relating to nongovernmental entities; creating new provisions; and amending ORS 244.020, 244.050  
3 and 244.060.

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

5 **SECTION 1.** ORS 244.050 is amended to read:

6 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon  
7 Government Ethics Commission a verified statement of economic interest as required under this  
8 chapter:

9 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the  
10 Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and mem-  
11 bers of the Legislative Assembly.

12 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem  
13 judicial officer who does not otherwise serve as a judicial officer.

14 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

15 (d) The Deputy Attorney General.

16 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the  
17 Secretary of the Senate and the Chief Clerk of the House of Representatives.

18 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and  
19 vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the  
20 State Board of Higher Education.

21 (g) The following state officers:

22 (A) Adjutant General.

23 (B) Director of Agriculture.

24 (C) Manager of State Accident Insurance Fund Corporation.

25 (D) Water Resources Director.

26 (E) Director of Department of Environmental Quality.

27 (F) Director of Oregon Department of Administrative Services.

28 (G) State Fish and Wildlife Director.

29 (H) State Forester.

30 (I) State Geologist.

**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 (J) Director of Human Services.
- 2 (K) Director of the Department of Consumer and Business Services.
- 3 (L) Director of the Department of State Lands.
- 4 (M) State Librarian.
- 5 (N) Administrator of Oregon Liquor Control Commission.
- 6 (O) Superintendent of State Police.
- 7 (P) Director of the Public Employees Retirement System.
- 8 (Q) Director of Department of Revenue.
- 9 (R) Director of Transportation.
- 10 (S) Public Utility Commissioner.
- 11 (T) Director of Veterans' Affairs.
- 12 (U) Executive Director of Oregon Government Ethics Commission.
- 13 (V) Director of the State Department of Energy.
- 14 (W) Director and each assistant director of the Oregon State Lottery.
- 15 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- 16 (i) Every elected city or county official.
- 17 (j) Every member of a city or county planning, zoning or development commission.
- 18 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
- 19 cipal administrator of the city or county.
- 20 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 21 (m) Every member of a governing body of a metropolitan service district and the executive of-
- 22 ficer thereof.
- 23 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 24 (o) The chief administrative officer and the financial officer of each common and union high
- 25 school district, education service district and community college district.
- 26 (p) Every member of the following state boards and commissions:
- 27 (A) Board of Geologic and Mineral Industries.
- 28 (B) Oregon Economic and Community Development Commission.
- 29 (C) State Board of Education.
- 30 (D) Environmental Quality Commission.
- 31 (E) Fish and Wildlife Commission of the State of Oregon.
- 32 (F) State Board of Forestry.
- 33 (G) Oregon Government Ethics Commission.
- 34 (H) Oregon Health Policy Commission.
- 35 (I) State Board of Higher Education.
- 36 (J) Oregon Investment Council.
- 37 (K) Land Conservation and Development Commission.
- 38 (L) Oregon Liquor Control Commission.
- 39 (M) Oregon Short Term Fund Board.
- 40 (N) State Marine Board.
- 41 (O) Mass transit district boards.
- 42 (P) Energy Facility Siting Council.
- 43 (Q) Board of Commissioners of the Port of Portland.
- 44 (R) Employment Relations Board.
- 45 (S) Public Employees Retirement Board.

