

Enrolled House Bill 2246

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care for Secretary of State Kate Brown)

CHAPTER

AN ACT

Relating to government waste hotlines; creating new provisions; and amending ORS 177.180.

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

SECTION 1. ORS 177.180 is amended to read:

177.180. (1) The Secretary of State shall designate one person employed by the Division of Audits of the Office of the Secretary of State to be responsible for reports of waste, inefficiency or abuse received through the Government Waste Hotline or received by the secretary through any other method. The person designated under this section shall log all reports received.

(2) *[Notwithstanding any other provision of law]* **Except as provided in subsection (3) or (5) of this section**, the identity of any person **calling the Government Waste Hotline or otherwise making a report under ORS 177.170 is confidential. A person making a report under ORS 177.170 may waive the confidentiality otherwise granted under this subsection.** *[A report of waste, inefficiency or abuse received under ORS 177.170 and any resulting investigation are confidential unless the Secretary of State finds that waste, inefficiency or abuse has occurred and reports these findings as provided under subsection (4) of this section. If the Secretary of State finds that waste, inefficiency or abuse has occurred, a report of waste, inefficiency or abuse and any resulting investigation are confidential until the investigation described in subsection (3) of this section is complete.]*

(3) The secretary shall conduct an initial investigation of each report of waste, inefficiency or abuse made under ORS 177.170. Following the initial investigation, the secretary shall determine which reports shall be investigated further and assign the investigation to audit staff qualified to conduct waste, inefficiency and abuse investigations. The secretary may audit any state agency if it appears that officers or employees of the agency, or persons under contract with the agency, are engaging in activities that constitute waste, inefficiency or abuse. Notwithstanding subsection (2) of this section:

(a) If the secretary determines during the investigation that a violation of any provision of ORS chapter 244 may be occurring or may have occurred, the secretary shall notify the Oregon Government Ethics Commission of the potential violation; and

(b) If the secretary determines during the investigation that fraud or other criminal activity may be occurring or may have occurred, the secretary shall notify the appropriate law enforcement agency of the potential fraud or other criminal activity.

(4) Except as provided in subsection (3) or (5) of this section, an investigation of a report of waste, inefficiency or abuse received under ORS 177.170 is confidential unless the secretary finds that waste, inefficiency or abuse has occurred and reports these determinations as provided under subsection (6) of this section or determines not to investigate following

an initial investigation under subsection (3) of this section. If the secretary finds that waste, inefficiency or abuse has occurred, the investigation and any determinations made are confidential until the investigation described in subsection (3) of this section is complete. A determination by the secretary not to investigate following an initial investigation constitutes completion of the investigation.

(5) Notwithstanding subsections (2) and (4) of this section, the secretary may convey the contents of a report of waste, inefficiency or abuse made under ORS 177.170 to a public body, as defined in ORS 174.109, unless the person making the report under ORS 177.170 objects to disclosure of the report to the public body.

~~[(4)]~~ (6) Subject to the confidentiality requirements of subsection (2) of this section, upon completion of an investigation under this section:

(a) The secretary shall determine in writing whether officers or employees of a state agency, or persons under contract with a state agency, are engaging in activities that constitute waste, inefficiency or abuse. The written determination may include other information about the nature of the investigation or the secretary's determination.

(b) If the secretary finds that waste, inefficiency or abuse has occurred, upon request of the person who made the report under ORS 177.170, the secretary shall provide the person with a copy of the determination and any other information included by the secretary.

(c) If the secretary determines that officers or employees of another state agency or public body, or persons under contract with a state agency or public body, are involved in activities that constitute waste, inefficiency or abuse, the secretary shall notify the state agency or public body of the determination and deliver a copy of the secretary's findings to the agency or body.

~~[(5)]~~ (7) A written determination prepared by the secretary under this section is a public record. **Following the completion of an investigation, or a determination not to investigate beyond an initial investigation, all documents, information or other records relating to the investigation are disclosable public records under ORS 192.410 to 192.505 unless an exemption from disclosure set forth in a provision of law other than this section applies to the records, except that the identity of the person making the report under ORS 177.170 shall remain confidential.**

~~[(6)]~~ (8) The secretary shall prepare an annual report and submit it to each regular session of the Legislative Assembly and to appropriate interim committees of the Legislative Assembly. The report shall describe the number, nature and resolution of reports made under ORS 177.170 and shall identify savings resulting from improved efficiencies or the elimination of waste or abuse resulting from reports received and investigations conducted under this section and ORS 177.170. The report shall also list the number and nature of any positive reports received relating to state agencies, state employees or persons under contract with state agencies.

