

House Bill 3292

Sponsored by Representative GELSER; Representatives CLEM, MATTHEWS

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**.

Creates program in Oregon Business Development Department to catalog and market university intellectual property to promote economic development in state.

A BILL FOR AN ACT

1
2 Relating to marketing of university intellectual property; creating new provisions; and amending
3 ORS 351.230, 351.240 and 353.050.

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

5 **SECTION 1. (1) The Oregon Business Development Department shall create a program,**
6 **in cooperation with the Oregon University System and Oregon Health and Science Univer-**
7 **sity, to catalog and market intellectual property developed within the Oregon University**
8 **System and Oregon Health and Science University.**

9 **(2) Commercialization of intellectual property under the program shall be dependent upon**
10 **the purchaser's ability to locate any research, business or other employment based upon the**
11 **intellectual property in this state.**

12 **SECTION 2.** ORS 351.230 is amended to read:

13 351.230. **In conjunction with the Oregon Business Development Department as provided**
14 **in section 1 of this 2011 Act,** the State Board of Higher Education may manage, develop or dispose
15 of by assignment, sale, lease, license or other action deemed advisable by the board, property ac-
16 quired under ORS 351.220, and may contract with any person or agency, board, commission or de-
17 partment of this or any other state or with the federal government regarding the management,
18 development or disposition thereof. The board may make gratuitous assignments of such property
19 to any trust or fund, the sole beneficiary of which is the State Board of Higher Education or any
20 of the institutions or activities under its control, subject to the share, if any, agreed to be paid to
21 the assignor. The board may reassign such property to the inventor, author or discoverer.

22 **SECTION 3.** ORS 351.240 is amended to read:

23 351.240. **(1) In conjunction with the Oregon Business Development Department as provided**
24 **in section 1 of this 2011 Act,** the State Board of Higher Education may determine the terms and
25 conditions of any transaction authorized by ORS 351.220 to 351.250 and need not require competitive
26 bids in connection therewith. No formal publicity or advertising is required regarding property for
27 the development of which the board wishes to contract, but the board shall make reasonable efforts
28 to disseminate such information in appropriate research and industrial circles.

29 **(2) The board may delegate any of the duties, functions and powers granted to the board under**
30 **ORS 351.220 to 351.250 to any state institution of higher education within the Oregon University**
31 **System.**

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.

SECTION 4. ORS 353.050 is amended to read:

353.050. Except as otherwise provided in this chapter, the Oregon Health and Science University Board of Directors, or university officials acting under the authority of the board, shall exercise all the powers of the Oregon Health and Science University and shall govern the university. In carrying out its powers, rights and privileges, the university shall be a governmental entity performing governmental functions and exercising governmental powers. The university or the board may either within or outside the state:

(1) Determine or approve policies for the organization, administration and development of the university.

(2) Appoint and employ any instructional, administrative, professional, trade, occupational and other personnel as are necessary or appropriate to carry out the missions of the university, and prescribe their compensation and terms of office or employment.

(3) Make any and all contracts and agreements, enter into any partnership, joint venture or other business arrangement, create and participate fully in the operation of any business structure, including but not limited to the development of business structures for health care delivery systems and networks with any public or private government, nonprofit or for-profit person or entity that in the judgment of the university or the board is necessary or appropriate to carry out the university's missions and goals.

(4) Acquire, purchase, receive, hold, control, convey, sell, manage, operate, lease, license, lend, invest, improve, develop, use, dispose of and hold title to real and personal property of any nature, including intellectual property, in its own name. **Actions taken by the university or the board regarding intellectual property shall be coordinated with the Oregon Business Development Department as provided in section 1 of this 2011 Act.**

(5) Sue in its own name and be sued, plead and be impleaded in all actions, suits or proceedings in any forum brought by or against it by any and all private or state, local, federal or other public entities, agencies or persons.

(6) Encourage gifts and donations for the benefit of the university, and subject to the terms of the gift, retain, invest and use such gifts as deemed appropriate by the university or the board.

(7) Acquire, receive, hold, keep, pledge, control, convey, manage, use, lend, expend and invest all funds, appropriations, gifts, bequests, stock and revenue from any source to the university.

(8) Borrow money for the needs of the university, in such amounts and for such time and upon such terms as may be determined by the university or the board.

(9) Erect, construct, improve, develop, repair, maintain, equip, furnish, lease, lend, convey, sell, manage, operate, use, dispose of and hold title to buildings, structures and lands for the university.

(10) Purchase any and all insurance, operate a self-insurance program or otherwise arrange for the equivalent of insurance coverage of any nature and the indemnity and defense of its officers, agents and employees or other persons designated by the university to carry out or further the missions of the university.