- 1 (T) Oregon Racing Commission.  
 2 (U) Oregon Transportation Commission.  
 3 (V) Wage and Hour Commission.  
 4 (W) Water Resources Commission.  
 5 (X) Workers' Compensation Board.  
 6 (Y) Oregon Facilities Authority.  
 7 (Z) Oregon State Lottery Commission.  
 8 (AA) Pacific Northwest Electric Power and Conservation Planning Council.  
 9 (BB) Columbia River Gorge Commission.  
 10 (CC) Oregon Health and Science University Board of Directors.  
 11 (q) The following officers of the State Treasurer:  
 12 (A) Chief Deputy State Treasurer.  
 13 (B) Chief of staff for the office of the State Treasurer.  
 14 (C) Director of the Investment Division.  
 15 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725  
 16 or 777.915 to 777.953.  
 17 (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.  
 18 (t) **Every member of the governing body of a nongovernmental entity that receives funds**  
 19 **collected through public purpose charges as described in ORS 757.612.**  
 20 (2) By April 15 next after the date an appointment takes effect, every appointed public official  
 21 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-  
 22 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070  
 23 and 244.090.  
 24 (3) By April 15 next after the filing deadline for the primary election, each candidate for public  
 25 office described in subsection (1) of this section shall file with the commission a statement of eco-  
 26 nomic interest as required under ORS 244.060, 244.070 and 244.090.  
 27 (4) Within 30 days after the filing deadline for the general election, each candidate for public  
 28 office described in subsection (1) of this section who was not a candidate in the preceding primary  
 29 election, or who was nominated for public office described in subsection (1) of this section at the  
 30 preceding primary election by write-in votes, shall file with the commission a statement of economic  
 31 interest as required under ORS 244.060, 244.070 and 244.090.  
 32 (5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or  
 33 appointed public officials as of April 15 and to persons who are candidates for public office on April  
 34 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until  
 35 30 days after the filing deadline for the statewide general election.  
 36 (6) **By April 15 next after the date that a person becomes a member of a governing body**  
 37 **described in subsection (1)(t) of this section, the person shall file a statement of economic**  
 38 **interest as required under ORS 244.060.**  
 39 [(6)] (7) If a statement required to be filed under this section has not been received by the  
 40 commission within five days after the date the statement is due, the commission shall notify the  
 41 **person**, public official or candidate and give the **person**, public official or candidate not less than  
 42 15 days to comply with the requirements of this section. If the **person**, public official or candidate  
 43 fails to comply by the date set by the commission, the commission may impose a civil penalty as  
 44 provided in ORS 244.350.  
 45 **SECTION 2.** ORS 244.060 is amended to read:

1 244.060. (1) The statement of economic interest filed under ORS 244.050 shall be on a form pre-  
2 scribed by the Oregon Government Ethics Commission.

3 (2) *[The]* A public official or candidate for public office filing the statement **under ORS 244.050**  
4 shall supply the information required by this section and ORS 244.090, as follows:

5 [(1)] (a) The names of all positions as officer of a business and business directorships held by  
6 the person or a member of the household of the person during the preceding calendar year, and the  
7 principal address and a brief description of each business.

8 [(2)] (b) All names under which the person and members of the household of the person do  
9 business and the principal address and a brief description of each business.

10 [(3)] (c) The names, principal addresses and brief descriptions of the five most significant  
11 sources of income received at any time during the preceding calendar year by the person and by  
12 each member of the household of the person, a description of the type of income and the name of  
13 the person receiving the income.

14 [(4)(a)] (d)(A) A list of all real property in which the public official or candidate for public office  
15 or a member of the household of the public official or candidate has or has had any personal, ben-  
16 efiticial ownership interest during the preceding calendar year, any options to purchase or sell real  
17 property, including a land sales contract, and any other rights of any kind in real property located  
18 within the geographic boundaries of the governmental agency of which the public official holds, or  
19 the candidate if elected would hold, any official position or over which the public official exercises,  
20 or the candidate if elected would exercise, any authority.

21 [(b)] (B) This *[subsection]* **paragraph** does not require the listing of the principal residence of  
22 the public official or candidate.

23 [(5)] (e) The name of each member of the household of the person who is 18 years of age or  
24 older.

25 [(6)] (f) The name of each relative of the person who is 18 years of age or older and not a  
26 member of the household of the person.

27 (3) **A person who is not a public official or candidate for public office and who is required**  
28 **to file the statement under ORS 244.050 shall supply the information required by this section**  
29 **as follows:**

30 (a) **The names of all positions as officer of a business and business directorships held by**  
31 **the person or a member of the household of the person during the preceding calendar year,**  
32 **and the principal address and a brief description of each business.**

33 (b) **All names under which the person and members of the household of the person do**  
34 **business and the principal address and a brief description of each business.**

35 (c) **The names, principal addresses and brief descriptions of the five most significant**  
36 **sources of income received at any time during the preceding calendar year by the person and**  
37 **by each member of the household of the person, a description of the type of income and the**  
38 **name of the person receiving the income.**

39 (d) **The name of each member of the household of the person who is 18 years of age or**  
40 **older.**

41 (e) **The name of each relative of the person who is 18 years of age or older and not a**  
42 **member of the household of the person.**

43 **SECTION 3.** ORS 244.020 is amended to read:

44 244.020. As used in this chapter, unless the context requires otherwise:

45 (1) "Actual conflict of interest" means any action or any decision or recommendation by a per-

1 son acting in a capacity as a public official, the effect of which would be to the private pecuniary  
2 benefit or detriment of the person or the person's relative or any business with which the person  
3 or a relative of the person is associated unless the pecuniary benefit or detriment arises out of cir-  
4 cumstances described in subsection (11) of this section.