SECTION 2. (1) A local government body or local service district may establish a telephone line that is available to public employees and members of the public for the purpose of reporting waste, inefficiency or abuse by the local government body or local service district, employees of the local government body or local service district, or contractors of the local government body or local service district.

(2) If a local government body or local service district chooses to establish a local government waste hotline under subsection (1) of this section:

(a) The local government body or local service district shall also accept reports of waste, inefficiency or abuse by the local government body or local service district, employees of the local government body or local service district, or contractors of the local government body or local service district by any other method; and

(b) The local government body or local service district shall prepare written or electronic notices that explain the purpose of the local government waste hotline and that prominently display the telephone number for the hotline. The notice shall be posted in local government body or local service district offices.

(3) As used in this section and section 3 of this 2011 Act, “local government body” and “local service district” have the meanings given those terms in ORS 174.116.

SECTION 3. (1) If a local government body or local service district chooses to establish a local government waste hotline under section 2 of this 2011 Act, the local government body or local service district shall establish written policies and procedures for logging all reports of waste, inefficiency or abuse received through the hotline or received through any other method.

(2) Except as provided in subsection (5) or (6) of this section, the identity of any person calling the hotline or otherwise making a report under section 2 of this 2011 Act is confidential. A person making a report under section 2 of this 2011 Act may waive the confidentiality otherwise granted under this subsection.

(3) The local government body or local service district shall conduct an initial investigation of each report of waste, inefficiency or abuse made under section 2 of this 2011 Act, following the written policies and procedures established under subsection (1) of this section. The local government body or local service district may audit any agency of the local government body or local service district if it appears that officers or employees of the agency, or persons under contract with the agency, are engaging in activities that constitute waste, inefficiency or abuse.

(4) An investigation of a report of waste, inefficiency or abuse received under section 2 of this 2011 Act is confidential unless the local government body or local service district finds that waste, inefficiency or abuse has occurred and reports these determinations as provided under subsection (5) or (6) of this section. If the local government body or local service district finds that waste, inefficiency or abuse has occurred, the investigation and any determinations made are confidential until the investigation described in subsection (3) of this section is complete.

(5) Notwithstanding subsections (2) and (4) of this section:

(a) If the local government body or local service district determines during the investigation that a violation of any provision of ORS chapter 244 may be occurring or may have occurred, the local government body or local service district shall notify the Oregon Government Ethics Commission of the potential violation; and

(b) If the local government body or local service district determines during the investigation that fraud or other criminal activity may be occurring or may have occurred, the local government body or local service district shall notify the appropriate law enforcement agency of the potential fraud or other criminal activity.

(6) Subject to the confidentiality requirements of subsections (2) and (4) of this section, upon completion of an investigation under this section:

(a) The local government body or local service district shall determine in writing whether officers or employees of the local government body or local service district, or persons under contract with the local government body or local service district, are engaging in activities that constitute waste, inefficiency or abuse. The written determination may include other information about the nature of the investigation or the local government body’s or local service district’s determination.

(b) If the local government body or local service district finds that waste, inefficiency or abuse has occurred, upon request of the person who made the report under section 2 of this 2011 Act, the local government body or local service district shall provide the person with a copy of the determination and any other information included by the local government body or local service district.

(c) If the local government body or local service district determines that officers or employees of the local government body or local service district, or persons under contract with the local government body or local service district, are involved in activities that constitute waste, inefficiency or abuse, the local government body or local service district shall notify the governing body of the local government body or local service district of the determi-

nation and deliver a copy of the local government body's or local service district's findings to the governing body.

(7) A written determination prepared under this section is a public record. Following the completion of an investigation, all documents, information or other records relating to the investigation are disclosable public records under ORS 192.410 to 192.505 unless an exemption from disclosure set forth in a provision of law other than this section applies to the records, except that the identity of the person making the report under section 2 of this 2011 Act shall remain confidential.

Passed by House March 17, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 19, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State