(11) Create, develop, supervise, control and adopt academic programs, including standards, qualifications, policies or practices relating to admissions, curriculum, academic advancement, grading policy, student conduct, credits and scholarships and the granting of academic degrees, certificates and other forms of recognition.

(12) Authorize, create, eliminate, establish, operate, reorganize, reduce or expand any program, school, institute, health care facility or other unit of operation.

(13) Establish, charge, collect and use charges for enrollment into the university, including

1 charges such as tuition for education and general services, incidental fees and such other charges
2 found by the university to be necessary to carry out its educational programs. Fees realized in ex-
3 cess of amounts allocated and exceeding required reserves shall be considered surplus incidental
4 fees and shall be allocated for programs under the control of the board and found to be advanta-
5 geous to the cultural or physical development of students of the university upon the recommendation
6 of the recognized student government of the university.

7 (14) Establish, charge, collect and use charges and fees for university services and the use of
8 university facilities.

9 (15) Impose charges, fines, fees and such other regulations considered convenient or necessary
10 to control and regulate traffic and parking of vehicles to the same extent allowed the State Board
11 of Higher Education. This authority includes the authority to enforce the regulations of the uni-
12 versity in a court to the extent allowed the State Board of Higher Education in enforcing the state
13 board's regulations as provided in ORS 352.360 (7).

14 (16) Commission special campus security officers to be known as university police. University
15 police commissioned under this subsection have all the powers and authority given by statute to
16 peace officers and police officers of this state. University police shall complete training necessary
17 for certification as police officers at an academy operated or authorized by the Department of Public
18 Safety Standards and Training at the expense of the Oregon Health and Science University Board
19 of Directors. University police are not authorized to carry firearms as police officers and are not
20 police officers for purposes of ORS 238.005, 243.005 or 243.736. The university is a criminal justice
21 agency for purposes of ORS 181.715 and 181.720 and a law enforcement unit within the meaning of
22 ORS 181.610 (12).

23 (17) Enforce and recover for payment to the university any fines that are authorized by this
24 chapter.

25 (18) Adopt, amend or repeal bylaws, administrative rules, regulations and orders applicable to
26 the matters that are the subject of this chapter.

27 (19) Contract with any state agency for the performance of such duties, functions and powers
28 as is appropriate. A state agency shall not charge the university for such services an amount that
29 is greater than the actual cost of the services.

30 (20) Purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, sell, mortgage,
31 lend, pledge, invest in or otherwise dispose of and deal in or with the shares, stock or other equity
32 or interests in or obligations of any other entity. Separate funds may be established for such in-
33 vestments. The State of Oregon shall have no proprietary or other interest in such investments or
34 such funds.

35 (21) Make available, by lease or otherwise, or control access to any health care facilities or
36 services or other of its properties and assets to such persons, firms, partnerships, associations or
37 corporations and on such terms as considered appropriate, charge and collect rent or other fees or
38 charges therefor and terminate or deny any such access or any such lease or other agreement for
39 such reasons as considered appropriate and as may be consistent with its obligations under any such
40 lease or other agreement.

41 (22) Contract for the operation of any department, section, equipment or holdings of the uni-
42 versity and enter into any agreements with any person, firm or corporation for the management by
43 said person, firm or corporation on behalf of the university of any of its properties or for the more
44 efficient or economical performance of clerical, accounting, administrative and other functions re-
45 lating to its health care facilities.

1 (23) Select and appoint faculty as medical and dental staff members and others licensed to
2 practice the healing arts, delineate and define the privileges granted each such individual, adopt and
3 direct a plan for faculty clinical income and set the terms and conditions of that plan (including
4 such modifications to any such existing plan as considered necessary or appropriate upon expiration
5 of the term of such plan), and determine the extent to which and the terms upon which each such
6 individual may provide teaching, research, consulting or other services at the university or any
7 other health care facility.

8 (24) Enter into affiliation, cooperation, territorial, management or other similar agreements with
9 other public or private universities or health care providers for the sharing, division, allocation or
10 furnishing of services on an exclusive or a nonexclusive basis, referral of patients, management of
11 facilities, formation of health care delivery systems and other similar activities.

12 (25) Perform any other acts that in the judgment of the board or university are requisite, nec-
13 essary or appropriate in accomplishing the purposes described in or carrying out the powers granted
14 by this chapter.

15 (26) Exercise these powers, notwithstanding that as a consequence of the exercise of such pow-
16 ers, the university engages in activities that might otherwise be deemed anticompetitive within the
17 contemplation of state or federal antitrust laws.

18