5 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,  
6 association, organization, self-employed individual and any other legal entity operated for economic  
7 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section  
8 501(c) of the Internal Revenue Code with which a public official or a relative of the public official  
9 is associated only as a member or board director or in a nonremunerative capacity.

10 (3) "Business with which the person is associated" means:

11 (a) Any private business or closely held corporation of which the person or the person's relative  
12 is a director, officer, owner or employee, or agent or any private business or closely held corpo-  
13 ration in which the person or the person's relative owns or has owned stock, another form of equity  
14 interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding cal-  
15 endar year;

16 (b) Any publicly held corporation in which the person or the person's relative owns or has  
17 owned \$100,000 or more in stock or another form of equity interest, stock options or debt instru-  
18 ments at any point in the preceding calendar year;

19 (c) Any publicly held corporation of which the person or the person's relative is a director or  
20 officer; or

21 (d) For public officials required to file a statement of economic interest under ORS 244.050, any  
22 business listed as a source of income as required under ORS 244.060 [(3)] (2)(c).

23 (4) "Development commission" means any entity which has the authority to purchase, develop,  
24 improve or lease land or the authority to operate or direct the use of land. This authority must be  
25 more than ministerial.

26 (5)(a) "Gift" means something of economic value given to a public official or a relative or  
27 member of the household of the public official:

28 (A) Without valuable consideration of equivalent value, including the full or partial forgiveness  
29 of indebtedness, which is not extended to others who are not public officials or the relatives or  
30 members of the household of public officials on the same terms and conditions; or

31 (B) For valuable consideration less than that required from others who are not public officials.

32 (b) "Gift" does not mean:

33 (A) Contributions as defined in ORS 260.005.

34 (B) Gifts from relatives or members of the household of the public official.

35 (C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item,  
36 wall memento or similar item, with a resale value reasonably expected to be less than \$25.

37 (D) Informational material, publications or subscriptions related to the recipient's performance  
38 of official duties.

39 (E) Admission provided to or the cost of food or beverage consumed by a public official, or a  
40 member of the household or staff of the public official when accompanying the public official, at a  
41 reception, meal or meeting held by an organization before whom the public official appears to speak  
42 or to answer questions as part of a scheduled program.

43 (F) Reasonable expenses paid by any unit of the federal government, a state or local government,  
44 a Native American tribe that is recognized by federal law or formally acknowledged by a state, a  
45 membership organization to which a public body as defined in ORS 174.109 pays membership dues

1 or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue  
2 Code and that receives less than five percent of its funding from for-profit organizations or entities,  
3 for attendance at a convention, fact-finding mission or trip, or other meeting if the public official is  
4 scheduled to deliver a speech, make a presentation, participate on a panel or represent state gov-  
5 ernment as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special gov-  
6 ernment body as defined in ORS 174.117.

7 (G) Contributions made to a legal expense trust fund established under ORS 244.209 for the  
8 benefit of the public official.

9 (H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the  
10 public official accompanying the public official, a member of the household of the public official ac-  
11 companying the public official or a staff member of the public official accompanying the public offi-  
12 cial, when the public official is representing state government as defined in ORS 174.111, a local  
13 government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

14 (i) On an officially sanctioned trade-promotion or fact-finding mission; or

15 (ii) In officially designated negotiations, or economic development activities, where receipt of the  
16 expenses is approved in advance.

17 (I) Food or beverage consumed by a public official acting in an official capacity:

18 (i) In association with the review, approval, execution of documents or closing of a borrowing,  
19 investment or other financial transaction, including any business agreement between state govern-  
20 ment as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special govern-  
21 ment body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

22 (ii) While engaged in due diligence research or presentations by the office of the State Treasurer  
23 related to an existing or proposed investment or borrowing; or

24 (iii) While engaged in a meeting of an advisory, governance or policy-making body of a corpo-  
25 ration, partnership or other entity in which the office of the State Treasurer has invested moneys.

