

# Senate Bill 773

Sponsored by COMMITTEE ON RULES

## 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**.

Modifies limits on who may serve as trustee of legal expense trust fund. Allows public official to appoint trustee or serve as own trustee of fund. Removes provision prohibiting public official from soliciting contributions to trust fund.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to legal expense trust funds; creating new provisions; amending ORS 244.205, 244.209 and  
3 244.211; and declaring an emergency.

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

5 **SECTION 1.** ORS 244.205 is amended to read:

6 244.205. (1) Subject to the authorization of the Oregon Government Ethics Commission as de-  
7 scribed in ORS 244.209, a public official may establish a legal expense trust fund if the public official  
8 incurs or reasonably expects to incur legal expenses described in subsection (2) of this section.

9 (2) Proceeds from the trust fund may be used by the public official to defray legal expenses in-  
10 curred by the public official in any civil, criminal or other legal proceeding or investigation that  
11 relates to or arises from the course and scope of duties of the person as a public official. The legal  
12 expenses must be incurred in connection with:

13 (a) The issuance of a court's stalking protective order under ORS 30.866 or 163.738;

14 (b) The issuance of a citation under ORS 163.735;

15 (c) A criminal prosecution under ORS 163.732;

16 (d) A civil action under ORS 30.866; or

17 (e) Defending the public official in a proceeding or investigation brought or maintained by a  
18 public body as defined in ORS 174.109.

19 (3) Except as provided in subsection (2) of this section, a public official may not use proceeds  
20 from the trust fund for any personal use.

21 (4) A public official may not establish or maintain more than one legal expense trust fund at any  
22 one time.

23 *[(5) A public official who establishes a legal expense trust fund may not solicit, receive or handle*  
24 *any contributions to the fund.]*

25 *[(6)]* **(5)** The provisions of ORS chapter 130 do not apply to a trust fund established under ORS  
26 244.205 to 244.221.

27 **SECTION 2.** ORS 244.211 is amended to read:

28 244.211. (1) The trustee of a legal expense trust fund is responsible for:

29 (a) The receipt and deposit of contributions to the trust fund;

30 (b) The authorization of expenditures and disbursements from the trust fund;

**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 (c) The filing of quarterly statements required under ORS 244.217; and

2 (d) The performance of other tasks incident to the administration of the trust fund.

3 [(2) *The trustee may not:*]

4 [(a) *Be a public official who serves the same public body as the public official who establishes the*  
5 *trust fund;*]

6 [(b) *Be a relative of the public official who establishes the trust fund;*]

7 [(c) *Be an attorney for the public official in the legal proceeding for which the trust fund is es-*  
8 *tablished, or a member, partner, associate or employee of the firm employing the attorney; or]*

9 [(d) *Have a business or employment relationship with the public official who establishes the trust*  
10 *fund.*]

11 **(2) The public official who establishes the trust fund may either serve as the public offi-**  
12 **cial's own trustee or may appoint and certify to the Oregon Government Ethics Commission**  
13 **the name and address of a trustee. Any default or violation by the trustee shall be conclu-**  
14 **sively considered a default or violation by the public official.**

15 **SECTION 3.** ORS 244.209 is amended to read:

16 244.209. (1) A public official may apply to establish a legal expense trust fund by filing an ap-  
17 plication with the Oregon Government Ethics Commission. The application must contain:

18 (a) A copy of an executed trust agreement described in subsection (2) of this section;

19 (b) A sworn affidavit described in subsection (3) of this section signed by the public official; and

20 (c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

21 (2) The trust agreement must contain the following:

22 (a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and

23 (b) A designation of a trustee [*who meets the requirements of*] **under** ORS 244.211.

24 (3) The affidavit of the public official must state:

25 (a) The nature of the legal proceeding that requires establishment of the trust fund;

26 (b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and

27 (c) That the public official is responsible for the proper administration of the trust fund[, *even*  
28 *though a trustee of the fund has been designated*].

29 (4) The affidavit of the trustee must state that the trustee:

30 (a) Has read and understands ORS 244.205 to 244.221; and

31 (b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

32 (5) Upon receiving an application under this section, the commission shall review the trust  
33 agreement, the affidavits and any supporting documents or instruments filed to determine whether  
34 the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that  
35 the application meets the requirements of ORS 244.205 to 244.221, the commission shall grant writ-  
36 ten authorization to the public official to establish the trust fund.

37 (6) The commission shall review the quarterly statements required under ORS 244.217 and shall  
38 monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to  
39 244.221.

40 (7) Unless subject to the attorney-client privilege, all documents required to be filed relating to  
41 the creation and administration of a trust fund are public records subject to disclosure as provided  
42 in ORS 192.410 to 192.505.

43 (8) A public official may not establish a legal expense trust fund without receiving prior written  
44 authorization of the commission as described in this section.

45 (9) A public official may file an amendment to a trust agreement approved as part of a trust fund

1 under this section. The commission shall approve the amendment if the commission determines the  
2 amendment meets the requirements of ORS 244.205 to 244.221.

3 **SECTION 4. The amendments to ORS 244.205, 244.209 and 244.211 by sections 1, 2 and 3**  
4 **of this 2009 Act apply to legal expense trust funds established on or after the effective date**  
5 **of this 2009 Act.**

6 **SECTION 5. This 2009 Act being necessary for the immediate preservation of the public**  
7 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
8 **on its passage.**

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