

# House Bill 3505

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**.

Creates exception to definition of "gift" for purposes of government ethics laws.

## A BILL FOR AN ACT

Relating to government ethics; amending ORS 244.020.

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

**SECTION 1.** ORS 244.020 is amended to read:

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

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (12) of this section.

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

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

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

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

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

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

(4) "Candidate" means an individual for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is printed on a ballot or is expected to be or has been presented, with the individual's consent, for nomination or election to public office.

**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 (5) "Development commission" means any entity that has the authority to purchase, develop,  
 2 improve or lease land or the authority to operate or direct the use of land. This authority must be  
 3 more than ministerial.

4 (6)(a) "Gift" means something of economic value given to a public official, a candidate or a rel-  
 5 ative or member of the household of the public official or candidate:

6 (A) Without valuable consideration of equivalent value, including the full or partial forgiveness  
 7 of indebtedness, which is not extended to others who are not public officials or candidates or the  
 8 relatives or members of the household of public officials or candidates on the same terms and con-  
 9 ditions; or

10 (B) For valuable consideration less than that required from others who are not public officials  
 11 or candidates.

12 (b) "Gift" does not mean:

13 (A) Contributions as defined in ORS 260.005.

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

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

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

19 (E) Admission provided to or the cost of food or beverage consumed by a public official, or a  
 20 member of the household or staff of the public official when accompanying the public official, at a  
 21 reception, meal or meeting held by an organization when the public official represents state gov-  
 22 ernment as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special gov-  
 23 ernment body as defined in ORS 174.117.

24 (F) Reasonable expenses paid by any unit of the federal government, a state or local government,  
 25 a Native American tribe that is recognized by federal law or formally acknowledged by a state, a  
 26 membership organization to which a public body as defined in ORS 174.109 pays membership dues  
 27 or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue  
 28 Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the  
 29 public official is scheduled to deliver a speech, make a presentation, participate on a panel or rep-  
 30 resent state government as defined in ORS 174.111, a local government as defined in ORS 174.116  
 31 or a special government body as defined in ORS 174.117.

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

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

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

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

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

43 (i) In association with the review, approval, execution of documents or closing of a borrowing,  
 44 investment or other financial transaction, including any business agreement between state govern-  
 45 ment as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special govern-

1 ment body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

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

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

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

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

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

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

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

21 (O) Anything of economic value offered to or solicited or received by a public official or candi-  
22 date, or a relative or member of the household of the public official or candidate:

23 (i) As part of the usual and customary practice of the person's private business, or the person's  
24 employment or position as a volunteer with a private business, corporation, partnership,  
25 proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or  
26 other legal entity operated for economic value; and

27 (ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for,  
28 the official position or public office.

29 (P) Reasonable expenses paid to a public school employee for accompanying students on an ed-  
30 ucational trip.

31 **(Q) Access or admission to a retail store or outlet to purchase discounted merchandise**  
32 **or merchandise at cost.**

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

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

39 (9) "Legislative or administrative interest" means an economic interest, distinct from that of the  
40 general public, in:

41 (a) Any matter subject to the decision or vote of the public official acting in the public official's  
42 capacity as a public official; or

43 (b) Any matter that would be subject to the decision or vote of the candidate who, if elected,  
44 would be acting in the capacity of a public official.

45 (10) "Member of the household" means any person who resides with the public official or can-

1 didate.

2 (11) "Planning commission" means a county planning commission created under ORS chapter 215  
3 or a city planning commission created under ORS chapter 227.

4 (12) "Potential conflict of interest" means any action or any decision or recommendation by a  
5 person acting in a capacity as a public official, the effect of which could be to the private pecuniary  
6 benefit or detriment of the person or the person's relative, or a business with which the person or  
7 the person's relative is associated, unless the pecuniary benefit or detriment arises out of the fol-  
8 lowing:

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

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

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

17 (13) "Public office" has the meaning given that term in ORS 260.005.

18 (14) "Public official" means any person who, when an alleged violation of this chapter occurs,  
19 is serving the State of Oregon or any of its political subdivisions or any other public body as defined  
20 in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether  
21 the person is compensated for the services.

22 (15) "Relative" means:

23 (a) The spouse of the public official or candidate;

24 (b) Any children of the public official or of the public official's spouse;

25 (c) Any children of the candidate or of the candidate's spouse;

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

27 (e) Siblings, spouses of siblings or parents of the candidate or of the candidate's spouse;

28 (f) Any individual for whom the public official or candidate has a legal support obligation;

29 (g) Any individual for whom the public official provides benefits arising from the public official's  
30 public employment or from whom the public official receives benefits arising from that individual's  
31 employment; or

32 (h) Any individual from whom the candidate receives benefits arising from that individual's em-  
33 ployment.

34 (16) "Statement of economic interest" means a statement as described by ORS 244.060 or 244.070.

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

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