

# Enrolled House Bill 2381

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

CHAPTER .....

AN ACT

Relating to health professional regulatory boards that are semi-independent state agencies; amending ORS 182.460, 182.462, 182.470, 671.655, and 687.250.

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

**SECTION 1.** ORS 182.460 is amended to read:

182.460. (1) Except as **provided in subsections (2) and (3) of this section and as** otherwise provided by law, the provisions of ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to a board. A board is subject to all other statutes governing a state agency that do not conflict with ORS 182.456 to 182.472, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183, and a board's employees are included within the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, the following provisions [*shall*] apply to a board:

- (a) ORS 240.309 (1) to (6) and 240.321;
- (b) ORS 279A.250 to 279A.290;
- (c) ORS 282.210 to 282.230; and
- (d) ORS 293.240.

**(3) Notwithstanding subsection (1) of this section, ORS chapter 240 applies to the Oregon Board of Optometry, the State Board of Massage Therapists and the Physical Therapist Licensing Board.**

[3] (4) In carrying out the duties, functions and powers of a board, the board may contract with any state agency for the performance of duties, functions and powers as the board considers appropriate. A state agency may not charge a board an amount that exceeds the actual cost of those services. ORS 182.456 to 182.472 do not require an agency to provide services to a board other than pursuant to a voluntary interagency agreement or contract.

[4] (5) A board shall adopt personnel policies and contracting and purchasing procedures. The Oregon Department of Administrative Services shall review those policies and procedures for compliance with applicable state and federal laws and collective bargaining contracts.

[5] (6) Except as otherwise provided by law, directors and employees of a board are eligible to receive the same benefits as state employees and are entitled to retain their State of Oregon hire dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer of all accumulated state agency leaves.

**SECTION 2.** ORS 182.462 is amended to read:

182.462. (1)(a) A board shall adopt budgets on a biennial basis using classifications of expenditures and revenues required by ORS 291.206 (1), but the budget [*shall not be*] **is not** subject to review and approval by the Legislative Assembly or to future modification by the Emergency Board or the Legislative Assembly.

[(2)] (b) The budget referred to in [*subsection (1) of this section*] **paragraph (a) of this subsection** shall be adopted in accordance with applicable provisions of ORS chapter 183. Except as provided in this [*subsection*] **paragraph**, a board shall adopt or modify a budget only after a public hearing thereon. A board must give notice of the hearing to all holders of licenses issued by the board.

[(3)] (c) A board shall follow generally accepted accounting principles and keep financial and statistical information as necessary to completely and accurately disclose the financial condition and financial operations of the board as may be required by the Secretary of State.

[(4)] (d) A board shall prepare an annual financial statement of board revenues and expenses and shall make the statement available for public review. The board shall provide a copy of the statement to the Oregon Department of Administrative Services not later than the 90th day after the end of the state fiscal year.

[(5)] (e) A board may, by rule, elect to donate all or part of the revenue derived by the board from civil penalties to the General Fund of the State Treasury.

**(2) In addition to the reports required by ORS 182.472, the Oregon Board of Optometry, the State Board of Massage Therapists and the Physical Therapist Licensing Board shall, on or before February 1 of each odd-numbered year, present the budget adopted by the board under this section to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer.**

**SECTION 3.** ORS 182.470 is amended to read:

182.470. (1) Notwithstanding ORS 670.335, except where otherwise specifically provided by statute pursuant to ORS 182.462 [(5)] (1)(e), all moneys collected or received by a board, placed to the credit of that board and remaining unexpended and unobligated on the date that the board is established as a semi-independent state agency, and all moneys collected or received by a board after the date that the board is established as a semi-independent state agency, must be deposited into an account established by that board in a depository insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the chairperson, president or administrator of a board shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. All moneys in the account are continuously appropriated to the board making the deposit for the purpose of carrying out the functions of the board.

(2) Subject to the approval of the chairperson, president or administrator, a board may invest moneys collected or received by the board. Investments made by a board are:

- (a) Limited to investments described in ORS 294.035;
- (b) Subject to the investment maturity date limitations described in ORS 294.135; and
- (c) Subject to the conduct prohibitions listed in ORS 294.145.

(3) Interest earned from any accounts invested under subsection (2) of this section shall be made available to a board in a manner consistent with the board's annual budget.

(4) Subject to the approval of the chairperson, president or administrator, all necessary board expenses shall be paid from the moneys collected or earned by a board.

(5) As used in this section, "depository" has the meaning given that term in ORS 295.001.

**SECTION 4.** ORS 687.250 is amended to read:

687.250. (1) The State Board of Massage Therapists shall report to the proper district attorney all cases that in the judgment of the board warrant criminal prosecution under ORS 687.991.

(2) The board may, in its own name, assess a civil penalty against any licensed or unlicensed person violating a provision of ORS 687.011 to 687.250, 687.895 and 687.991. The board may assess the civil penalty instead of or in addition to disciplinary action under ORS 687.081, an injunction

issued under ORS 687.021 or criminal prosecution by the district attorney under this section. The amount of the civil penalty may not exceed \$1,000 for any single violation. Except as the board may otherwise provide under ORS 182.462 [(5)] (1)(e), moneys collected through the assessment of civil penalties by the board under this subsection or ORS 687.081 shall be deposited into the account created by the board pursuant to ORS 182.470 and are continuously appropriated to the board for carrying out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991.

**SECTION 5.** ORS 671.655 is amended to read:

671.655. Except as the State Landscape Contractors Board may otherwise provide under ORS 182.462 [(5)] (1)(e), the board shall deposit moneys received as fees or civil penalties into the account created by the board pursuant to ORS 182.470.

**Passed by House March 9, 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 10, 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