26 (J) Waiver or discount of registration expenses or materials provided to a public official at a  
27 continuing education event that the public official may attend to satisfy a professional licensing  
28 requirement.

29 (K) Expenses provided by one public official to another public official for travel inside this state  
30 to or from an event that bears a relationship to the receiving public official's office and at which  
31 the official participates in an official capacity.

32 (L) Food or beverage consumed by a public official at a reception where the food or beverage  
33 is provided as an incidental part of the reception and no cost is placed on the food or beverage.

34 (M) Entertainment provided to a public official or a relative or member of the household of the  
35 public official that is incidental to the main purpose of another event.

36 (N) Entertainment provided to a public official or a relative or member of the household of the  
37 public official where the public official is acting in an official capacity while representing state  
38 government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special  
39 government body as defined in ORS 174.117 for a ceremonial purpose.

40 (6) "Honorarium" means a payment or something of economic value given to a public official in  
41 exchange for services upon which custom or propriety prevents the setting of a price. Services in-  
42 clude, but are not limited to, speeches or other services rendered in connection with an event.

43 (7) "Income" means income of any nature derived from any source, including, but not limited to,  
44 any salary, wage, advance, payment, dividend, interest, rent, honorarium, return of capital,  
45 forgiveness of indebtedness, or anything of economic value.

1 (8) “Legislative or administrative interest” means an economic interest, distinct from that of the  
 2 general public, in one or more bills, resolutions, regulations, proposals or other matters subject to  
 3 the action or vote of a person acting in the capacity of a public official.

4 (9) “Member of the household” means any person who resides with the public official.

5 (10) “Planning commission” means a county planning commission created under ORS chapter 215  
 6 or a city planning commission created under ORS chapter 227.

7 (11) “Potential conflict of interest” means any action or any decision or recommendation by a  
 8 person acting in a capacity as a public official, the effect of which could be to the private pecuniary  
 9 benefit or detriment of the person or the person’s relative, or a business with which the person or  
 10 the person’s relative is associated, unless the pecuniary benefit or detriment arises out of the fol-  
 11 lowing:

12 (a) An interest or membership in a particular business, industry, occupation or other class re-  
 13 quired by law as a prerequisite to the holding by the person of the office or position.

14 (b) Any action in the person’s official capacity which would affect to the same degree a class  
 15 consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or  
 16 other group including one of which or in which the person, or the person’s relative or business with  
 17 which the person or the person’s relative is associated, is a member or is engaged.

18 (c) Membership in or membership on the board of directors of a nonprofit corporation that is  
 19 tax-exempt under section 501(c) of the Internal Revenue Code.

20 (12) “Public office” has the meaning given that term in ORS 260.005.

21 (13) “Public official” means any person who, when an alleged violation of this chapter occurs,  
 22 is serving the State of Oregon or any of its political subdivisions or any other public body as defined  
 23 in ORS 174.109 as an elected official, appointed official, employee, agent or otherwise, irrespective  
 24 of whether the person is compensated for the services.

25 (14) “Relative” means:

26 (a) The spouse of the public official;

27 (b) The domestic partner of the public official;

28 (c) Any children of the public official or of the public official’s spouse;

29 (d) Siblings, spouses of siblings or parents of the public official or of the public official’s spouse;

30 (e) Any individual for whom the public official has a legal support obligation; or

31 (f) Any individual for whom the public official provides benefits arising from the public official’s  
 32 public employment or from whom the public official receives benefits arising from that individual’s  
 33 employment.

34 (15) “Statement of economic interest” means a statement as described by ORS 244.060, 244.070  
 35 or 244.100.

36 (16) “Zoning commission” means an entity to which is delegated at least some of the discre-  
 37 tionary authority of a planning commission or governing body relating to zoning and land use mat-  
 38 ters.

39 **SECTION 4. The records related to any funds collected through public purpose charges**  
 40 **and paid to a nongovernmental entity as described in ORS 757.612 shall be subject to audit**  
 41 **by the Secretary of State.**

42 **SECTION 5. The amendments to ORS 244.050 and 244.060 by sections 1 and 2 of this 2009**  
 43 **Act apply to statements of economic interest required to be filed with the Oregon Govern-**  
 44 **ment Ethics Commission for reporting periods beginning on or after January 1, 2010.**